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[HISTORY: Accepted by the Town of Norwell 3-17-1973; 5-19-2012. Amendments noted where applicable.]

Article 1

Incorporation: Short Title: Powers**Section 1-1. Incorporation.**

The inhabitants of the Town of Norwell, within the corporate limits established by law, shall continue to be a body corporate and politic with perpetual succession under the name "TOWN OF NORWELL".

Section 1-2. Short Title.

This instrument shall be known and may be cited as the Norwell Home Rule Charter.

Section 1-3. Powers.

Subject only to express limitations on the exercise of any power or function by a Town in the Constitution or statutes of the Commonwealth, it is the intent and purpose of the voters of Norwell to secure through the adoption of this Charter all powers it is possible to secure for the Town under the constitution and statutes of the Commonwealth.

Section 1-4. Construction.

The powers of the Town under this Charter are to be construed liberally in favor of the Town and the specific mention of particular powers is not intended to limit in any way the general powers of the Town as stated in Section 1-3.

Article 2

Legislative Branch**Section 2-1. Town Meeting.**

The legislative powers of the Town shall be exercised by a Town Meeting open to all registered voters.

Section 2-2. Time of Annual Meeting.

The Annual Town Meeting shall be held on the second Monday in May of each year, or at such other time as shall be determined by vote of the Town. (Changed ATM 5/15/2001)

Article 3

Elected Officials

The following offices shall be filled by the voters at regular annual elections held on the first Saturday following the annual town meeting or at such other time as shall be determined by vote of the Town. All elected officials and all boards and committees established or

continued under this section shall have all the powers and duties under the constitution and laws of the Commonwealth, the Town by-law and Town Charter.

Section 3-1. Composition.

There shall be a Board of Selectmen consisting of five (5) members elected for terms of three (3) years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.

Section 3-2. Powers and Duties.

- (a) The executive powers of the Town shall be vested in the Board of Selectmen, which shall serve as the chief policy-making board of the Town.
- (b) The Board of Selectmen shall have the powers and duties given to Boards of Selectmen under the Constitution of the Commonwealth and the General Laws, except those powers and duties assigned by this Charter to the Town Administrator, and shall have such additional powers and duties as may be authorized by this Charter, by Town by-laws, or by vote of Town Meeting. The Board of Selectmen shall be authorized to enter into intergovernmental and other agreements on such terms it deems beneficial to the citizens of Norwell, subject to the General Laws, This, Town by-laws or by vote of Town Meeting.
- (c) The Board of Selectmen shall be responsible for the formulation and promulgation of policy directives and guidelines to be followed by all Town departments serving under it, to develop and promulgate policy guidelines, in conjunction with other elected Town officials and multiple member bodies, designed to bring the operation of all Town agencies into harmony; provided however, that nothing in this section shall be construed to authorize any member of the Board of Selectmen, nor a majority of such members, to become involved in the day-to-day administration of any Town agency. It is the intention of this provision that the Board of Selectmen shall act only through the adoption of broad policy guidelines and long term plans or programs, which are to be implemented by officials and employees serving under it.
- (d) The Board of Selectmen shall communicate periodically with all town agencies, departments, committees, and boards, including meeting with representatives of volunteer committees and boards, and shall consider the concerns and plans of all such agencies, departments, committees, and boards when formulating policy and long term plans or programs.
- (e) The Board of Selectmen shall cause the by-laws and rules and regulations for the government of the Town to be enforced and shall cause an up-to-date record of all official acts to be kept.
- (f) The Board of Selectmen shall appoint the Town Administrator, a Town Counsel and a Town Auditor by a majority vote of the board.
- (g) The Board of Selectmen shall appoint such other offices, boards, committees and commissions, by a majority vote of the board, as may be provided by the General Laws or by vote of the Town. In event of a vacancy in any of said offices, boards, committees and commissions, the Board of Selectmen shall act to fill said vacancy

within ninety (90) days from when the affected board notifies the Board of Selectmen of any vacancy. This subsection shall not apply to the appointment or approval of any paid full or part-time employees provided for under Section 5-2(a)(2) of this Charter.

- (h) The Board of Selectmen shall be the licensing board of the Town and shall have the power to issue licenses, under the General Laws, to make all necessary rules and regulations regarding the issuance of such licenses and to attach conditions and restrictions to licenses as the Board of Selectmen deems to be in the public interest and to enforce the laws relating to all businesses for which it issues licenses.
- (i) The Board of Selectmen shall be responsible for ensuring that timely audits are conducted as required by law. The audits shall be performed by a certified public accountant, or firm of such accountants, who have a no personal interests, direct or indirect, in the fiscal affairs of the town government or any of its officials.

Section 3-3. Moderator.

A Moderator elected for a one year term. The Moderator shall not hold any other elected or appointed Town government position during the period served as Moderator, unless otherwise provided under this Charter.

Section 3-4. Town Clerk.

A Town Clerk elected for a three year term.

Section 3-4A. Highway Surveyor/Director.

A Highway Surveyor/Director elected for a three-year term. Said Highway Surveyor/Director shall perform and discharge all of the duties of the Highway Surveyor and all the duties of Director of lands and natural Resources set forth in Section 69G of Chapter forty-one (41) of the Massachusetts General Laws. (Rev. ATM 5/11/1992, voted at ATE 3/21/1993)

Section 3-5. Water Commissioners.

A Board of Water Commissioners consisting of three members elected for three year overlapping terms.

Section 3-6. Assessors.

A Board of Assessors consisting of three members elected for three year overlapping terms.

Section 3-7. Board of Health.

A Board of Health consisting of three members elected for three year overlapping terms.

Section 3-8. Planning Board.

A Planning Board consisting of five members elected for three year overlapping terms.

Section 3-9. Trustees of the Norwell Public Library.

A Board of Trustees of the Norwell Public library consisting of six members elected for three year overlapping terms.

Section 3-10. Regional Vocational School District committee.

One member of a Regional Vocational School District committee appointed for a three-year term.

Section 3-11. School committee.

A School Committee consisting of five members elected for three year overlapping terms.

Section 3-12. Housing Authority.

A Housing Authority consisting of five members, four elected for three year overlapping terms and one appointed under the General Laws.

All elected officials and all board and committees established or continued under this section shall have all of the powers and duties that they may have under the constitution and laws of the Commonwealth, the by-laws and Charter of the Town.

Section 3-13. Recall of Elected Officials. [Added by Ch. 438 of the Acts of 2016, approved 1-13-2017]

- (a) A holder of an elected office in the town of Norwell who holds an elected town-wide office and whose term of office extends beyond the next annual town election may be recalled from office by the registered voters of the town, as provided in this section, for 1 of the following reasons: (i) a conviction, while presently in office, of a felony or 1 of the following misdemeanors, as defined by the General Laws: domestic violence, driving under the influence of alcohol or drugs, the illegal manufacture, distribution or dispensing of a controlled substance, assault or criminal harassment; (ii) an admission to facts, while presently in office, sufficient to be convicted of a felony or 1 of the following misdemeanors as defined in the General Laws: domestic violence, driving under the influence of alcohol or drugs, the illegal manufacture, distribution or dispensing of a controlled substance, assault or criminal harassment; (iii) a violation, while presently in office, of chapter 268A of the General Laws, as determined by the state ethics commission or the attorney general; (iv) attendance by the elected official of less than 50 per cent of the posted public meetings of the board or office of which the official was an elected member, or to which the official has been elected or appointed as part of the official's elected position during the previous 12 months; or (v) in the case of an elected official not a part of a board, engagement by the elected

official in excessive absenteeism, including repeatedly working less than 20 hours per week without just cause, impacting the proper function and performance of the department. The elected official's vote on a matter, other than in connection with a conflict of interest violation under clause (iii), shall not be grounds for a recall petition.

- (b) Ten or more registered voters of the town of Norwell may make and file a notice of intent with the town clerk bearing the name of the elected official sought to be recalled, along with a statement of the specific grounds for the recall as established by subsection (a) with information sufficient to support the specific grounds for recall, not less than 170 days before the next annual town election. Upon certification of the required signatures by the registrars of voters and a determination by town counsel that the notice of intent contains information sufficient to support the specific grounds and events for the recall the town clerk shall, within 5 business days, deliver the petition forms requesting a recall to the first named voter on the notice of intent. The petition forms shall be addressed to the board of selectmen and issued under the signature and official seal of the town clerk. The petition forms shall be dated and shall contain the names of the first 10 registered voters whose names appear on the notice of intent to recall. In addition, the petition forms shall request the election of a successor to the office. A copy of the petition forms shall be entered in a record book to be kept in the office of the town clerk. The recall petition forms shall be returned and filed with the town clerk within 60 days after the receipt of the signed petition forms or the next business day after the sixtieth day if that day falls on a Saturday, Sunday or legal holiday, with signatures, names and street precincts. The town clerk shall, within 3 business days following the day of the filing with the office of the town clerk, submit the recall petition forms to the registrars of voters. The registrars shall, within 15 business days after the date of receipt, certify in writing to the town clerk on the recall petition forms, the number of signatures that are names of registered voters in the town of Norwell.
- (c) If the recall petition forms to be certified by the registrars of voters shall be found sufficient by containing not less than 10 per cent of registered voters of the town of Norwell, including at least 100 registered voters from each of the town of Norwell's 3 precincts, as of the date of the most recent town election, the town clerk shall file the petition forms with the board of selectmen within 2 business days. The board of selectmen shall give notice following their next scheduled meeting, in writing, to the elected official whose recall is sought by sending that elected official a copy of the certified recall petition forms.

If the elected official to whom the recall is directed by the board of selectmen does not resign from the office within 5 business days from the date of notice, the board of selectmen shall immediately order an election to be held on the date of the next town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section; provided, however, that only ballots for the new candidates shall be counted.

- (d) An elected official whose recall is sought shall not be a candidate to succeed in the office in the recall election. The nomination of candidates, the publication of the warrant for the recall election and the conduct of the election shall be in accordance with the state and local laws relative to elections, unless otherwise provided in this section.

- (e) The incumbent shall continue to perform the duties of the office until the recall election, unless the elected official resigns from the office. If the incumbent is not recalled, the incumbent shall remain in office for the remainder of the unexpired term subject to recall as before, except as provided by this section. If recalled in the recall election, the incumbent shall be considered removed upon the qualification of the successor, who shall hold office during the unexpired term.
- (f) Ballots used in a recall petition shall contain the following propositions in the order indicated:

"For the recall of (name of elected official) who holds the position of (elected office)"

"Against the recall of (name of elected official) who holds the position of (elected office)"

Immediately at the right of each proposition there shall be a designated space for voters to vote for either of the propositions. Under the propositions shall appear the words "Candidates and directions to voters required by section 42 of chapter 54 of the General Laws" and beneath those words shall appear the names of the candidates nominated, listed alphabetically, as provided in this section. If a majority of the votes cast upon the question of the recall are in favor of the recall, the elected official shall be recalled and the ballots for candidates shall be counted. The candidate receiving the highest number of votes shall be declared elected. If the majority of the votes cast are in the negative, the ballots for candidates need not be counted unless the incumbent official has resigned previously or a vacancy occurs in the office after a recall election has been ordered pursuant to subsection (c).

- (g) A recall petition shall not be filed against an elected official within 6 months after the official has taken office; provided, however, that if the elected official has been re-elected to another consecutive term in office, a recall petition may be filed within 3 months after taking office on the re-election vote. A recall petition shall not be filed against an elected official who was subjected to a recall election and not recalled until not less than 6 months have elapsed after the election at which the recall was submitted to the voters of the town. An elected official shall not be subject to a subsequent recall petition for the same specific reason and event that was the basis of a prior recall petition.
- (h) A person who has been recalled from office or who has resigned from office after the recall petition has been certified by the registrars of voters shall not be appointed to a town office, board or committee within 2 years after the recall or resignation.

Article 4

Appointed Officials, Boards, Committees, and Commissions

Section 4-1. Appointed Officials, Boards, Committees and Commissions.

The Board of Selectmen shall appoint the following by majority vote of its membership.

- (a) A Board of Appeals — consisting of three members, appointed for three-year overlapping terms and not more than five (5) associate members.

- (b) A Capital Budget Committee — consisting of seven (7) members appointed for three year overlapping terms. One member shall be appointed from the Planning Board and one member shall be appointed from the Advisory Board.
- (c) A Town Counsel for an indefinite term.
- (d) A Chief of the Police Department — for an indefinite term.
- (e) A Chief of the Fire Department — for an indefinite term. The chief shall have all of the powers and duties that a Chief of the Fire Department may have under Sections 42 to 44, inclusive of chapter 48 of the General Laws, which may from time to time be amended, which are substantially as follows: the chief shall have charge of extinguishing fires in the Town and the protection of life and property in case of fire. The chief shall purchase, subject to the approval of the Selectmen, and keep in repair all property and apparatus used for and by the Fire Department. The chief shall have all the powers and duties conferred by statute on fire engineers, and shall appoint a deputy chief and such other officers and fireman as the chief may think necessary, and may remove the same at any time for cause and after a hearing. The chief shall have full authority in the administration of the department and shall make all rules and regulations for its operation. Subject to approval of the Selectmen, the chief shall fix the compensation for the members of the department and the expenditure of money shall be subject to such further limitations as the Town may prescribe. The chief shall act as forest warden and shall have the authority to appoint deputy wardens and fix the compensation, of the deputy wardens, subject to the approval of the Selectmen.
- (f) A Conservation Commission — consisting of seven (7) members appointed for three-year overlapping terms. Such Commission shall be responsible for the promotion and development of the natural resources and for the protection of watershed resources of the Town. The Commission shall conduct research into its local land area and shall seek to coordinate the activities of other bodies organized for similar purposes. It may receive gifts of property, both real and personal, in the name of the Town, subject to approval of the Selectmen. It may acquire by purchase or otherwise any interest in land or water rights consistent with this Charter or in the General laws, and shall manage and control the same.
- (g) Such other offices, boards, committees and commissions as may be provided by the laws of the Commonwealth or by vote of the Town.

Section 4-2. Government Study Commission Composition, Term of Office, Powers and Duties.

- (a) Composition, Term of Office: There shall be a Government Study Commission consisting of five (5) members appointed by the Moderator. Initially one member appointed for one (1) year, two for two (2) years, and two for three (3) years. One member shall be appointed for each election district of the Town, and the remaining members, if any, shall be appointed at large. A member shall not hold any other elected or appointed Town government position during the period he serves on this commission.

- (b) Powers and Duties in General: The Commission shall study the structure and functioning of the Town government, and may make such investigations with respect thereto as it deems appropriate. It may recommend and initiate action for the improvement of Town government through Charter amendment and revision, by-law amendment and revision, or otherwise. The Commission shall meet at regular intervals, and each year it shall hold at least one public hearing and shall submit a report for publication in the Town report.

Section 4-3. Advisory Board.

- (a) Composition: There shall be an Advisory Board consisting of nine (9) members with three (3) members appointed each year for a term of three (3) years each. Members shall hold no other elected or appointed office in town government while on the Advisory Board, unless otherwise provided by this Charter, town by-laws or by vote of Town meeting and shall serve without pay. Members of the Board shall choose from among its membership a chair, a vice chair and a clerk.
- (b) Nomination Process for Advisory Board: Members of the Advisory Board shall be appointed by a majority vote of a nominating committee consisting of three (3) members; each duly authorized to represent their respective board or office. i) The Town Moderator, who shall serve as chair; ii) One (1) member of the Board of Selectmen; and iii) one (1) member of the Advisory Board, except that no member of the Advisory Board shall serve on a nominating committee if that member seeks reappointment to the Advisory Board and the re-appointment would be the subject of that nominating committee. The nominating committee shall consider only education, skills and experience of individual candidates as they relate to the function of the Advisory Board.
- (c) Responsibilities of the Advisory Board: The Advisory Board shall investigate and consider all articles in the warrant to be brought before the Town and shall report and advise on such articles at Town meeting. The Advisory Board shall consider short and long-range financial impacts, including both revenue and expenses to ensure financial stability.

Section 4-4. Term of office of Appointed Officials.

Unless otherwise provided by this Charter or by vote of the Town subsequent to the approval of this Charter, no appointed official shall serve for an indefinite term or for a fixed term in excess of three (3) years. No officials appointed for a fixed term shall be limited in the number of such terms that they may serve.

Article 5

Town Administrator**Section 5-1. Appointment, Qualifications and Term of Service.**

- (a) **Appointment:** The Board of Selectmen shall appoint a Town Administrator for a term not to exceed three (3) years, as the Board may determine, and the Town Administrator may be appointed for successive terms of office.
- (b) **Qualifications:** The Town Administrator shall be a person of demonstrated ability with administrative experience in public management or business administration and who is qualified by reason of education, skills and experience. The Board of Selectmen may establish additional qualifications for the office of Town Administrator. To the extent permitted by law, the terms of the Town Administrator's employment may be subject of a written agreement between the parties setting forth the length of service, compensation and other terms that are customarily included in an employment contract.
- (c) **General Terms:** The Town Administrator shall devote full time to the duties of said office and shall not engage in any other business or occupation during the term of employment by the Town without the written approval of the Board of Selectmen. The Town Administrator shall hold no elective office in the Town during the term as Town Administrator, but the Board of Selectmen may appoint the Town Administrator to any appointed office or position consistent with the responsibilities of the Town Administrator. Before beginning the duties as Town Administrator, the newly appointed Town Administrator shall be sworn to faithful and impartial performance thereof by the Town Clerk. The Town Administrator shall not have served in elective office for the Town of Norwell for at least twenty-four (24) months prior to being appointed.
- (d) **Compensation:** The Board of Selectmen shall set the compensation of the Town Administrator, not to exceed the amount appropriated by the Town meeting.
- (e) **Performance Evaluation:** The Board of Selectmen shall conduct an annual performance review of the Town Administrator. Annual performance reviews shall be based on the Town Administrator's accomplishments pursuant to the powers and duties specified under Section 5-2 of this Charter, and the successful completion of any additional goals set by the Board of Selectmen the preceding year.

Section 5-2. Powers and Duties of the Town Administrator.

The Town Administrator shall be the Chief Administrative Officer of the Town. The Town Administrator shall be responsible to the Board of Selectmen for the effective management of all Town affairs placed in the Town Administrator's charge by this Charter, the Board of Selectmen or vote of the Town meeting. The Town Administrator shall implement Town policies and coordinate operational and strategic planning for the Town. The Town Administrator shall facilitate communication between all Town departments and officials and the public. The duties of the Town Administrator shall include, but not be limited to the following:

- (a) **Appointment Authority:**

- (1) The Town Administrator shall appoint and may remove a Treasurer-Collector and Accountant. The Town Administrator shall consult with the Board of Selectmen prior to making any appointment or removal under this subsection. Unless otherwise provided under law, appointments or removals shall become effective twenty (20) days after notice of appointment or removal is filed with the Board of Selectmen, unless the Board of Selectmen rejects the appointment or removal by a majority vote within twenty (20) days or approves the appointment or removal by a majority vote of the board before twenty (20) days are over.
- (2) The Town Administrator shall appoint and may remove all other department heads that serve with any appointed board, commission or committee, other employees for whom no other method is provided under this Charter, and shall approve the appointment and removal for all other employees, except employees of the School Department, Fire Department and Officers of the Police Department, under the General Laws or this Charter. The Town Administrator shall consult with and obtain the approval of the appropriate appointed board, commission or committee prior to making any appointment or removal under this subsection. Unless otherwise provided under law, said appointments or removals shall become effective twenty (20) days after the notice of an appointment or removal is filed with the Board of Selectmen, unless the Board of Selectmen rejects the appointment or removal by a majority vote within twenty (20) days or approves the appointment or removal by a majority vote of board members present and voting before the twenty (20) days are over. This paragraph shall not apply to any department heads that serve with elected boards, commissions or committees.
- (3) The Town Administrator shall appoint and may remove all department heads that serve with an elected board, commission or committee, except employees of the School Department, provided that the Town Administrator shall consult with and obtain the approval of the elected bodies prior to making an appointment or removal under this paragraph, unless otherwise provided by the General Laws or this Charter.
- (4) Department heads shall, subject to the approval of the Town Administrator, appoint and may remove assistant department heads, subordinates and employees, except employees of the School Department, the Fire Department and Officers of the Police Department. The department head seeking to make an appointment or removal shall consult with the appropriate elected or appointed board, commission, committee or official prior to making the appointment or removal, unless otherwise provided by the General Laws or this charter.
- (5) The Town Administrator, in consultation with department heads and the affected boards, may transfer personnel between departments as needed. Such transfer is presumed to be temporary and requires the approval of the affected boards. This paragraph shall not apply to personnel of the School Department.
- (6) All appointments under this section shall be based on education, skills and experience alone.
- (7) Copies of notices of board and commission vacancies, job vacancies and opportunities and requests for volunteers shall be conspicuously posted in the

Town Hall and on the Town's official website. The Town Administrator may also advertise such vacancies and opportunities in local newspapers or other media at a cost not to exceed the amount appropriated by the Town meeting.

(b) Administrative Responsibilities:

- (1) The Town Administrator shall supervise the general activities and direct the operations of all Town departments, unless otherwise provided by the General Laws, this Charter or Town by-laws. This paragraph shall not apply to the activities and operations of the School Department and to statutory responsibilities and functions of the School Committee.
- (2) The Town Administrator shall supervise and be responsible for all town employees unless otherwise provided by the General Laws, this Charter, or Town by-laws. This paragraph shall not apply to employees of the School Department and to the statutory responsibilities and functions of the School Committee.
- (3) The Town Administrator shall reorganize, consolidate and establish departments under the Town Administrator's supervision and the jurisdiction of the Board of Selectmen, subject to the General Laws, this Charter, Town by-laws or by vote of Town meeting. Prior to taking action under this subsection, the Town Administrator shall notify and obtain the approval of the Board of Selectmen. The Board of Selectmen shall hold a public hearing and shall have thirty (30) days following the public hearing to approve any proposal under this subsection. With the approval of the Board of Selectmen and Advisory Board, the Town Administrator may transfer all, or part of an unexpended appropriation of a reorganized or consolidated department, board or office to any other Town department, board or office.
- (4) The Town Administrator shall administer, either directly or through an appointed person, all general and special laws applicable to the Town, the town by-laws, votes of the Town within the scope of the Town Administrator's duty and all policy rules and regulations made by the Board of Selectmen, provided, however, that any delegation shall be considered an act of the Town Administrator.
- (5) The Town Administrator shall establish control and data systems appropriate for monitoring expenditures by Town boards and departments to enable the town Administrator to make periodic reports to the Board of Selectmen and the Advisory Board on the status of the Town's finances.
- (6) The Town Administrator shall develop and administer a personnel management system, including, but not limited to, the creation of job descriptions, a reporting structure, determination of rates of pay, the development and implementation of an ongoing training program, evaluation process, personnel management and hiring policies, practices and regulations relating to Town employment.
- (7) The Town Administrator shall manage and maintain all Town buildings, properties and facilities, excluding those of the School Department, under the Town Administrator's authority under this Charter, Town by-laws or by vote of Town meeting. The Town Administrator may maintain and repair other buildings, properties and facilities if and to the extent departments, agencies, boards, committees and commissions request and authorize such maintenance and repair

activities, unless otherwise prohibited by the General Laws, this Charter, Town by-laws or by vote of Town meeting. The Town Administrator shall keep and annually update a full and complete inventory of all Town property, both real and personal.

- (8) The Town Administrator shall attend and participate in all regular and special meetings of the Board of Selectmen and Town meetings, unless excused by the Board of Selectmen.
 - (9) The Town Administrator shall ensure that there are complete records taken and maintained of Board of Selectmen meetings and compile reports of the meetings as requested by the Board of Selectmen.
 - (10) The Town Administrator shall act as the liaison to and represent the Board of Selectmen before state, federal and regional authorities.
 - (11) Subject to policy established by the Board of Selectmen, the Town Administrator shall approve all warrants and vouchers, including payroll warrants for payment of Town funds submitted by the Town Accountant. Any warrants generated by the Town Administrator shall be signed by the Board of Selectmen.
 - (12) In consultation with the Board of Selectmen, the Town Administrator shall identify and submit applications for state or federal grants for which the Town is eligible. The Town Administrator shall approve all grant applications submitted by other boards, commissions and departments of the Town on behalf of the Town or a member of a proposed or active regional agreement, consortium or similar partnership.
 - (13) The Town Administrator shall perform any other duties consistent with the office of Town Administrator and as may be required by Town by-law, vote of the Town or by vote of the Board of Selectmen.
- (c) Financial Management and Reporting: Budget Preparation:
- (1) The Town Administrator shall prepare and submit to the Board of Selectmen and the Advisory Board, at a public meeting not less than ninety (90) days prior to the annual Town meeting, a proposed written budget for Town government, excluding the School Committee, for the ensuing fiscal year.
 - (2) The Town Administrator shall detail in the proposed budget all estimated revenues from all sources and all expenditures, including debt service, in case for the previous, current and ensuing years.
 - (3) The Town Administrator shall include in the proposed budget free cash, stabilization funds and other funds available for appropriation for the ensuing fiscal year, including estimated balances in special accounts.
 - (4) The Town Administrator shall provide additional financial reports as established by Town by-law and vote of Town meeting.
 - (5) All departments, boards, officials, and committees of the Town, including the School Committee, shall, within the timeframe reasonably requested by the Town Administrator, furnish in writing all relevant information in their possession and

submit to the Town Administrator, the Board of Selectmen and the Advisory Board a reasonable estimate of the appropriations required and any other funds expected to be available. The Town Administrator shall cooperate and share information with all departments, boards, officials, and committees of the Town, including the School Committee, in preparation of the budget.

- (6) The Town Administrator shall assist the Board of Selectmen to develop a long-range financial plan for the Town, including preparation of a multi-year forecast of expected revenues and expenditures.
- (d) Labor Relations:
 - (1) The Town Administrator shall negotiate collective bargaining contracts on behalf of the Board of Selectmen, which shall be subject to approval, ratification and execution by the Board of Selectmen. The Board of Selectmen, at its discretion, may authorize use of special counsel to assist the Town Administrator in the negotiations.
 - (2) The Town Administrator shall administer and ensure adherence to collective bargaining agreements.
- (e) Procurement: The Town Administrator shall act as the Chief Procurement Officer under Chapter 30B of the General Laws, responsible for the purchasing of all supplies, materials and equipment for the Town, including the bidding and awarding of all contracts, except for the School Department.

Section 5-3. Vacancy in the position of Town Administrator.

- (a) Permanent Vacancy: The Board of Selectmen shall fill any permanent vacancy in the office of the Town Administrator as soon as feasible under Section 5-1 of this charter. Pending the appointment of a Town Administrator, the Board of Selectmen shall, within a reasonable period of time, appoint some other capable person to temporarily perform the duties of the Town Administrator until a permanent replacement is appointed.
- (b) Temporary Absence or Disability:
 - (1) The Board of Selectmen shall designate a capable officer of the Town to perform the duties of Town Administrator during a temporary absence or disability. If the person designated is unable to serve, the Board of Selectmen may designate some other capable person to perform the duties of Town Administrator.
 - (2) The powers and duties of the Acting Town Administrator shall be limited to matters that shall not be delayed and shall include authority to make temporary, emergency appointments or designations to Town office or employment, but not to make permanent appointments or designations unless authorized by the Board of Selectmen.

Section 5-4. Removal and Suspension Proceedings.

The Board of Selectmen may remove or suspend the Town Administrator from office after first applying the following procedures, unless otherwise provided under an employment contract or the General Laws:

- (a) Notice: By the affirmative vote of at least three (3) of its members, the Board of Selectmen may adopt a preliminary resolution of removal setting forth in reasonable detail the reasons for the proposed removal. The preliminary resolution may suspend the Town Administrator for a period not to exceed forty-five (45) days. A copy of the resolution shall be delivered to the Town Administrator immediately following adoption and a copy shall be filed with the Town Clerk.
- (b) Public Hearing: Within five (5) days after the delivery of the preliminary resolution of removal, the Town Administrator may request a public hearing on the reasons cited for removal by filing a written request with the Board of Selectmen. The Board shall convene the hearing not less than twenty (20) but not more than thirty (30) days after a request is filed. The Board of Selectmen shall give the Town Administrator not less than five (5) days written notice of the date, time and location of the hearing. The Town Administrator may waive, in writing, such time limits. The Town Administrator may file a written statement with the Board of Selectmen responding to the reasons cited for the proposed removal; provided that the Administrator files the statement with the Board of Selectmen not less than forty-eight (48) hours prior to the time set for the hearing. The Town Administrator may be represented at the hearing by counsel. The Town Administrator shall be entitled to, personally or through counsel, present evidence, call witnesses and question witnesses.
- (c) Removal or Suspension: The Board of Selectmen may, by an affirmative vote of at least three (3) of its members, adopt a final resolution of removal or suspension that shall be effective upon adoption:
 - (1) If the Town Administrator does not request a public hearing, then upon the expiration of ten (10) days from the date of delivery to the Town Administrator of preliminary resolution of removal or suspension, the Selectmen may remove or suspend the Town Administrator.
 - (2) If the Town Administrator does request a public hearing, then five (5) days from the completion of the public hearing or forty-five (45) days from the date of the adoption of the preliminary resolution, whichever occurs later, the Board of Selectmen may remove or suspend the Town Administrator. Failure to adopt a final resolution of removal or suspension within the time limitations provided in this section shall nullify the preliminary resolution of removal or suspension. This section vests all authority and fixes all responsibility for such removal or suspension in the Board of Selectmen. The action of the Board of Selectmen in removing or suspending the Town Administrator shall be final. The Town Administrator shall continue to receive the Town Administrator's salary until final resolution of removal or suspension has become effective.

Article 6

General Provisions**Section 6-1. Severability.**

If any provision of the Charter is held to be unconstitutional or invalid, the remaining provisions of the Charter shall not be affected. If the application of the Charter or any of its provisions to any person or circumstance is held to be invalid, the application of this Charter and its provisions to other persons and circumstances shall not be affected.

Section 6-2. Continuation of Existing Government.

- (a) Continuation of existing laws, by-laws: The Town's Charter, special acts, by-laws, rules and regulations which are in force on the effective date of this Charter that are consistent with this Charter shall continue to be in full force until amended or repealed. Elected and appointed officials, boards, commissions, and committees shall have all of the powers, duties and responsibilities, which are in force on the effective date of this charter that are consistent with this Charter, which are given to the respective boards, officials and agencies by law, this Charter, Town by-law or by vote of Town meeting.
- (b) Continuation of personnel: Any office or position in the administrative service of the Town or incumbents in such office's, shall continue to function until a change in those offices, positions or incumbents is affected under this Charter.

Chapter SA

SPECIAL ACTS AND GENERAL LAWS

§ SA-1. Acts accepted.

§ SA-1. Acts accepted.

The Town Clerk shall file, with this chapter, a current list of all acts of the Legislature accepted by the Town.

Subject	General Law or Act Accepted
Accounting	Chapter 516, Acts of 1922, accounting system rejected; 3-12-1923
Affordable Housing Trust Fund	MGL c. 44, § 55C, to establish a Norwell Affordable Housing Trust; 5-15-2007 ATM, Art. 42
Aid to Agriculture	Chapter 273, Acts of 1918, Plymouth County Trustees for County Aid to Agriculture
	Chapter 273, Acts of 1908, Plymouth County Aid to Agriculture
	MGL c. 128, §§ 41 and 45; 3-12-1956
Alcohol Pouring	MGL c. 138, § 33B, relative to alcohol pouring sales on Sundays; 5-9-2011 ATM
Alternate Town Hall Office Hours	MGL c. 41, § 110A, for alternate office whenever the required performance of any act falls on a Saturday or holiday; 5-6-2013 ATM
American Legion Headquarters	MGL c. 40, § 9, Zoning Bylaw change, submission to Attorney General; 3-1-1954
Animal Control	MGL c. 140, § 147A, as amended by Chapter 308 of the Acts of 1985
Assessment	MGL c. 58, §§ 7A to 7E, outside valuation consultants; 3-9-1959
Assessors, Board of	MGL c. 59, § 5, allows maximum qualifying gross receipts amount found in Clause 41A to be \$40,000 (deferment of property tax payments for senior citizens who qualify); 5-8-1997 ATM, Art. 31
Beano	Chapter 486, Acts of 1971; ballot of 1975
Betterments	MGL c. 80; 9-12-1955
	Chapter 99, Acts of 1966; 3-14-1967

Subject	General Law or Act Accepted
Board of Appeals	Chapter 674, Acts of 1953, to establish Board of Appeals; 3-1-1954
Bonds	Chapter 5, Acts of 1943, post-war rehabilitation funds
	MGL c. 91, §§ 29 and 11, Massachusetts Department of Public Works for work performed on tidal rivers; 4-24-1961
Cable-related fund	See PEG access
Census	MGL c. 9, § 7; 3-1-1954
Charter	Home Rule Charter adopted; ballot 3-17-1973
Civil Service	MGL c. 31, § 48, Police Chief and regular or permanent; 3-7-1959 (Police Chief exempted from provisions of MGL c. 31, Civil Service, voted 5-11-1992 Town Meeting and approved by State Legislature 5-21-1993)
Commission on Disabilities	MGL c. 40, § 8J, establishment of Commission on Disabilities; 4-27-1987, Art. 32
Community Preservation Act	MGL c. 3 to 7 to establish a dedicated funding source for community preservation purposes at a surcharge of 3%; voted 3-16-2002 Annual Town Election.
Compensation	MGL c. 41, § 100; 3-9-1953 and other years, §§ 108A and 108C
Conservation	MGL c. 40, § 8C, established commission; MGL c. 40, § 5, Clause 51, money appropriated; 3-7-1961
Development and Industrial Commission	MGL c. 40, § 8A; voted 9-21-1959
Division fences	MGL c. 49, §§ 3 and 8
District Attorney	Chapter 495, Acts of 1922, District Attorney shall be a lawyer
Eight-hour day	Chapter 494, Acts of 1911, eight-hour day; 3-2-1914
Elections (absentee voting)	MGL c. 54, § 103A, Chapter 152, Acts of 1939; voted 3-4-1940
Elections (election officials)	MGL c. 54, § 16A, vacancies (appointed by Town Clerk); 3-11-1969

Subject	General Law or Act Accepted
Elections (Town elections)	MGL c. 39, § 23, held within 7 days before or after Annual Town Meeting; 3-14-1972
Elections (Annual Town and Special)	Polling hour change, voted 4-25-1995 ATM
Emergency Telecommunications	See "911"; effective October 1996
Enhanced 911	Chapter 291, Acts of 1990; May 1991, Art. 11
Estimated Receipts	MGL c. 44, § 53E; voted 3-11-1985, Art. 27, 3-11-1985, Art. 11; 4-29-1991, Board of Health
Excise Tax	Chapter 597, Section 1, Acts of 1982, amending MGL c. 60A, § 1, fifth paragraph, excise tax exemption on motor vehicle owned by former prisoner of war; 4-3-1984
Finance, Municipal	Chapter 278, Acts of 1922, MGL c. 44
	MGL c. 44, § 17; 1949 and other years, borrowing in anticipation of revenue, MGL c. 44, § 4
	MGL c. 43C, § 11, relative to the establishment of a Municipal Finance Department; 5-9-2011 ATM, Arts. 6 and 7
Fire Department	MGL c. 48, §§ 42, 43 and 44, establishment of Fire Department; 3-16-1973
Fire Department	\$106,000 for architectural and engineering services for plans and specs for new fire station; 5-6-1997 ATM, Art. 26
Forest Fire Patrol	Chapter 688, Acts of 1941
Forest (Town forest)	MGL c. 45, §§ 19 and 20; 1924
Health, Board of	MGL c. 44, § 53E 1/2, revolving fund for recycling/composting program; 5-8-1997 ATM, Art. 32
Highways	Chapter 155, Acts of 1918, construction on Central Street, from Commonwealth of Massachusetts, County of Plymouth, Acts of 1918
	MGL c. 81, § 26
Highway Program	Chapter 718, Acts of 1956, Chapter 90 work; 3-4-1957
Highway Repairs	MGL c. 81, §§ 26 to 29 as amended by Chapter 442, Acts of 1943; 3-6-1944
Historical Commission	MGL c. 40, § 8D, establish Historical Commission for Norwell; 10-25-1972

Subject	General Law or Act Accepted
Hotel and lodging excise tax	MGL c. 64G, § 3A; 5-2-2016 ATM, Art. 20; revoked 5-8-2017 ATM, Art. 22
Ice and snow	MGL c. 40, § 6C, removal of ice and snow; 3-7-1953
Indemnification	MGL c. 41, § 100, police officers, firemen, etc.; 3-7-1960
	MGL c. 258, § 13, municipal officers; 3-22-1980 ballot
Inspector of Buildings	MGL c. 143, § 3Z, re-employment of part-time Inspector of Buildings; 5-4-1998 STM
Insurance, group	MGL c. 32B, § 10, ballot of 3-11-1961; § 9A, ballot of 3-14-1970; § 11E, Selectmen's vote 4-18-1972; § 9F, Selectmen's vote 1-29-1974
Library Trustees retirement	MGL 32, § 4 (o 1/2) 5-14-2001 ATM
Licenses, Sunday	MGL c. 136, §§ 7 and 8, sale of ice cream and soft drinks; March 1925
Liens, real estate	MGL c. 40, §§ 42A to 42F, water rates to be liens; 3-5-1951
Mapping Commission	MGL c. 40, § 8K; 4-25-1995 ATM, Art. 22
Meals excise tax	MGL c. 64L, § 2(a); 5-10-2011 ATM, Art. 12
Meetings, open	Chapter 626, Acts of 1958, public boards and commissions, meetings open to public; effective 1-5-1959
"Mullin Rule"	MGL c. 39, § 23D, to allow regulatory board members to miss 1 meeting of a public hearing and still vote on the matter; 5-15-2007 ATM, Art. 7
Municipal lien certificates	MGL c. 40, § 22F (raise fee from \$25 to \$50); 5-9-2006 ATM, Art. 36
Municipal Waterways Improvement and Maintenance Fund	MGL c. 60B, § 2(i), to receive revenue sums received to be credited under MGL c. 40, § 5, Clause 72; 5-3-1994 ATM
Mosquito control	Chapter 112, Acts of 1931; 3-16-1931
Nomination papers	MGL c. 53, § 9A; local elections – regulations; 3-11-1968
911 (emergency telecommunications)	Chapter 291, Acts of 1990; 4-29-1991, Art. 16, effective in Norwell October 1996
Nudity or partial nudity	MGL c. 138, § 12B; voted 4-26-1983

Subject	General Law or Act Accepted
Nuisances (buildings)	MGL c. 139, §§ 1, 2 and 3; burnt or dangerous buildings; 3-7-1960
Oxygen (breathing masks)	MGL c. 337; annual 3-7-1949
Other Post Employment Benefits (OPEB)	Chapter 479, Acts of 2008; annual 6-9-2009
Parking Clerk	MGL c. 90, § 20A 1/2, Chapter 605, Acts of 1981; voted 3-9-1982
Parking regulations	MGL c. 90, § 20C; voted 3-20-1980
Payroll	Chapter 586, Acts of 1975, employees payroll savings plan; 3-11-1976
PEG access (public, educational and government access) cable fund	MGL c. 44, § 53F 3/4; 5-2-2016 ATM, Art. 25
Pensions	Chapter 503, Acts of 1912, pensioning laborers; 11-5-1912
Pensions	Chapter 588, Acts of 1948, increase in amounts of pensions payable to certain former retired public employees; 3-7-1949
	Chapter 624, Acts of 1952, increasing pensions; 3-1-1954
Personal property tax exemption	MGL c. 59, § 5, Subsection 54, as enacted by Chapter 159, Section 488 of the Acts of 2000, to establish a minimum fair cash value of \$10,000; 5-14-2001 ATM
Personal real estate tax exemption	MGL 59, § 5, Subsections 17E and 41D, to increase the income and asset limits that apply to surviving spouses, surviving minors, or elderly persons; 5-14-2001 ATM
Personnel Board	MGL c. 41, §§ 108A and 108C, Personnel Board established; 3-11-1969
Planning Board	MGL c. 41, §§ 81A to 81Y, established Planning Board; 2-9-1953
Plans and records	MGL c. 83, § 2, drains and common sewers, repair and assessment; 1861
Police Department	MGL c. 41, § 97, Police Department established under direction of Selectmen; 9-12-1955

Subject	General Law or Act Accepted
Police Department	MGL c. 31, § 48, civil service; 3-7-1959 election (Police Chief exempted from MGL c. 31, Civil Service, voted 5-11-1992 Town Meeting and approved by State Legislature on 5-21-1993)
	MGL c. 40, § 6B, uniform allowance under supervision of Police Chief; 3-14-1966
	MGL c. 44, § 53C, off-duty work detail payments; 3-14-1972
	MGL c. 40, § 58, Chapter 626, Acts of 1987, establishing municipal charges lien for police detail charges.
	MGL c. 41, § 108L, Career Incentive Program ("Quinn Bill"); 5-8-1997 ATM, Art. 39
Police mutual aid agreements	MGL c. 40, § 8G; voted 3-20-1980
Prisoner of war – exemption	See excise tax
Prohibition	Chapter 427, Acts of 1922
Property tax - deferral	MGL c. 59, § 5L, deferral of property taxes for members of National Guard or reservists while that member is on active duty outside of commonwealth; 5-15-2007 ATM, Art. 46
Railroad	Chapter 610, Acts of 1912, Old Colony Railroad; 6-15-1912
Real estate	MGL c. 59, § 38, Chapter 576, Acts of 1978, certain improvements classified as maintenance; 3-13-1979
Real estate	MGL c. 59, § 5, as amended by Chapter 743, Acts of 1981; voted 3-9-1982
	MGL c. 59, § 5, Clause 37A, \$500 exemption from real estate taxes due on property owned separately or jointly by legally blind occupant who is a Massachusetts resident; 4-3-1984
Real estate	Chapter 653, Section 5, Clause 41B of the Acts of 1982, amending MGL c. 59, § 5, real estate exemptions for persons 70 years of age or older and changes in allowed value limits of real property, personal property, gross receipts; 4-3-1984
Real estate	MGL c. 59, § 5, Clause 17D; effective 7-1-1987
	MGL c. 59, § 5, Clause 41C; effective 7-1-1987

Subject	General Law or Act Accepted
	MGL c. 59, § 57C, effective FY 94, collection of property taxes on quarterly basis; 5-12-1992
Real estate	MGL c. 59, § 5, Subsections 17E and 41D, increase income and asset limits; 5-14-2001 ATM, Art. 8; MGL c. 59, § 5, Clause 41D, increase amount of exemption to \$1,000 for FY 03 (see 5-10-2004 ATM, Art. 19)
Recreation	Chapter 169, Acts of 1956, county expenditures; 11-6-1956
Recreation Commission	MGL c. 45, § 14, established Recreation Commission; 9-12-1955
Recreation land (indemnify the lessor)	Act of the General Court, recreation purposes; 3-18-1957
Regional Refuse Disposal Planning Committee	MGL c. 40, § 44A, creation of Regional Refuse Disposal Committee consisting of 3 persons appointed by Moderator; 5-6-1991 ATM
Regional School District	Chapter 188, Section 13, Acts of 1985, professional development grant; MGL c. 71, § 40, amended by Chapter 188, Acts of 1985, Section 16, increase teachers salaries; 11-4-1985
Retirees	MGL c. 32B, § 18, requires retirees to switch to Medicare for health insurance; 5-14-2007 ATM, Art. 8
Retirement	MGL c. 32, §§ 1 to 28, Chapter 166, Acts of 1946, contributory retirement system for Town employees; 11-6-1946
Revised laws	Chapter 591, Acts of 1920, amended by Section 8
Revolving fund (adult education)	MGL c. 71, § 71E; voted 3-9-1981
Revolving fund (Board of Health)	MGL c. 44, § 53E, establish revolving fund for Board of Health; May 1991 ATM, Art. 11
Revolving fund (Board of Health)	MGL c. 44, § 53E 1/2 (recycling/composting program); 5-8-1997 ATM, Art. 32
Revolving fund (recreation services)	MGL c. 44, § 53D; voted 6-1-1981
Revolving fund (School Department)	MGL c. 44, § 53E 1/2, for fees and making disbursements in connection with student transportation; 5-13-2002 ATM, Art. 32; 11-18-2002 STM, Art. 3; 5-12-2003 ATM, Art. 10 continue (reauthorize) up to \$100,000 for FY 2004

Subject	General Law or Act Accepted
Salaries	Acts 1918, Section 95, salary, etc., elected officer, MGL c. 25, § 95, revised laws, amended by Chapter 591, Section 8, Acts of 1920
Salary and compensation	MGL c. 41, § 108, elected officers; 3-2-1942
Saturday, half holiday	Chapter 688, Acts of 1914; 11-3-1914
Scenic roads	MGL c. 40, § 15C, Bowker Street and Norwell Avenue; voted 3-15-1976
	Stetson Shrine Lane, Stetson Road, Tiffany Road, and Jacob's Lane; 3-20-1980
	First Parish Road, High Street, Old Oaken Bucket Road, Central Street, Prospect Street and River Street; 5-24-2005 ATM
	Wildcat Lane, Green Street, Pleasant Street, Mount Blue Street, Winter Street, Lincoln Street, Pine Street, and Circuit Street; 5-9-2006 ATM, Art. 30
	Cross Street, Forest Street and Summer Street; 5-12-2008 ATM, Art. 36
Schools	Chapter 311, Acts of 1919, continuation of schools; 11-4-1919
	Chapter 104, Acts of 1948, "An act authorizing the Town of Norwell to borrow money for school purposes"; 3-7-1949; Chapter 71, public use of school property
	MGL c. 71, § 14, Regional School District Planning Committee; 11-8-1954
Schools	School construction, 1-27-1958
	Chapter 645, Acts of 1948
Schools	(Addition to elementary school; also Ridge Hill School) Grace Farrar Cole School, 9-12-1955; Chapter 44 (Municipal Finance), Chapter 645, Acts of 1948
Schools	MGL c. 44, 53E 1/2, revolving fund for student transportation; 5-13-2002 ATM
Schools	MGL c. 71, §§ 16 to 161, regional vocational high school; 3-6-1960
Schools	MGL c. 71, § 40, as amended by Chapter 188, Section 16, Acts of 1985, establishes minimum teachers' salaries; voted 11-4-1985

Subject	General Law or Act Accepted
Schools	Chapter 188, Section 13, Acts of 1985, professional development grant; voted 11-4-1985
Senior citizens	Chapter 127, Section 59, Acts of 1999 (adding MGL c. 59, § 5K), property tax work off program; voted 5-5-1997 ATM, Art. 28, and 5-15-2000, Art. 12; 11-18-2002 STM; raise abatement amount from \$500 to \$750 for FY 04 (see 5-10-2004 ATM, Art. 19)
Slaughtering	MGL c. 94, voted provisions of Section 120; March 1921
	Section 120, as amended by Section 3 of Chapter 332, Acts of 1943; voted to accept Section 120A (inserted by Chapter 496, Acts of 1924, and amended by Section 4 of Chapter 332, Acts of 1943); 3-4-1946
Smoke detectors	MGL c. 148, § 26E (requiring installation of smoke detectors in residential buildings); effective within 1 year from 11-23-1987 (revised 5-11-1992 ATM and April 1994)
Soil removal	MGL c. 40, § 21 as amended by Chapter 98, Acts of 1949; 3-20-1950 (Town bylaw)
South Scituate	Chapter 64, Acts of 1888, annexing South Scituate, chose name of Norwell; 3-5-1888
South Shore Recycling Co-op	Chapter 194, Section 419, Acts of 1998; voted 1-25-1999 STM
Sprinkler systems	MGL c. 148, § 26G, automatic sprinkler systems, nonresidential buildings or additions more than 7,500 gross square feet; 5-6-1989
Sprinkler systems	MGL c. 148, § 26(1), automatic sprinkler system for 4 units or more; voted 5-24-1999 ATM
Stabilization fund	MGL c. 40, § 5B; 3-7-1960
Special/education stabilization fund	MGL c. 40, § 5B; voted 5-2-2016 ATM
Subdivision security	Chapter 245, Acts of 1988; 4-29-1991, Art. 39
Suing	Chapter 368, Acts of 1921
Sunday sports (if no admission)	MGL c. 136, §§ 21 to 28; 3-3-1924
TB hospital	MGL c. 111, Town pays share of Plymouth County TB Hospital

Subject	General Law or Act Accepted
Towing	MGL c. 40, § 22D, voted 3-14-1962; revoked acceptance of MGL c. 40, § 22D, 6-20-1968
Town bylaw	MGL c. 40, § 21, as amended by Chapter 98, Acts of 1949, soil removal; 3-20-1950
Town Clerk	MGL c. 41, § 19K, relative to the compensation of the Town Clerk when Town Clerk became certified MA municipal clerk; 12-1-2003 STM, Art. 6
Treasurer/Tax Collector	MGL c. 40, § 57, withholding licenses or permits until back taxes paid; 5-5-1994 ATM; 5-8-2017 ATM, Art. 26
	MGL c. 41, § 41B, payment of public employees by direct bank credits; 5-5-1997 STM
Treasurer/Collector	MGL c. 41, § 108P, relative to certification/compensation of the Treasurer/Collector; 5-30-2006 ATM, Art. 39
Town Collector	MGL c. 41, § 38A, as amended by Chapter 197, Acts of 1948; 3-7-1949
Town Meeting	Chapter 284, Acts of 1915, as amended by Chapter 59, Acts of 1916, business first and in the evening; 4-23-1919
Town Meeting	MGL c. 39, § 15, Moderator can declare 2/3 vote by statute unless immediately challenged by 7 or more voters; voted 1-21-1999 STM
Trapping	MGL c. 131, § 105A, repealed, §§ 105B, 105C and 114A added; state election ballot, 11-6-1934
Unclaimed checks, abandoned funds, "tailings"	MGL c. 200A, § 9A, amended by Section 65 of Chapter 188 of the Acts of 2010; 5-2-2016 ATM, Art. 21
Union Bridge	Chapter 424, Acts of 1922
Union Bridge	MGL c. 658, §§ 1 to 8, subject to provisions of Chapter 91
Union Bridge	Chapter 797, Acts of 1960, extension of completion time from 1961 to 1963
Union High School	Union High School District established by vote, 3-8-1920
Vacation	Chapter 217, Acts of 1914, laborer's vacations; 11-3-1914

Subject	General Law or Act Accepted
	MGL c. 44, § 65, as inserted by Chapter 635, Acts of 1945, vacation pay advances
	3-9-1959, employees other than School Committee and Board of Public Welfare
Visiting nurse	Catherine Roe appointed 8-1-1924
Voting	Chapter 790, Acts of 1914, party enrollment; 11-3-1914
	Chapter 152, Acts of 1939; Chapter 54, Section 103A; absentee voting; 3-4-1940
Voting	Voted to amend polling hours specified by Board of Selectmen (for Annual and Special Town Elections only); 4-25-1995 ATM
Water	Chapter 149, Sections 1 to 10, Acts of 1931, voted to ratify action of special committee appointed to look into water question; 3-4-1946
Water	Chapter 496, Acts of 1947, authorizing Norwell to supply itself and its inhabitants with water; 12-15-1947
Work clothes	MGL c. 40, § 6J, stormy weather work clothes and other work attire for employees; 6-20-1968
Workmen's compensation	Chapter 807, Acts of 1913; 3-2-1914
	MGL c. 152, § 69, coverage extended to certain municipal officers; 3-11-1968
Workmen's compensation	MGL c. 40, § 13C, to establish reserves to pay workmen's compensation claims as self-insurer; 5-4-1998 STM
Zoning	MGL c. 40A, § 8, zoning ordinances; 3-11-1968
Zoning	MGL c. 40A, § 20, appeals for variance; 3-11-1968
Zoning Board	MGL c. 40, § 27; 3-20-1950
Zoning bylaws	Chapter 808, Acts of 1975; 3-16-1978

DIVISION 2

GENERAL BYLAWS

PART I

TOWN GOVERNMENT AND ADMINISTRATION

Chapter 1

GENERAL PROVISIONS

§ 1-1. Provisions to constitute bylaws.

§ 1-6. Word usage.

§ 1-2. When effective.

§ 1-7. Titles, headings and captions.

§ 1-3. Effect of repeal.

§ 1-8. Severability.

§ 1-4. Boards to act by majority.

§ 1-9. Violations and penalties.

§ 1-5. Amendments.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. I. Amendments noted where applicable.]

§ 1-1. Provisions to constitute bylaws.

The following provisions shall constitute the bylaws of the Town of Norwell, which shall be in lieu of all bylaws heretofore in force, except for the Zoning Bylaws.

§ 1-2. When effective.

These bylaws shall have no retroactive effect.

§ 1-3. Effect of repeal.

The repeal of a bylaw shall not thereby have the effect of reviving any bylaw theretofore repealed.

§ 1-4. Boards to act by majority.

Unless otherwise provided in these bylaws, governing instrument or the General Laws, any board, commission or committee of the Town may act by a majority.

§ 1-5. Amendments.

Any or all of these bylaws may be repealed or amended, and other bylaws may be adopted at any Town Meeting, and article or articles for that purpose having been inserted in the warrant for such meeting.

§ 1-6. Word usage.

A. Any use in these bylaws of the phrase "by law" shall mean the General Laws and statutes of the Commonwealth of Massachusetts, as from time to time amended.¹

1. Editor's Note: Amendment pending.

§ 1-6

NORWELL CODE

§ 1-9

- B. Whenever reference is made to committees in these bylaws, for the purposes of these bylaws only, the term "committees" shall include boards, commissions, officers and departments.

§ 1-7. Titles, headings and captions.²

Titles, headings and captions are for reference only and are not substantive provisions of the bylaws. They are not legally adopted parts of the bylaws as voted by Town Meeting.

§ 1-8. Severability.³

The invalidity of any article or section of these bylaws shall not affect the validity of any article, section or bylaw otherwise valid, and these bylaws shall remain in effect as amended from time to time, except for those articles, sections or parts thereof which are determined to be invalid.

§ 1-9. Violations and penalties. [Amended 5-5-1994 ATM⁴]

Every violation of the Norwell bylaws, not otherwise provided for herein or by the General Laws or Special Laws of the Commonwealth, shall be punished by a fine of not more than \$300, and all penalties recovered from such violations shall be paid into the Town treasury to accrue for such use as the Town shall from time to time direct.

2. Editor's Note: Amendment pending (section added).

3. Editor's Note: Amendment pending.

4. Editor's Note: Amendment pending.

Chapter 2

TOWN MEETINGS

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| <p>§ 2-1. Copies of warrant to be posted; publication of notice.</p> <p>§ 2-2. Report of articles in warrant.</p> <p>§ 2-3. Date and time of meetings; Annual Report.</p> <p>§ 2-4. Quorum.</p> <p>§ 2-5. Votes.</p> | <p>§ 2-6. Action on articles in warrant.</p> <p>§ 2-7. Motions reduced to writing.</p> <p>§ 2-8. Duties of Moderator; rules of practice.</p> <p>§ 2-9. Elections.</p> <p>§ 2-10. Matters requiring two-thirds vote.</p> |
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[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. IV. Amendments noted where applicable.]

§ 2-1. Copies of warrant to be posted; publication of notice.

A copy of the warrant for all Town Meetings shall be posted in five or more places in the Town at least seven days prior to the Annual Town Meeting or 14 days prior to a Special Town Meeting, and a notice under the Seal of the Town shall be published in a newspaper circulated in the Town at least seven days prior to an Annual Town Meeting and 14 days prior to a Special Town Meeting, but it shall be sufficient notice if the newspaper states only that a meeting is to be held giving the place, date and hour.

§ 2-2. Report of articles in warrant.

The Selectmen shall prepare a report setting forth the articles of the warrant, together with the recommendations of the Advisory Board, copies of which either shall be mailed to all registered voters, or they shall cause to have a copy left at each dwelling house or apartment, at least seven days before the meeting.

§ 2-3. Date and time of meetings; Annual Report. [5-14-2001 ATM, Art. 8]

The Annual Town Meeting shall be held at 7:30 p.m. on the second Monday in May, or as deemed necessary by the Board of Selectmen, of each year, and Special Town Meetings may be held at such time as the Selectmen may order. At least seven days before the Annual Town Meeting, a published complete Annual Report of all Town officers, boards, committees, departments, Town Meetings, elections, births, deaths and marriages shall be made available to all residents and citizens of the Town at the following locations: Town Clerk's office, Town Library, Norwell Housing Authority Common Room and such other places designated by the Board of Selectmen.

§ 2-4. Quorum. [5-12-1992 ATM]

No quorum shall be required for a Town Meeting.

§ 2-5. Votes.

All Town Meeting votes, except those containing authorization for a borrowing in excess of \$200,000 and requiring more than a majority vote, or otherwise provided for by law, shall first be taken by a voice vote. If the Moderator is in doubt, or if seven voters immediately question the vote, the Moderator shall call for a standing vote taken by sworn tellers. In the case of a motion authorizing a borrowing in excess of \$200,000 and requiring more than a majority vote, a secret ballot shall be used in all instances.

§ 2-6. Action on articles in warrant.

Articles of the warrant shall be acted upon in the order in which they appear unless otherwise determined by vote of the Meeting.

§ 2-7. Motions reduced to writing.

A motion and all amendments thereto shall, if required by the Moderator, be reduced to writing before being submitted to the Meeting.

§ 2-8. Duties of Moderator; rules of practice.

The duties of the Moderator and the government of the Town Meeting, not provided for by law or bylaws, shall be determined by the rules of practice contained in Robert's Rules of Order as far as they are adapted to the conditions and powers of the Town of Norwell.

§ 2-9. Elections. [Amended 5-25-1995 ATM; 5-13-2002 ATM; 5-6-2013 ATM]

A meeting shall be held on the second Saturday following the Annual Town Meeting and shall be conducted as prescribed by law, with polling hours set by the Board of Selectmen before each Annual Town Election and/or Special Town Election, for the determination of such matters as shall properly be placed on the official ballot and for the election of Town officers, in accordance with and as required by law and these bylaws, as follows:

- A. Selectmen.
- B. Assessors.
- C. Board of Health.
- D. Highway Surveyor/Director.
- E. Housing Authority.
- F. Moderator.
- G. Planning Board.
- H. School Committee.
- I. Town Clerk.

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TOWN MEETINGS

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J. Trustees of the Norwell Public Library.

K. Board of Water Commissioners.

§ 2-10. Matters requiring two-thirds vote. [1-21-1999 STM]

On matters requiring a two-thirds vote by statute a count need not be taken unless the vote so declared is immediately challenged by seven or more voters as provided in MGL c. 39, § 15.

Chapter 3

ELECTED OFFICIALS

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| <p>§ 3-1. Selectmen.</p> <p>§ 3-2. Assessors.</p> <p>§ 3-3. Board of Health.</p> <p>§ 3-4. Highway Surveyor/Director.</p> <p>§ 3-5. Moderator.</p> <p>§ 3-6. Housing Authority.</p> | <p>§ 3-7. Planning Board.</p> <p>§ 3-8. School Committee.</p> <p>§ 3-9. Town Clerk.</p> <p>§ 3-10. Trustees of Norwell Public Library.</p> <p>§ 3-11. Water Commissioners.</p> |
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[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. V. Amendments noted where applicable.]

§ 3-1. Selectmen.

- A. The Board of Selectmen shall consist of five members elected for terms of three years each, so arranged that the term of office of as nearly an equal number of members as is possible shall expire each year.¹
- B. The Selectmen shall have general direction and management of the property and affairs of the Town in all matters not otherwise provided for by law and these bylaws.
- C. The Selectmen may appear, either personally or by counsel, before any legislative committee, board or commission to protect the interest of the Town, but are not authorized by this bylaw to commit the Town to any course of action.
- D. Whenever it shall be necessary to execute any deed or other instrument required to carry into effect any vote of the Town, the same shall be executed by the Selectmen or a majority of them, in the name and in behalf of the Town, properly sealed and subscribed by a majority of them, unless otherwise provided in any special case.
- E. The Selectmen shall compile and cause to have printed the Annual Report of all Town officers, boards, committees, departments, elections and vital statistics, to be made available to all residents and citizens of the Town at the following locations: Town Clerk's office, Town Library, Norwell Housing Authority Common Room and such other places designated by the Board of Selectmen, at least seven days before the Annual Town Meeting, but failure to do so shall not invalidate the Meeting.
- F. The Selectmen shall notify the Town Clerk promptly of any appointments made by them to any Town office, board, committee or otherwise, giving the name and addresses of any person or persons so appointed, the office to which appointed or the business upon which the person or persons so appointed are to act.

1. Editor's Note: See Charter § 3-1.

- G. The Selectmen in their discretion may, or upon the written request therefor, signed by 50 voters, shall, conduct a forum at least seven days prior to any Regular or Special Town Meeting for the purpose of discussing the articles in the warrant for such Meeting.

§ 3-2. Assessors.

- A. The Board of Assessors shall consist of three members, one elected each year for a term of three years.
- B. The Assessors shall deliver the tax list and warrant for collection to the Town Treasurer-Collector. Additional warrants shall be issued to the Treasurer-Collector for all taxes assessed or reassessed which are not covered by the original warrant.
- C. The Assessors shall keep the record of all tax abatements required by law. Each month the Assessors shall notify the Town Treasurer-Collector and Town Accountant in writing the amount of taxes abated in the preceding month, stating separately the amount abated from each tax levy.

§ 3-3. Board of Health.

- A. The Board of Health shall consist of three members, one elected each year for a term of three years.
- B. The Board of Health is to perform all the duties required by law and may make any lawful regulations beneficial to the health of the Town and for the permanent elimination of any offensive stench obnoxious to the users of public ways or residents of the Town. Such regulations are to be posted in five public places and published in one or more newspapers published in the County of Plymouth and circulating in the Town of Norwell.
- C. Except as otherwise provided for by law, the Board of Health upon request of any complainant shall notify any person or persons responsible for any conditions claimed to be obnoxious that complaint has been made. If after 30 days the condition is still claimed to be offensive, the Board of Health shall investigate and take whatever lawful action it may deem advisable.
- D. The Board of Health shall forbid all commercial slaughtering, the storage of all decayed animal matter and the disposal of all refuse subject to offensive decay in any location injurious to the health of the Town, obnoxious to residents of the Town or unsightly as seen from any existing dwelling house or public way in the Town.

§ 3-4. Highway Surveyor/Director.

The Highway Surveyor/Director is elected for a three-year term. Said Highway Surveyor/Director shall perform and discharge all of the duties of the Highway Surveyor and all of the duties of Director of Lands and Natural Resources set forth in MGL c. 41, § 69G.

§ 3-5. Moderator.

The Moderator's term of office shall be one year.

§ 3-6. Housing Authority.²

The Housing Authority consists of five members, four elected for three-year overlapping terms and one appointed in accordance with the General Laws.

§ 3-7. Planning Board.

- A. The Planning Board shall consist of five members, one elected each year for a term of three years, and shall perform all duties which are required by law.
- B. It shall be the duty of the Board to consider and advise upon municipal improvements in regard to which advice of the Board, at any time, may be asked by any official or officials of the Town. The Board may, upon its own initiative, make to any official or officials of the Town such recommendations in regard to municipal improvements as the Board may from time to time think proper or expedient.
- C. The Planning Board may make such rules and regulations as it may deem advisable, not inconsistent with the bylaws of the Town or the General Laws and all statutes of the Commonwealth of Massachusetts.

§ 3-8. School Committee.

- A. The School Committee shall consist of five members, two elected one year, two elected the following year and one elected the third year, all for a term of three years.
- B. The School Committee may make such rules and regulations governing the operation of the public schools as it may deem advisable not inconsistent with the bylaws of the Town or the General Laws and all statutes of the Commonwealth of Massachusetts.

§ 3-9. Town Clerk.

- A. The Town Clerk's term of office shall be three years.
- B. The Town Clerk shall have custody of the Town Seal.
- C. The Town Clerk shall perform the duties which are required by law, recording and filing all agreements and other papers and documents affecting the interest of the Town.
- D. As soon as may be, the Town Clerk shall transmit to the Selectmen, to the Town Treasurer-Collector, to the Town Accountant, and to the Assessors certified copies of all votes appropriating money or authorizing the expenditure of money or otherwise affecting the finances of the Town, and within the same period the Town Clerk shall

2. Editor's Note: Amendment pending.

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transmit to all other Town officers or committees a certified copy of any vote of the Town affecting their respective powers or duties.

- E. It shall be the duty of the Town Clerk to notify the Selectmen or other appointing authority monthly of any unfilled committee, board or department appointments.
- F. The Town Clerk shall record, file for publication and maintain a current list of all acts of the Legislature accepted by the Town.
- G. The Town Clerk shall record, file for publication and make all revisions necessitated by any changes in, or additions to, the bylaws voted in any Town Meeting or otherwise affecting them and, in addition, shall have available for citizens of the Town copies of these bylaws including all revisions.
- H. The Town Clerk shall pay fees received by her by virtue of her office into the Town treasury.

§ 3-10. Trustees of Norwell Public Library.

- A. There shall be six trustees of the Norwell Public Library, with two elected each year for a term of three years. The first Board of Trustees shall be constituted as follows: the two members of the present Board of Trustees of the William J. Leonard Memorial Library whose terms expire in 1974 and 1975 shall be members of the Board of Trustees for the Norwell Public Library and shall continue as such Trustees until the expiration of their present terms in 1974 and 1975; four other members shall be elected at the 1973 Annual Town Election, with one to serve for a one-year term, one to serve for a two-year term and two to serve for a three-year term. Thereafter as terms expire Trustees shall be elected for a term of three years.
- B. All public library facilities in the Town of Norwell, including the William J. Leonard Memorial Library, shall be under the supervision and control of the Trustees of the Norwell Public Library. The Trustees shall annually choose a Chair and a Secretary. The Town Treasurer-Collector shall act as Treasurer of the Board of Trustees.
- C. The Trustees of the Norwell Public Library may adopt such rules and regulations governing the use of the public library facilities as they may deem advisable. A copy of such rules and regulations and all amendments and revisions thereof shall be filed with the Town Clerk before they become effective.

§ 3-11. Water Commissioners.

- A. The Water Department shall be under the supervision of Water Commissioners of which there shall be three, one elected each year for a term of three years.
- B. The Water Commissioners shall have such duties and powers as are provided by law and these bylaws.
- C. The Water Commissioners may appoint one or more Registrars, who shall, as directed by the Commissioners, take and tabulate a census of water services connected to the Town water system, read and record all service meters at such intervals as the

Commissioners may direct, and perform any other duties required by the Commissioners.

- D. The Water Commissioners shall, at such regular intervals in each year as they may determine, transmit the assessments for water rates to the Town Treasurer-Collector, who shall collect the same and transmit statements thereof to the Town Accountant.³
- E. A charge as the Water Commissioners from time to time may determine shall be made whenever the Water Commissioners, or their representatives, at the request of the water taker, turn on or shut off the water in any service pipe.⁴
- F. No tap for service shall be made unless approved by the Water Commissioners, who may require the payment of a suitable fee for the same.
- G. No alteration shall be made in any of the pipes or fixtures installed by the Town except by persons authorized by the Water Commissioners who shall also be allowed to enter the premises, examine the fixtures, read the meters and ascertain if there is any unnecessary waste.
- H. If any person shall open a hydrant or remove the cover thereof or make any opening or connection with any Town pipe or turn on or off the water from any Town pipe except in case of fire or by authority of the Water Commissioners, he shall be liable to a fine of not more than \$20.
- I. It shall be the duty of the Water Department to maintain the hydrants of the Town in good working order and to test them at reasonable intervals.
- J. Bills for water rates and charges shall be due and payable 30 days from the date shown thereon. If such bills are not paid by the due date, the provisions of the General Laws and all statutes of the Commonwealth respecting the collection of such rates and charges, including the establishment of a lien and shutting off of water, shall apply.
- K. The Board of Water Commissioners may make abatements in the water rates and charges in such cases as the Commissioners may deem proper, and may temporarily shut off water from any street after giving notice to those affected by their intention to do so. The Commissioners shall notify the Fire Department of the Town prior to any permanent or temporary shutoff of any water mains.
- L. The Board of Water Commissioners shall keep suitable records in which shall be entered the names of all water takers and the amounts charged, and these records shall be open to public inspection.
- M. The Board of Water Commissioners may make such rules and regulations governing the Water Department as it may deem advisable, not inconsistent with the bylaws of the Town or the General Laws and all statutes of the Commonwealth of Massachusetts.

3. Editor's Note: Amendment pending.

4. Editor's Note: Amendment pending.

Chapter 4

APPOINTED OFFICIALS

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| <p>§ 4-1. Appointing authority.</p> <p>§ 4-2. Term of office.</p> <p>§ 4-3. Advisory Board.</p> <p>§ 4-4. Board of Appeals.</p> <p>§ 4-5. Capital Budget Committee.</p> <p>§ 4-6. Council on Aging.</p> <p>§ 4-7. Directors of Cushing Memorial Hall.</p> <p>§ 4-8. Division of Inspections.</p> <p>§ 4-9. Mapping Commission.</p> <p>§ 4-10. Norwell Historical Commission.</p> | <p>§ 4-11. Permanent Building and Maintenance Committee.</p> <p>§ 4-12. Permanent Site Committee.</p> <p>§ 4-13. Regional Vocational School District Committee.</p> <p>§ 4-14. Town Accountant.</p> <p>§ 4-15. Town Treasurer-Collector.</p> <p>§ 4-16. Town Technology Committee.</p> <p>§ 4-17. Design Review Board.</p> <p>§ 4-18. Community Preservation Committee.</p> |
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[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. VI. Amendments noted where applicable.]

§ 4-1. Appointing authority.

- A. The following Town officers shall be appointed by the Selectmen: **[Amended 1-25-1999 STM; 5-9-2011 ATM¹]**

Advisory Board

Ambulance Abatement Committee

Animal Control Officer

Animal Inspector

Athletic Field Committee

Beautification Committee

Board of Appeals

Board of Registrars

Burial Agent

Bylaw Review Committee

Cable TV Committee

Capital Budget Committee

Civil Defense Director

Commission on Disabilities

Community Preservation Committee

1. Editor's Note: Amendment pending.

Conservation Commission
Constables
Council on Aging
County Cooperative Extension Agent
Cultural Council
Cushing Memorial Directors
Design Review Board
Development and Industrial Commission
Division of Inspections: Building Inspector/Zoning Enforcement Officer/ADA Coordinator
Economic Development Committee
Election Workers
Fence Viewer
Finance Director
Fire Chief
Forest Fire Warden
Harbor Master
Historical Commission
Human Resources Manager
Industrial Development Financing Authority
Inspector of Wires
Insurance Advisory Committee
Joint Zoning Bylaw Committee
Local Historic Study Committee
Mapping Commission
Memorial Day Committee
North River Commission
North River Patrol
Norwell Cemetery Committee
Norwell Energy Committee
Norwell Historical Commission
Overhead Wire Committee
Permanent Building and Maintenance Committee
Permanent Drainage Committee
Permanent Site Committee
Personnel Board
Police Chief
Police officers
Recreation Commission
Recycling Committee

§ 4-1

APPOINTED OFFICIALS

§ 4-1

Regional Vocational School District Committee member
 Route 3 Land Development Task Force
 Salt Use Study Committee²
 School Crossing Guard
 Sealer of Weights and Measures
 Senior Tax Relief Committee
 South Shore Regional School District
 Stetson Ford Planning Committee
 Stormwater Committee
 Town Accountant
 Town Administrator
 Town Counsel
 Town Technology Committee
 Traffic Study Committee
 Treasurer-Collector
 Trench Inspector
 Veterans' Agent
 Veterans' Grave Officer

- B. The following Town officers shall be appointed by the Town Administrator, with the approval of the Board of Selectmen:
- (1) Recreation Commission, including Recreation Superintendent.
 - (2) Council on Aging, including Council on Aging Coordinator.
 - (3) Veterans' Agent and Director of Veterans' Services.³
- C. The Town Administrator shall be the appointing authority for all other employees within the departments set out in Subsection B hereof, within budgetary and Personnel Bylaw guidelines, without approval of the Board of Selectmen.
- D. When authorized or directed, the Selectmen shall appoint other Town officers.
- E. The Pathway Committee shall be appointed by the Planning Board.⁴
- F. The South Shore Recycling Committee shall be appointed by the Board of Health.⁵

2. Editor's Note: This Committee was appointed by the Selectmen 10-5-2009.

3. Editor's Note: Amendment pending.

4. Editor's Note: Amendment pending (subsection added).

5. Editor's Note: Amendment pending (subsection added).

§ 4-2. Term of office.

The term of office of all appointed officers and committee members shall be three years, unless another term is required by law or a shorter term is established by vote of the Town or the appointing authority.

§ 4-3. Advisory Board.

- A. There shall be an Advisory Board consisting of nine members with three members appointed each year for a term of three years each. Members shall hold no other elected or appointed office in Town government while on the Advisory Board, unless otherwise provided by the Charter, Town bylaws or by vote of Town Meeting, and shall serve without pay.
- B. Members of the Board shall choose from its membership a Chair, a Vice Chair and a Clerk.
- C. The duty of the Advisory Board shall be to investigate and consider all articles in the warrant to be brought before the Town and to report and advise thereon in Town Meetings.
- D. The Selectmen shall transmit to the Chair of the Advisory Board a copy of all Town warrants issued by them, on or before the day of posting.
- E. The Advisory Board may request the Selectmen and other Town officials, under whose direction appropriations are expended, to submit to it, prior to December 31 of each year, budget requests for the expenses of each department for the next year and request them to appear before it for consultation.
- F. The Advisory Board shall grant a hearing upon all articles in any Town warrant.
- G. All reports, advice, suggestions or recommendations as provided in Subsection C shall be submitted in writing, signed by the Chair and Secretary, together with the records of the proceedings of said Board, and shall be filed with the records of the Town in the office of the Town Clerk.
- H. Five members of said Board shall constitute a quorum.
- I. The Advisory Board shall have the authority to examine the books and records of any Town board or official, as far as the same is permitted by law.
- J. The Advisory Board may request of the Town Accountant the status of any appropriation made by the Town, particularly the portion spent or committed and the balance available for the accomplishment of the purpose for which the appropriation was made.
- K. The Advisory Board may request of any board, Town officer or any other expending authority a report of progress on the use of any appropriations and shall take whatever action it may deem advisable should said appropriation appear to be insufficient for the purpose voted.
- L. The Advisory Board shall meet monthly and at such other times as it may determine.

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APPOINTED OFFICIALS

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- M. No member of the Advisory Board shall be appointed to succeed himself after serving two terms of three years each.

§ 4-4. Board of Appeals.⁶

The Board of Appeals consists of three members, appointed for three-year overlapping terms, and not more than five associate members.

§ 4-5. Capital Budget Committee.

A Committee, to be known as the "Capital Budget Committee" shall be established, composed of one member of the Advisory Board, appointed by and from it, one member of the Planning Board, appointed by and from it, and five additional members to be appointed by the Board of Selectmen. The members from the Advisory Board and the Planning Board shall be appointed for one-year terms. Initially, two of the other members shall be appointed for one year, two for two years, and one for three years; thereafter, each other member shall be appointed for a three-year term. Vacancies shall be filled for unexpired terms by the original appointing authority. The Committee shall annually prepare a Capital Budget Program for use by the Advisory Board, the voters, other Town boards and officials in their deliberations. The Committee shall publish such report or a summary thereof in a suitable manner and deposit the original with the Town Clerk.

§ 4-6. Council on Aging.

The Board of Selectmen shall appoint from registered voters of the Town seven members, shall designate the Chair, and shall take such further action as is required to establish and maintain a Council on Aging for the Town, in accordance with MGL c. 40, § 8B, and to promote the coordination of its programs with those of the State Council on Aging.

§ 4-7. Directors of Cushing Memorial Hall.

- A. The Selectmen shall appoint a Board of Directors to be known as the Board of Directors of Cushing Memorial Hall, consisting of five persons who are residents of the Town, who will serve without pay, who are the current members of the Cushing Memorial Town Hall Study Committee, and two additional persons, and whose duties will be to operate and maintain that building now known as Cushing Memorial Town Hall. Two such persons appointed shall be appointed for a period of three years, two other such persons appointed shall be appointed for a period of two years, and the fifth person appointed shall be appointed for a period of one year. Upon the expiration of any person's term, the Selectmen may reappoint that person or appoint a different person for a period of three years. Upon the resignation or inability of a person to complete their appointed term, the Selectmen may appoint a different person to complete the term of the Director such person is replacing.

6. Editor's Note: Amendment pending.

- B. The said Board shall be responsible for the remodeling, renovation, reconstruction, repair and alteration of the Cushing Memorial Town Hall, including the preparation of all bids, specifications, and contracts with respect thereto, and to do all other things which the Permanent Building and Maintenance Committee would be otherwise responsible for.
- C. The said Board shall have the care, custody, management and control of the said Cushing Memorial Town Hall which will henceforth be known as the Cushing Memorial Hall. The Cushing Memorial Hall shall be dedicated to the memory of Haywood Pierce Cushing and Nathan Cushing as a memorial for the Town's benefactors by suitable ceremonies, and will be operated by the said Directors of Cushing Memorial Hall as a public building keeping in mind the development and beautification of the village common in a manner befitting its simple environment. The said Board shall have the obligation and duty to maintain, keep in repair, and operate the building as herein set forth. The said Board shall have the specific right to lease space in the downstairs portion of the said Hall to persons or concerns operating low-density businesses for terms not to exceed five years at rentals to be determined by the said Board.
- D. The Board of Directors shall let or permit, on such terms as the Selectmen may determine, the upper portion of Cushing Memorial Hall to be used by recognized groups of inhabitants of the Town of Norwell, as a cultural, educational and social center, including but not limited to school proms and dances; fairs, bazaars and craft exhibits; exhibitions of historical interest; and patriotic occasions for the honor or remembrances of veterans. Nothing herein shall prevent the right of the Board of Selectmen to issue alcoholic beverage licenses under MGL c. 138 to organizations and groups using the said Cushing Memorial Hall as described in this section. (Effective 3-11-1985)

§ 4-8. Division of Inspections.

- A. There shall be a division composed of:⁷
 - (1) A Building Inspector/Zoning Enforcement Officer, who will also be known as the Town of Norwell's ADA Coordinator and overseer of major maintenance for all Town buildings, including schools, appointed by the Board of Selectmen for a term of three years, or unless a shorter term is established by the appointing authority;
 - (2) An Inspector of Wires appointed by the Board of Selectmen for a term of one year; and
 - (3) An Inspector of Plumbing and Gas appointed by the Building Inspector/Zoning Enforcement Officer for a term of one year.
- B. These positions shall perform all duties prescribed by state laws and codes, federal laws, Town rules and regulations, and Zoning Bylaws.

7. Editor's Note: Amendment pending.

§ 4-9. Mapping Commission. [Adopted 4-25-1995 ATM]

- A. Pursuant to the provisions of MGL c. 40, § 8K, there is hereby established in the Town of Norwell a Mapping Commission which shall have all the duties and responsibilities imposed upon it by the provisions of said law as presently provided or hereinafter amended including the developing or coordinating the development of comprehensive maps of the Town including but not limited to parcel boundaries, location of utilities, pipelines, and other structures, land use, or items of geographic or geological interest.
- B. Powers and duties.
 - (1) The Mapping Commission is authorized to:
 - (a) Develop and administer programs relating to such mapping of the community.
 - (b) Advise, assent, and cooperate with state, regional, and federal agencies in developing appropriate programs and policies relating to such mapping.
 - (c) Apply for, receive, expend, represent and act on behalf of the Town in connection with federal grants, grant programs or reimbursements or private grants.
 - (d) Accept gifts, grants, bequests and devises from any source, whether public or private, for the purpose of assisting the Mapping Commission in the discharge of its duties.
 - (e) Seek to coordinate the activities of governmental and private bodies organized for similar purposes.
 - (2) Said Commission shall seek to coordinate all mapping efforts in the Town in order that duplicative efforts be minimized.
 - (3) The Mapping Commission may offer for sale any products of its efforts, including maps, reports or other materials.
- C. The Mapping Commission shall consist of five members. The members shall be appointed by the Board of Selectmen for terms of three years each, so arranged that as nearly an equal number of such terms of office as is possible shall expire each year. Town employees, appointed board members, and elected officials shall be eligible for appointment to the Commission provided that their appointment shall cease upon the termination of said employment unless subsequently appointed thereto. Notwithstanding the foregoing, said members once appointed shall serve until their respective successors are appointed and sworn. Said members shall serve without compensation.

§ 4-10. Norwell Historical Commission.

- A. On October 25, 1972, at a Special Town Meeting, it was unanimously voted to accept MGL c. 40, § 8D, and thereby established a Historical Commission for the Town of Norwell for the purposes and with the rights and duties provided by law, to be composed of five members originally, appointed by the Board of Selectmen, for terms of three years except that initial appointment shall be: two members for one year, two

members for two years, and one member for three years. Per Massachusetts General Laws the Commission shall consist of not less than three nor more than seven members.

- B. This Commission was established for the preservation, protection and development of the historical or archaeological assets of the Town. This Commission shall conduct researches for places of historic or archaeological value, shall cooperate with the state archaeologist in conducting such researches or other surveys, and shall seek to coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it deems necessary for its work.

§ 4-11. Permanent Building and Maintenance Committee.

- A. There shall be a Permanent Building and Maintenance Committee which shall be responsible for the construction, reconstruction and alteration of all Town buildings and structures. The Committee shall be appointed by the Board of Selectmen, shall consist of seven residents of the Town and shall be appointed for three-year terms as follows: two shall be appointed the first year, two shall be appointed the next year, and three shall be appointed the following year. Vacancies shall be filled by the Board of Selectmen for the remaining portion of an unexpired term. The members of the Committee on the date this provision is effective shall be designated first, second, and third year members by the Board of Selectmen and shall be subject to reappointment or replacement upon the expiration of their terms.
- B. The Permanent Building and Maintenance Committee shall organize by choosing a Chair and a Secretary.
- C. The Permanent Building and Maintenance Committee shall review the condition, upkeep, maintenance and repair of all Town-owned buildings at reasonable intervals and shall report its findings and recommendations to the Board of Selectmen in writing.
- D. The Permanent Building and Maintenance Committee shall adopt, and from time to time may revise or amend, rules and regulations. Such rules and regulations, and all revisions and amendments thereto, shall become effective and shall supersede all prior rules and regulations, upon filing with the Town Clerk.

§ 4-12. Permanent Site Committee.

- A. There shall be a Permanent Site Committee which shall be responsible for the recommendation of the sites for all new Town buildings and structures. The Committee shall consist of the following: one member appointed by the Permanent Building and Maintenance Committee; one member appointed by and from the Planning Board; one member appointed by and from the Board of Health; one member to be appointed by and from the Permanent Drainage Committee; one member appointed by and from the Conservation Commission; and two members to be appointed by the Selectmen for three-year, staggered terms. Unless otherwise provided, members shall serve for a period of one year.
- B. Permanent Site Committee shall organize by choosing a Chair and a Secretary.

§ 4-13. Regional Vocational School District Committee.⁸

One member of a Regional Vocational School District Committee shall be appointed for a three-year term.

§ 4-14. Town Accountant.

- A. The Selectmen shall appoint a Town Accountant for a term of three years and until his/her successor is qualified.
- B. The Town Accountant shall perform all duties prescribed by law including the filing of all contracts, insurance policies and agreements affecting the interests of the Town.

§ 4-15. Town Treasurer-Collector.⁹

- A. The Town Treasurer-Collector's term of office shall be three years.
- B. The Town Treasurer-Collector shall collect all accounts due the Town which are committed to him/her.
- C. At least once in every month each department of the Town shall deliver to the Town Accountant a statement of each account due the Town arising from any transaction in said department. Such accounts are to be committed to the Town Treasurer-Collector for collection. This subsection is to include all taxes and special assessments, costs and fees charged by each department, except those collected by the Town Clerk.
- D. The Town Treasurer-Collector shall advise the Selectmen, as provided by law, when suits should be instituted and prosecuted in the name of the Town for the collection of any account due the Town and the Selectmen shall have the authority as agents of the Town to institute and prosecute the same.
- E. The Town Treasurer-Collector shall pay all fees received by him/her by virtue of his/her office into the Town treasury.
- F. The Town Treasurer-Collector shall perform all the duties which are required by law and shall have the custody of all monies, properties and securities of all trust funds, not subject to the authority of the Commissioners of Trust Funds, heretofore or hereafter given or bequeathed to the Town and shall have the power with the approval of the Board of Selectmen to invest, reinvest, transfer and expend monies from such funds as limited by the directions or provisions made by the donor of such funds. The Treasurer-Collector shall keep a separate account of such funds, and the income thereof, and submit the same to the Selectmen at the close of the fiscal year for publication in their report.
- G. The Treasurer-Collector shall file and safely keep all receipts, vouchers and canceled obligations of the Town and shall have custody of all deeds, and other similar documents owned or held by the Town, and, except for fidelity bonds covering the

8. Editor's Note: Amendment pending.

9. Editor's Note: Amendment pending.

Town officers and employees which shall be filed with the Selectmen, shall have custody of all bonds which run to the Town or any of its commissioners, committees or officers.¹⁰

§ 4-16. Town Technology Committee.

On May 9, 2011, at the Annual Town Meeting, it was unanimously voted to establish a Town Technology Committee, for the purpose of reviewing and making recommendations on Town-wide technology purchases, including but not limited to hardware and software purchases. The number of Committee members will be seven, consisting of two appointed by the School Committee, one the School Superintendent, or designee, one the Town Administrator or designee and three members appointed by the Board of Selectmen.

§ 4-17. Design Review Board.

- A. The Design Review Board was established by vote of the March 15, 1977, Annual Town Meeting and is charged with the following duties:
 - (1) To review the plans concerning the quality of design relative to construction, site development, landscaping, and signs for all new or substantially altered buildings of the types and/or within the districts hereinafter specified. The criteria to be applied are those specified in Subsection D(2).
 - (2) The Board shall complete its review within the review period specified in Subsection E(3), and upon completion of its review the Board shall issue a nonbinding recommendatory opinion for the approval or disapproval of said plans to the appropriate Town boards, committees or officials. In the event of a recommendation to disapprove, the Board shall specify its reasons for disapproval.
- B. Membership. The Design Review Board ("the Board") shall consist of five members each appointed by the Board of Selectmen for a three-year term. All members of the Board shall have experience in the professions or trades of architecture, landscape architecture, planning, design, engineering, construction, or other relevant experience. Preferably one member of the Board shall be appointed from the Norwell business community at large and one member from the Norwell Chamber of Commerce. Nonvoting associate members may be appointed at the discretion of the Board. The Board shall elect annually a Chair, Vice Chair, Clerk and such other officers as required.
- C. Types of sites and properties.
 - (1) All commercial, industrial, public and institutional sites and buildings which are to be constructed or substantially altered shall be subject to review by the Design Review Board, regardless of their location in the Town. In no case shall any site or building intended exclusively for the use as a single-family residence be subject to review by the Board.

¹⁰. Editor's Note: For the Town bylaw relating to the issuance of licenses and permits if back taxes are owed, see Ch. 9, Licenses and Permits, § 9-5.

- (2) All sites and buildings, except those for single-family residences, located in the following districts are subject to review by the Board:
 - (a) All business districts in the Town.
 - (b) All industrial districts in the Town.
 - (c) Any and all future commercial, business or industrial districts.
 - (d) Any other districts that may be in the future created from the present single-family residential districts.

D. Criteria.

- (1) The Design Review Board's central purpose is to avoid design that would have negative consequences for the residents of the Town in general, for nearby residents, or for the remainder of the district involved. The Board is specifically precluded from mandating any official "aesthetic" for Norwell or for imposing the style of any particular historical period.
- (2) The following design criteria will be used by the Board in reaching its recommendations:
 - (a) The design of the proposed project shall not have a deleterious effect upon nearby properties, the balance of the district involved, or upon the design character of Norwell.
 - (b) Insofar as practicable, the proposed design shall preserve the landscape in its natural state by minimizing tree and soil removal and any grade changes shall be in keeping with the general appearance of neighboring areas.
 - (c) Open space should be so designed as to add to the visual amenities of the vicinity for persons passing the site and overlooking it from nearby properties.
 - (d) Vehicular access, egress, or parking and/or pedestrian circulation shall not adversely affect the use and enjoyment of nearby properties or shall be in keeping with the standards of good design.
 - (e) Exposed storage areas, machinery, service areas, loading areas, or utility structures shall be adequately screened and shall not be incongruous with the remainder of the proposed environment and its surroundings.
 - (f) Signs or other outdoor advertising through its size, location and other characteristics shall not detract from the proposed buildings, nearby properties, the remainder of the district, or the design character of Norwell.
- (3) The Board may develop materials for the purpose of illustrating the design criteria set forth in Subsection D(2).

E. Powers and duties.

- (1) On the basis of the design criteria set forth in Subsection D(2), the Board shall review, advise, and recommend upon:

- (a) Site designs and plans.
 - (b) Building designs.
- (2) The Board shall work cooperatively with landowners and developers and with the regulatory officers and boards of the Town. Upon the request of landowners, developers, or other parties, the Board shall review and comment upon preliminary designs prior to the official submission of proposals to the appropriate Town board, committee or official.
 - (3) The Building Inspector/Zoning Enforcement Officer, the Planning Board, and the Board of Appeals, and the Permanent Building and Maintenance Committee shall, within five days after receipt of any application or proposal, give notice to the Design Review Board and shall provide the Board with copies of the proposed plans. The initiating board, official or committee shall set a time (not less than 1/2 of its own established review period) for the Board to review the proposal, discuss the design with proponents and other interested parties, and issue a recommended opinion.
 - (4) Only after receipt and consideration, as well as public reading and publication, of the Design Review Board's recommended opinion (or the expiration of the allowed review period) shall a Town official or agency grant a corresponding permit for site development or building construction for the properties specified in Subsection C.
 - (5) The Design Review Board's recommended opinion, however, shall not be binding upon any board or Town official under Subsection E(3). Such an opinion may be overruled by an overt public act by the official or agency, so long as the reasons therefor are specified in writing, responding point by point to the Board's recommended opinion, and that these written reasons are made part of the public record.
- F. Meetings. Meetings of the Design Review Board shall be posted and conducted in accordance with the Open Meeting Law.¹¹ Landowners and applicants for permits or approvals shall be invited to attend meetings of the Board during which any proposal of their initiative, or on abutting properties, will be under discussion. The Chair or member of the Board conducting each meeting shall at the outset thereof make a clear and concise statement of the purpose, the powers, and the duties of the Board.

§ 4-18. Community Preservation Committee. [Added 5-13-2002 ATM, Art. 31]

A. Establishment.

- (1) There is hereby established a Community Preservation Committee, consisting of nine voting members pursuant to MGL c. 44B. The composition of the Committee, the appointment authority and the term of office for the Committee members shall be as follows:

11. Editor's Note: See MGL c. 30A, §§ 18 to 25.

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- (a) One member of the Conservation Commission as designated by the Commission for a term of three years;
 - (b) One member of the Historical Commission as designated by the Commission for a term of three years;
 - (c) One member of the Planning Board as designated by the Board for a term of three years;
 - (d) One member of the Recreation Commission as designated by the Commission for a term of three years;
 - (e) One member of the Housing Authority as designated by the Authority for a term of three years;
 - (f) One member of the Board of Assessors as designated by the Board for a term of three years; and
 - (g) Three members to be appointed by the Board of Selectmen: one member to be appointed for a term of one year and thereafter for a term of three years; one member to be appointed for a two-year term and thereafter for a term of three years; and one member to be appointed for a term of three years.
- (2) Should any of the commissions, boards, authorities or committees which have appointment authority under this section of the bylaw be no longer in existence for whatever reason or for whatever reason fail to appoint an individual to the committee, the appointment authority for that commission, board, authority or committee shall become the responsibility of the Board of Selectmen.

B. Duties.

- (1) The Community Preservation Committee shall study the needs, possibilities and resources of the Town regarding community preservation. The Committee shall consult with existing municipal boards, including the Conservation Commission, the Historical Commission, Planning Board, the Recreation Commission and the Housing Authority, or persons acting in those capacities or performing like duties, in conducting such studies. As part of its study, the Committee shall hold one or more public informational hearing(s) on the needs, possibilities and resources of the Town regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.
- (2) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation and preservation of open space, for the acquisition and preservation of historic resources, for the acquisition, creation and preservation of land for recreational use, for the creation, preservation and support of community housing and for rehabilitation or restoration of such open space, historic resources, land for recreational use and community housing that is acquired or created as provided in this section. With respect to community housing, the Community Preservation Committee shall recommend, wherever possible, the reuse of existing buildings or construction of new buildings on previously developed sites.

- (3) The Community Preservation Committee may include in its recommendation to the Town Meeting a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending funds for general purposes that are consistent with community preservation.
- C. Requirement for a quorum and cost estimates. The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of the members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by majority vote. Recommendations to the Town Meeting shall include their anticipated costs.
- D. Amendments. This section of the bylaw may be amended from time to time by a majority vote of the Town Meeting, provided that the amendments would not cause a conflict to occur with MGL c. 44B.
- E. Severability. In case any section, paragraph or part of this section of the bylaw be, for any reason, declared invalid or unconstitutional by any court of last resort, every other section, paragraph or part shall continue in full force and effect.
- F. Effective date. Each appointing authority shall have 10 days, after the approved bylaw is posted or published by the Town Clerk in accordance with MGL c. 40, § 32, to make its initial appointments. Should any appointing authority fail to make its appointment within that allotted time, the Selectmen shall make the appointment.

Chapter 5

TOWN EMPLOYEES

ARTICLE I **Personnel Plan**

- § 5-1. Title; authority; scope.**
- § 5-2. Nondiscrimination.**
- § 5-3. Definitions.**
- § 5-4. Personnel Board.**
- § 5-5. Classification Plan.**
- § 5-6. Compensation Plan.**
- § 5-7. Work week.**

- § 5-8. Leave benefits.**
- § 5-9. Other benefits.**
- § 5-10. Sick leave bank.**
- § 5-11. Grievance procedure.**
- § 5-12. Amendments.**
- § 5-13. Collective bargaining agreements.**
- § 5-14. Severability clause.**
- Classification Plan**

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Personnel Plan** **[Amended through 5-8-2017]**

§ 5-1. Title; authority; scope.

- A. This bylaw shall be known as the Personnel Plan, which has been adopted pursuant to the provisions of MGL c. 41, §§ 108A and 108C, and other enabling acts.
- B. The Plan applies to all employees of the Town except:
 - (1) Those selected by popular election;
 - (2) Those under the control of the School Committee; and
 - (3) Those covered by collective bargaining agreements or personal contract.
- C. Pursuant to the authority contained in MGL c. 41, § 108C, this bylaw does not required the approval of the Attorney General.

§ 5-2. Nondiscrimination.

The provisions of this bylaw shall be applied equally to all employees without discrimination as to age, sex, marital status, race, color, creed, national origin, handicap, political affiliation or any lawfully protected class. All references in this bylaw to employees of the male gender are used for convenience only and shall be construed to include both male and female employees.

§ 5-3. Definitions.

BOARD — Is the Personnel Board.

CONTINUOUS EMPLOYMENT — Is full- or part-time employment which is uninterrupted except for military service, authorized vacation or sick leave, layoff of less than six months, or other approved leave of absence.

EXEMPT EMPLOYEE — Is a salaried employee who is employed in an executive, administrative, or professional capacity, and is not generally entitled to overtime pay if he meets the following criteria:

- A. Executive: primary duty is to manage a department;
- B. Administrative: primary duty is an office or non-manual work directly related to management policies, or directly assisting an executive; and
- C. Professional: primary duty requires advanced knowledge acquired by specialized study, work is intellectual and the result is not standardized.

FULL-TIME EMPLOYEE — A regular employee who works at least 37 1/2 hours per week throughout the year.

NON-EXEMPT EMPLOYEE — Is an employee, whether paid a salary or hourly wage, whose primary duty is not executive, administrative, or professional in nature. A non-exempt employee is entitled to overtime pay under certain conditions.

PART-TIME EMPLOYEE — Is a regular employee who works fewer than 37 1/2 hours per week throughout the year.

PROBATIONARY EMPLOYEE — Is an employee who has not completed six months of service or successfully passed his probation.

REGULAR EMPLOYEE — Is an employee who has completed his/her probationary period.

TEMPORARY EMPLOYEE — Is an employee in a full- or part-time position which is not likely to require the services of an incumbent on a year-round basis. Seasonal employees and employees hired for a specific project on a short-term basis are considered temporary employees.

TOWN — Is the Town of Norwell.

§ 5-4. Personnel Board.

- A. This Personnel Bylaw shall be administered by a Personnel Board, consisting of three members appointed by the Board of Selectmen, who shall have the power to fill all vacancies. Members are appointed for a term of three years. Members shall continue to hold office until their successors have been appointed and qualified. Members of the Personnel Board shall serve without compensation.
- B. The Personnel Board shall meet regularly as necessary to consider such business as may be presented by Town officials, Town employees, and others. The Board shall select a Chair from its membership who shall preside over meetings. At any meeting of

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the Personnel Board, action by a majority of those Board members present shall be binding. At least two members of the Board shall be present to constitute a quorum.

- C. The Personnel Board is responsible for administering the Personnel Plan and may establish procedures as necessary to fulfill this charge. To aid in this function, the Board shall collect data from neighboring towns concerning salaries, wages, fringe benefits, and personnel policies for positions comparable to those in the Town of Norwell. The Personnel Board may, from time to time, make and issue interpretations and regulations consistent with the provisions of this Personnel Bylaw and necessary for its administration.
- D. The Board of Selectmen, or their designee(s), shall be responsible for developing and administering a system of personnel administration for employees covered under the Personnel Bylaw and consisting of the following:
 - (1) Assisting in the advertising, posting of job openings and initial screening of applicants upon request;
 - (2) Reassigning employees according to workloads, with the approval of the employee's department head;
 - (3) Correcting inadequate performance and separating employees whose inadequate performance has not been corrected, provided the employee's department head agrees with such action;
 - (4) Approving hours for positions in the Plan;
 - (5) Establishing working hours for Town Offices employees, full-time and part-time, within the framework of the public hours set by the Board of Selectmen. Part-time departments within the Town Offices will submit for approval hours of operations which will be publicly posted. Offices outside the Town Offices but open to the public will submit to the Selectmen and/or the Town Administrator the hours of operations, which will be publicly posted; and
 - (6) Establishing and maintaining such records, forms and procedures as necessary to control personnel transactions.
- E. The salaries which shall be paid to elected Town officials shall be established by vote of the Town. As information for the guidance of the voters, the Board shall have the further power to recommend compensation rates, salary adjustments, and fringe benefits which, in the opinion of the Board, will provide adequate and equitable compensation for elected officers.
- F. The Board shall recommend to the Town each year such amendments to the Personnel Plan and the provisions of this bylaw as the Board deems necessary and advisable. The Board shall prepare a written report for the information of the Town in advance of each Annual Town Meeting at which recommendations of the Board will be considered.

§ 5-5. Classification Plan.

- A. Titles and job description.

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- (1) The Personnel Board shall maintain written job descriptions of all jobs or positions in the Plan, describing the essential characteristics, requirements, and general duties of each position. The job description shall not be interpreted as complete or limiting definitions, but rather serve as a general guideline of the scope and nature or responsibility of the position.
 - (2) An employee shall be employed and paid according to the job title and position associated with the duties that he actually performs.
 - (3) Upon recommendation of the Board and subject to approval of the Town, the following offices and positions may be excluded from the Classification Plan:
 - (a) Positions for which the compensation is on a fee basis or the incumbents of which render intermittent, casual, or contractual services;
 - (b) Positions serving as members of boards and committees;
 - (c) Temporary or seasonal positions established in connection with elections, or census taking;
 - (d) Town Counsel; and
 - (e) Any other positions which the Board may recommend.
 - (4) The Board shall retain the authority to recommend compensation rates, working conditions, fringe benefits, and other aspects of employment for any positions excluded from the Classification Plan.
 - (5) Whenever a new position is established, or when an existing position has so changed that, in effect, a new position is created, upon presentation of substantiating data satisfactory to the Board, the Board shall allocate such new or changed position to its appropriate classification.
 - (6) Except in the case of an emergency, no person shall be employed as an employee of the Town in any position subject to the provisions of this bylaw until the Board, or its designee, shall have determined that such employment is consistent with the Personnel Plan.
- B. Job description review. The Personnel Board shall periodically as the need arises review the duties of all positions subject to the Plan, in order to keep them up-to-date. The Board, upon presentation of substantiating data, may tentatively add a new position into the Classification Plan, or reclassify an existing position to a different grade, subject to subsequent ratification of its action by formal amendment of this bylaw at Town Meeting. It shall be the responsibility of the department head to notify the Human Resources Office or Personnel Board if an employee's duties are substantially changed, in which case the classification shall be reviewed by the Personnel Board.

§ 5-6. Compensation Plan.

- A. Compensation review.

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- (1) The Personnel Board shall, after consultation with the Board of Selectmen and Advisory Board, each year prepare and recommend to the Town a Compensation Plan for all positions subject to the provisions of this bylaw. The Plan shall include, for each position in the Classification Plan, a minimum and maximum pay rate and such intermediate rates as the Board considers necessary and equitable.
- (2) Whenever the Personnel Board reviews the wage and salary provisions of this bylaw, it shall take into account and give such weight as it may deem desirable to the following:
 - (a) Rates of pay for like positions in other Massachusetts towns considered by the Personnel Board to be comparable to Norwell;
 - (b) Rates of pay for like jobs (if any) in commercial and business establishments in the area of Norwell and vicinity;
 - (c) Other benefits received by Town employees;
 - (d) The current level of the Consumer Price Index for the Boston area;
 - (e) The financial policy and economic consideration of the Town.

B. Status of new employees.

- (1) All new non-temporary employees of the Town shall be considered to be probationary employees during the first six months of service. At the end of six months, each employee's status will be reviewed by his department head. If performance is meeting expectations, the employee will be made a regular employee. Should performance expectations not be met, the probationary period may be extended, the probationary period may be extended by no more than 90 days or the employee will leave the service of the Town. If the employee leaves the Town's service, without passing probation, he shall not be entitled to any accrued vacation. A probationary employee is entitled to pay for holidays and may use sick leave as earned.
- (2) New employees shall be paid at the beginning rate of the grade allocated to the class of employment for which he has been hired, except that, upon prior request of the department head or Town Administrator, the Personnel Board may approve a starting rate for said employee above the beginning rate for said classification, depending upon the qualifications of the employee.

C. Advancement within the rate ranges.

- (1) Following the probationary period, advancement to the next higher step rate may be granted to employees in continuous, meritorious employment as follows:
 - (a) All employees placed in Step 1 will be considered for step advancement after one year of service within the grade.
 - (b) Employees placed in Steps 2 through 5 will be considered for step advancement after completion of one year of service from the last advancement of placement. Except that part-time employees working fewer

than 20 hours per week shall be eligible for advancement in Steps 2 through 5 after completion of 1,000 hours of service from the last step advancement. The department head will provide backup documentation of the 1,000 hours worked by an employee to the Accounting Department prior to step advancement.

- (2) For advancement purposes, the anniversary date shall be the date on which an employee's step increase, reclassification or promotion takes effect.
- (3) Progressions through the rate ranges are not mandatory and shall be on the basis of performance and ability, as recommended by the department head or supervisor. All adjustments shall be approved in advance of the effective date by the Personnel Board or its designee. An employee not receiving a step rate increase may appeal the decision, using the grievance procedure outlined in § 5-11.

D. Transfers and promotions.

- (1) An employee whose position is reclassified or upgraded, or who receives a promotion shall receive the rate in the new compensation grade next above his existing rate. If such a move results in an increase of less than 4%, then he shall move an additional step.
- (2) If an employee is transferred to another position in the Town, he shall normally be transferred at the entrance rate of pay. If such a transfer is for the convenience of the Town rather than due to the employee's ability or performance, then he shall be transferred at his existing rate of pay. If his existing rate of pay is above the maximum rate of the new range, it will remain a personal rate, until such time as his personal rate is exceeded by the terms of the wage and salary schedule.

E. Reinstatement.

- (1) An employee in good standing who leaves Town employment by reason of resignation and subsequently re-enters service of the Town within 30 days of his date of resignation shall be eligible for the following benefits provided that the employee is reassigned to the same classification he held at the time of resignation:
 - (a) The employee shall be placed in the same salary step in the appropriate compensation range as he was at the time of his resignation.
 - (b) The employee shall receive credit for the previous length of service in calculating eligibility for advancement within the salary range and calculation of annual vacation benefits.
- (2) In instances involving layoffs or work force reduction an employee rehired within six months of a layoff shall be eligible for reinstatement of service for the purposes of calculating vacation benefits.
- (3) No other benefits will be reinstated; the employee shall be eligible for any other benefits as offered to new hires.

- F. Overtime. Payment for overtime shall be in accordance with the terms of the Fair Labor Standards Act of 1938, as amended. If an assignment requires work in excess of 40 hours per week, such overtime work must be authorized in advance by the department head. Non-exempt employees shall be paid 1 1/2 times their regularly hourly rate for hours worked beyond the 40 hours in the work week. Compensatory time may be taken in lieu of overtime pay, at the rate of time and one-half, only by mutual agreement of both employee and supervisor prior to overtime hours being worked. If such agreement is made, then compensatory time should be taken within a reasonable time of being earned in accordance with the Fair Labor Standards Act. An employee is eligible to be paid for any unused compensatory time upon his termination or retirement. Executive, administrative, and professional employees as shown in the Classification Plan are exempt employees and are not eligible for overtime pay.
- G. Sunday pay for library duty. An exempt status employee of the Library Department, assigned to work 37.5 hours per week, shall be compensated as follows for any work performed on a Sunday:

- (1) An employee who works a minimum four hours on a Sunday, in addition to his regularly scheduled 37.5 hours work week, shall be eligible to receive a stipend for the work shift. The stipend will be based on the employee's step.

Step	Stipend (per diem)
1	\$140
2	\$147
3	\$154
4	\$161
5	\$168
6	\$176

- (2) The stipend will not be affected by any cost of living adjustments. The position of Library Director is not eligible to receive Sunday pay for library duty.
- H. Working out of class compensation. The Town Administrator may direct employees to work up to 10 consecutive working days without additional compensation.
- (1) Working out of class assignments shall only be made for positions vacated due to illness, an approved leave of absence or termination. To qualify for working out of class pay, an employee assigned by the Town Administrator or his department head (with the approval of the Town Administrator) must perform the primary duties of the higher classification and satisfy the requirements of the qualifying period. The Town Administrator shall, in his sole discretion, determine what the primary duties of the higher classification are. Notification of the approval of a working out of class assignment shall be provided to the Human Resources Office and the Accounting Department.

- (2) During the ten-consecutive-day qualifying period before an employee is eligible to receive out of class pay, an absence of more than two days for any reason, including the authorized use of compensatory, vacation, sick or personal time, shall break consecutiveness and cause the qualifying period to start again. The Town Administrator may approve absences exceeding the two days, on a case-by-case basis, and has the final authority to determine when the number of consecutive days has been broken for the purposes of an employee(s) meeting the qualifying period.
 - (3) Any employee who is assigned to work out of class and satisfies the requirements of the qualifying period shall receive out of class pay at Step 1 of the higher class or 5% above the employee's regular weekly salary, whichever is greater, for work performed in the higher classification on the 11th day of working out of class and for each day thereafter an employee works out of class. The Town Administrator has the authority to change the compensation amount or percent on a case-by-case basis.
 - (4) In instances where it benefits the Town to assign more than one employee to share the performance duties of the higher classification while continuing to perform the duties of their regularly assigned positions and the employees assigned to share the duties of the higher classification satisfy the requirements of the qualifying period, those employees shall receive out of class pay equal to 2.5% above the employee's regular weekly salary. The Town Administrator has the authority to change the compensation amount or percent on a case-by-case basis.
- I. Premium pay. All full- or part-time employees regularly scheduled to work for four or more hours between the hours of 6:00 p.m. and 6:00 a.m. shall be paid a premium for all hours worked in addition to their regular straight time hourly rate. The premium shall be added to the regularly straight time hourly rate for each hour and shall be in the amount set forth in the Compensation Plan.
- J. Call-back pay. If a full-time non-exempt employee is recalled to work from off-duty hours, he will receive a minimum of three hours' overtime pay, at the rate of time and one-half.
- K. Longevity pay.
- (1) All regular employees hired before July 1, 2015, shall receive longevity payments according to the following schedule:

Length of Service Completed	Annual Amount
5 years	\$250
10 years	\$350
15 years	\$450
20 years	\$550
25 years	\$650

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- (2) This amount shall be paid in one lump sum in the first pay period following the anniversary of the employee's date of hire. The date of hire shall be considered the date when the employee began working for the Town at least 20 hours per week on a continuous basis. The years of service shall be calculated from this date of hire.
 - (3) All regular part-time employees working at least 20 hours per week are entitled to longevity pay according to the above schedule, with the amount of payment prorated to their weekly schedule. Full-time employees hired on or after July 1, 2015, temporary employees, or employees working fewer than 20 hours per week are not entitled to longevity pay.
- L. Mileage. Employees who are required to use their own vehicle for Town business shall be reimbursed for each mile traveled, subject to written approval by the department head or Board Chair, at the rate set by the Internal Revenue Service.

§ 5-7. Work week.

The normal work week for employees shall be 37 1/2 hours per week, except as follows:

- A. Salaried employees: as required.

§ 5-8. Leave benefits.

- A. Vacation.

- (1) Full-time employees shall be entitled to paid vacation in accordance with the following schedule:
 - (a) Upon completion of six months of service: one week.
 - (b) From one year to four years of service: two weeks/year. (Note: Ten days cumulative after first year provided five days in one has not been taken.)
 - (c) From five years to nine years of service: three weeks/year.
 - (d) Upon completion of 10 years of service: four weeks/year.
 - (e) Upon completion of 20 years of service: five weeks/year.
- (2) An employee shall request vacation leave from his supervisor, giving as much notice as possible.
- (3) No employee may take vacation until completing his probationary period. If a holiday falls during a vacation period, an additional day off will be scheduled, by agreement with the department head.
- (4) Part-time employees working at least 20 hours per week are entitled to vacation according to the above schedule, with their vacation pay prorated to their weekly schedule. Temporary employees, or employees working fewer than 20 hours per week, are not entitled to vacation pay.

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- (5) Employees are encouraged to take vacation on a regular basis, to allow for the proper rest from the rigors of work. Vacations should normally be taken in units of at least one week. An employee may, however, take vacation leave in separate days subject to department head approval.
- (6) The vacation year will begin on the anniversary of the employee's date of hire. An employee will have one year to take his vacation time. Vacation time shall not be cumulative and employees will not be permitted to carry over vacation days into succeeding years without approval of the department head and the Personnel Board. In emergency situations, three days could be carried over to be used within 60 days.

B. Holidays.

- (1) The following holidays (or the day on which they are celebrated) are observed:

New Year's Day	Columbus Day
Martin Luther King Day	Veterans Day
Presidents Day Birthday	1/2 Day before Thanksgiving
Patriots Day	Thanksgiving Day
Memorial Day	Friday after Thanksgiving
Independence Day	1/2 day Christmas Eve
Labor Day	Christmas Day
- (2) Holidays falling on a Saturday shall be celebrated on the preceding Friday. Holidays falling on a Sunday shall be celebrated on the following Monday. If any of these holidays should fall on a Saturday or Sunday and are not being publicly celebrated (requiring Town Hall to close) the Selectmen, at their discretion, may grant a floating holiday on another date within the fiscal year and the employee will receive pay for the day or an additional vacation day.
- (3) Part-time employees who work at least 20 hours per week are eligible for holiday pay at the rate of 1/5 of their normal work week.
- (4) Holiday pay may be denied by a department head for employees who are absent from work without prior approval or justifiable cause on the scheduled day of work preceding or following a holiday.
- (5) If a non-exempt employee who is not normally scheduled to work on a holiday is called in to work for an emergency, then he shall be paid according to the procedures outlined under § 5-6F(Overtime) and § 5-6J (Call-back pay).
- (6) Seasonal, intermittent, temporary, emergency and part-time employees working fewer than 20 hours per week shall not be entitled to holiday pay but shall be paid at their regular rate for all hours worked if required to work.

C. Sick time.

- (1) Each full-time employee shall accumulate sick leave at the rate of 1 1/4 day for each month of employment (15 days/year). Unused sick leave may be accumulated up to a maximum of 200 days.

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- (2) Department heads may, in their discretion, require medical certification of any illness.
- (3) Probationary employees are entitled to sick leave after completing at least one month of service.
- (4) Part-time employees who work a minimum of 20 hours per week are eligible to accumulate sick leave on a prorated basis.
- (5) Employees may use up to two sick days each fiscal year as personal days. Personal days are not accumulated. If no sick days are used as personal days, the sick days may be carried over.
- (6) Sick leave buy-back.
 - (a) For employees hired before July 1, 2007: Upon retirement as determined, or death of the employee, using a maximum accumulation of 120 days, the Town will buy back all unused sick days accumulated above 45 days, for a maximum buy-back of 75 days. Payment will be made at the current pay scale of the employee at the time of death or retirement.
 - (b) For employees hired on or after July 1, 2007: An employee shall not be eligible to receive a sick leave buy-back upon death or retirement.
- (7) Employees shall be allowed to use up to five days of accumulated sick leave for illness in their family. The Town may require certification of said illness from a medical provider.
- (8) Employees may earn up to three personal days in the fiscal year depending on the employee's use of sick leave. An employee who uses no sick leave for six consecutive months shall be eligible for 1.5 personal days. A new six-month period will begin to run each time an employee returns to work after using a sick day. A personal day should be used within 12 months of being earned, and is not eligible for redemption in pay in lieu of time off. Authorized paid leaves, other than sick leave, shall not be counted against an employee in establishing his attendance record.

D. Bereavement leave.

- (1) Full-time regular employees and part-time employees may be granted up to five days of bereavement leave in the event of the death of spouse, domestic partner, parent, child, or stepchild. Full-time regular employees and part-time regular employees may be granted up to four days of bereavement leave in the event of the death of a brother, sister, grandparent, grandchild, parent-in-law, son-in-law, or daughter-in-law or member of employee's household. Full-time regular employees and part-time employees may be granted up to two days of bereavement leave for the death of a sister-in-law or brother-in-law. Full-time regular employees and part-time employees may be granted one day of bereavement leave for the death of an aunt or uncle.
- (2) If the death of one of the above, due to distance and travel time, creates a hardship for the employee to return to work within the time limits outlined, the department head and Town Administrator may grant two additional unpaid days.

E. Military training and military duty.

- (1) Military training. In accordance with the provisions of MGL c. 33, § 59, any employee shall be entitled, during the time of his/her service of the Armed Forces of the Commonwealth, under MGL c. 33, § 38, 40, 42 or 60,¹ or during his/her annual tour of duty of not exceeding 34 days in any state fiscal year and not exceeding 17 days in any federal fiscal year as a member of a reserve component of the Armed Forces of the United States, to receive pay therefor, without loss of his/her ordinary remuneration as an employee of the Town, and shall also be entitled to the same leaves of absence or vacation with pay given to other like employees.
- (2) Military duty. Any employee who is a member of the Air National Guard or the Army National Guard or a reserve component of the Armed Forces of the United States and who is called to active service in the Armed Forces of the United States on or after July 1, 2017:
 - (a) Shall be entitled to receive pay at his/her regular base salary as a Town employee, and shall not lose any seniority or any accrued vacation, sick leave, personal leave, compensation time, or earned overtime. Such employee shall be paid his/her regular base salary as a Town employee reduced by any amount received from the United States as pay or allowance for military service performed during the same pay period. Regular base salary shall exclude overtime pay, shift differential pay, hazardous duty pay or any other nonrecurring compensation;
 - (b) Shall accumulate creditable service as defined in MGL c. 32, § 1, for the time spent on active service, to the extent permitted by law; and
 - (c) Shall continue eligibility for hospital, surgical, medical, dental and other health insurance benefits which he/she would have received if not called to active service, with no change in employee contribution.
- (3) For the purpose of this subsection, the term "active service" shall not include active duty for training in the Army National Guard or the Air National Guard or as a reservist in the Armed Forces of the United States.

F. Jury duty. Any employee required to serve on a jury shall be paid the difference between the compensation received from the jury duty (excluding travel allowance) and his regular compensation from the Town. Proper evidence of jury pay received must be submitted to the department head.

G. Parental leave. In accordance with the Massachusetts Parental Leave Law,² an employee with at least three months of service may receive up to 90 days of unpaid leave for the purpose of child-bearing, adoption and/or child care. Request for such leave shall be made at least two weeks in advance to the department head. An employee may use available paid time off during the period of the leave requested. The full description of qualifying events, parental leave requirements and benefits outlined in the Parental

1. Editor's Note: Section 42 of MGL c. 33 was repealed by St. 1979, c. 134.

2. Editor's Note: See MGL c. 149, § 105D.

Leave Law is available and can be requested from the Human Resources Office. This summary of the Act is not intended as a complete description of the Law, nor is it intended to change, add to, subtract from or embellish the Law. If there is any conflict between the Law and this summary, the Law shall prevail.

H. Workers' compensation.

- (1) In accordance with MGL c. 152, §§ 1 to 86, all employees (except police and fire) are entitled to the benefits and provisions of this law. An employee may use his accumulated sick or vacation leave to make up the difference between his regular pay and the amount of pay received under workers' compensation. An employee shall receive no more than 100% of his weekly pre-disability earnings after combining workers' compensation payments and paid leave. While an employee is placed on workers' compensation leave, the employee's benefit accruals (i.e. sick, vacation, personal, other) as well as payment of stipends are suspended. Benefit accruals and payment of stipends will be reinstated effective upon the date an employee returns to active work. An employee returning to work on a full-time basis will begin accruing benefits at 100%; an employee returning to work on a less than full-time basis will begin accruing benefits on a prorated basis based on the percent of time he is working.
- (2) An employee who is out on workers' compensation leave is responsible for the continued payment of his share of health insurance, life insurance and any voluntary insurance premiums. Leave benefits should be coordinated with the Human Resources Office and the Treasurer-Collector's office.
- (3) During the initial five-day waiting period, while the workers' compensation claim is being evaluated and before any loss wages benefits may be paid, the employee may use his available paid leave accrual. If an employee is placed on workers' comp leave and loses more than 21 days of lost work time as calculated by the Town's insurance carrier, the employee may request to buy back the leave used within the initial five-day waiting period. Specified requirements and procedures for requesting buy back of leave and a description of this buy-back provision are available in the Human Resources Office.

I. Family and Medical Leave Act.

- (1) The Family Medical Leave Act of 1993 (FMLA Act) shall be incorporated into the Personnel Bylaw. In accordance with the FMLA Act, the Town will provide eligible employees up to 12 weeks of unpaid leave in the twelve-month period for one or more of the following reasons:
 - (a) To care for a newborn or newly placed, adopted or foster child.
 - (b) To care for a child, spouse or parent with a serious health condition.
 - (c) To care for the employee's own serious health condition.
- (2) A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves either in-patient care at a health care facility or continuous treatment of a health care provider.

- (3) To be eligible for leave, an employee must have been employed by the Town for at least 12 months and have worked at least 1,250 hours within the previous twelve-month period.
- (4) The twelve-month period shall be a rolling twelve-month period measured backward from the date the employee used leave under the Act.
- (5) The above sets forth some of the requirements of the Act but is not intended as a complete description of the FMLA Act, nor is it intended to change, add to, subtract from or embellish the Act. If there is any conflict between the FMLA Act and this summary, the FMLA Act shall prevail. Family medical leaves must be coordinated with the department manager and the Human Resources Office, in advance of the leave whenever possible. A full copy of the FMLA Act and necessary forms may be obtained from the Human Resources Office.

J. Small Necessities Leave Act.

- (1) The provisions of the Small Necessities Leave Act (SNLA Act) shall be incorporated into the Personnel Bylaw. The following is a summary of the provisions of the Act but is not intended to be a complete description of the SNLA Act, nor is it intended to change, add to, subtract from, or embellish the SNLA Act. If there is any conflict between the SNLA Act and this summary, the SNLA Act shall prevail. Employees who are eligible for 24 hours' leave pursuant to the Small Necessities Leave Act (MGL c. 149, § 52D) must substitute any accrued paid vacation leave, personal leave or any of the leave provided under the Act.
- (2) To be entitled to leave, employees must provide to the Town Administrator the following:
 - (a) If the need for leave is foreseeable, the employee must request the leave not later than seven days in advance.
 - (b) If the need is not foreseeable, the employee must notify the employer as soon as practicable under the particular circumstances of the individual case.
 - (c) Employees must complete the certificate form which may be obtained in the Human Resources Office.

K. Domestic Violence Leave Act.

- (1) The provisions of the Domestic Violence Leave Act (DVLA Act) shall be incorporated into the Personnel Bylaw. The following is a summary of the provisions for the DVLA Act but is not intended to be a complete description of the DVLA Act, nor is it intended to change, add to, subtract from or embellish the DVLA Act. If there is any conflict between the Act and this summary, the Act shall prevail. In accordance with MGL c. 149, § 52E, employees are permitted to take up to 15 days of leave from work in any twelve-month period if:
 - (a) The employee, or a family member of the employee, is a victim of abusive behavior;

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- (b) The employee is using the leave from work to: seek or obtain medical attention, counseling, victim services or legal assistance; secure housing; obtain a protective order from a court; appear in court or before a grand jury; meet with a district attorney or other law enforcement official; or attend child custody proceedings or address other issues directly related to the abusive behavior against the employee or family member of the employee; and
- (c) The employee is not the perpetrator of the abusive behavior against such employee's family member.
- (2) Before an employee may submit a request for the use of an unpaid domestic violence leave to Human Resources, he must utilize any and all accumulated personal leave, vacation leave and sick leave available to him prior to requesting or taking leave.
- (3) Approved domestic violence leave is an unpaid leave.
- (4) Domestic violence leaves must be coordinated with the department manager and the Human Resources Office. A full copy of the policy and accompanying forms may be obtained in the Human Resources Office.

L. Other leaves of absence.

- (1) Leaves of absence, with the exception of parental leave which shall be as outlined in § 5-8G, may be granted, without compensation, by the department head for up to 90 days. A leave of absence beyond 90 days requires prior approval of the Personnel Board. An employee does not accrue sick leave or vacation leave, and is not eligible for holiday pay during a leave of absence. The date of a step rate increase is extended by the duration of the leave, if the leave is longer than 90 days.
- (2) To be eligible for a leave of absence, an employee must have been in continuous service with the Town for at least one year. Either full-time regular or part-time regular employees working at least 20 hours per week are eligible for a leave of absence.
- (3) For health and other insurance information, see § 5-9, Other benefits, Subsection A, Insurance.
- (4) This policy shall not operate to cut off the rights and entitlements of any employee called for active military duty. A leave of absence will be granted to said employee of the duration of his military service to the extent provided by the applicable federal and state law.

§ 5-9. Other benefits.

- A. Insurance. The Town of Norwell's group health insurance is administered under the rules and regulations of MGL c. 32B. Permanent full-time and part-time employees working not less than 20 hours regularly, per week, for the governmental unit are eligible for health insurance as defined under MGL c. 32B. In no event shall seasonal

or emergency employees be considered eligible. Employees covered under the Personnel Bylaw shall pay the same percent contributions as employees covered under the Norwell Town Employees/Clerical Collective Bargaining Agreement (SEIU Local 888). In addition to the language under Article 19, Health Insurance, of the Norwell Town Employees/Clerical Collective Bargaining Agreement (SEIU Local 888), the following insurance-related provisions apply to employees covered under the Personnel Bylaw:

- (1) Employees hired on or before June 30, 2011, who were eligible for insurance at the time of hire, shall pay 20% of the cost of the HMO plan offered by the Town. (See chart and footnotes below for additional information.)
- (2) Employees hired on or after July 1, 2011, who were insurance eligible at the time of hire, shall pay 40% of the cost of the HMO plans offered.
- (3) Employees who become insurance eligible due to a change in employee status shall pay 40% of the total cost of the HMO plan offered by the Town, regardless of hire date.
- (4) The cost of insurance premiums shall be shared between the employer and the employee as follows:

Indemnity	
Employer % Contribution	Employee % Contribution
50%	50%

PPO⁽¹⁾	
Employer % Contribution	Employee % Contribution
64%	36%
50%	50%

HMO Hired or Insurance Eligible on or After 7-1-2011	
Employer % Contribution	Employee % Contribution
60%	40%

HMO⁽²⁾ Hired and Insurance Eligible on or Before 6-30-2011	
Employer % Contribution	Employee % Contribution
80%	20%
78%	22%

Footnotes

- (1) Employees enrolled in the Town's PPO health insurance plan shall pay 50% of the cost of the PPO in the plan year following the acceptance of this provision by all of the bargaining units of the Town of Norwell.
- (2) Effective July 1, 2018, employees who currently pay less than a forty-percent portion of health insurance for an HMO plan shall have the employee contribution increased by an additional 2%.

B. Insurance opt-out program.

- (1) Said employees who have been enrolled and participating in the Town insurance plan during the immediately preceding 12 months may elect to opt out of the health insurance and receive an annual stipend to be divided and paid out on a weekly basis. Under no circumstances shall the weekly stipend exceed the annual amount. Effective July 1, 2015, and each year thereafter, there shall be an annual stipend for employees who opt out of the health insurance after they have been insured for at least 12 consecutive months prior to the commencement of the period of non-coverage as follows: \$6,000 for the family plan and \$3,000 for the single plan.
- (2) To qualify for this opt-out program, the employee must have other insurance coverage that is comparable to the health insurance the employee was receiving through the Town and the employee must have been enrolled in one of the Town's plans.
- (3) The employee may not cancel his election to participate in this opt-out plan until an annual open enrollment period, or unless the employee experiences a certifiable qualifying event. The employee should consult the Treasurer-Collector for the list of qualifying events and what evidence of coverage will be required.
- (4) If an employee elects to participate in this opt-out program and a qualifying event occurs, as certified by the Treasurer-Collector, the employee will be able to re-enroll and resume health insurance coverage through the Town.

C. Employee's payment of insurance premiums while out on an approved leave.

Employees requesting and subsequently placed on any of the leaves, as described in § 5-8, Leave benefits, may be responsible for paying a portion or perhaps 100% of the insurance premiums for their Town insurance plans depending upon the type of leave requested and availability of employee paid leave. Employees must review the specific leave plan policy or provisions with the Human Resources Office to determine the employee's responsibility for insurance premium payment in order for the insurance policies to remain in full force and effect during the leave of absence.

D. Educational assistance.

Full-time regular employees and part-time regular employees working at least 20 hours per week, who have worked for the Town for at least one year, are eligible. Approval of the particular course by the department head and Personnel Board must be given prior to enrollment in order to be eligible for reimbursement. Reimbursement for tuition, registration fees and books for professional courses which serve to improve the employee's knowledge and skills and increase their performance with the Town shall be made upon the following conditions:

- (1) Successful completion of the course or program;
- (2) Subject to sufficient municipal funds; and
- (3) The employee signing an agreement to remain with the Town for a period of two years after completion of the course or program. Otherwise, the employee will reimburse the Town for all educational funds received.

§ 5-10. Sick leave bank.

The basic purpose of the sick leave bank, hereafter referred to as the bank, is to provide additional sick days to a member who has exhausted his own sick days and is in an extended illness situation. The bank is designed to not present any additional cost to the Town of Norwell in terms of sick days or management of the program. The intent is to provide income through sick days, to the unfortunate member in need of them, by the membership as a whole. The following will be the format of the functioning and administration of the bank:

- A. The administration of this bank shall be vested in a Sick Leave Bank Committee comprised of three persons, two who shall be elected by the Personnel Plan members and one appointed by the Town who shall serve as Chair.
- B. In the first year each employee who wishes to be a member shall notify the Committee of their intent to become a member and shall contribute two days of annual sick leave entitlement into the bank on July 15.
- C. In order to be eligible for membership in the bank, a full-time employee must have at least 10 accumulated sick days. Eligibility of part-time employees who work more than 20 hours per week shall be determined on a prorated basis.
- D. Each subsequent year each member of the bank will donate one sick day at the beginning of each fiscal year with the following exception: after a member has accumulated the maximum number of sick days, he may donate a maximum of two days per fiscal year as long as he or she remains above the maximum accumulation.
- E. A member must use all of his sick days prior to applying for use of sick leave bank days.
- F. Only those employees who are active members will be eligible to apply for use of sick leave days.
- G. A member must request use of sick leave bank days by submitting a written request to the Bank Committee Chair on a form approved by the Bank Committee.
- H. Any member of the sick leave bank who requests use of sick leave bank days agrees to permit the Bank Committee access to his attendance and sick leave records.
- I. The Bank Committee shall vote on each request of sick leave bank days and report their vote to the Town Administrator. Approval of the Bank Committee is necessary to be entitled to the use of sick bank days.
- J. The denial of the Bank Committee is not subject to arbitration.

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- K. The Bank Committee has the right, in case the bank has depleted all of its days, to come before the membership for additional contribution of sick days, subject to two-thirds vote of members present at the meeting.
- L. Any member who has used bank days may, at his discretion, repay any or all days used.
- M. Any employee who is an active member of the sick leave bank and is ill and unable to contribute sick leave days on July 1, or at request time, shall not be penalized or removed from membership.

§ 5-11. Grievance procedure.

A grievance is a dispute between an employee and his appointing or supervisory authority arising out of an exercise of management rights or administrative discretion, or interpretation of this bylaw.

- A. Step 1. An employee who has a grievance should discuss the grievance with the department head and/or supervisory authority in a mutual effort to resolve the grievance.
- B. Step 2. If one week after such conference, a satisfactory understanding and solution of the grievance has not been reached, then either the department head or the employee may refer the grievance to the Personnel Board. The Board shall hold a hearing thereon and render a written decision within 10 working days of such hearing.
- C. Step 3. If an employee wishes to appeal the decision of the Personnel Board to the Town Administrator, the appeal must be filed in writing within 30 days, following the decision of the Personnel Board.
- D. Step 4. If an employee wishes to appeal the decision of the Town Administrator to the Board of Selectmen, the appeal must be filed in writing within 30 days, following the decision of the Town Administrator.

§ 5-12. Amendments.

The Classification Plan, Compensation Plan, or other provisions of the bylaw may be amended by the vote of the Town at a Town Meeting. However, no amendment shall be considered or voted at Town Meeting unless the proposed amendments have first been considered by the Personnel Board, Board of Selectmen, and Advisory Board.

§ 5-13. Collective bargaining agreements.

The provisions of any collective bargaining agreement negotiated, as provided by the Massachusetts General Laws, between the Town and an employee group or union shall prevail over the provisions of this bylaw.

§ 5-14. Severability clause.

Each provision of this bylaw shall be construed as a separate, to the end that if any part of it shall be held invalid for any reason, the remainder shall continue in full force and effect.

TOWN EMPLOYEES

5 Attachment 1

Town of Norwell

CLASSIFICATION PLAN
[Amended 5-7-2018 ATM, Art. 7]

NON-EXEMPT CLASSIFICATIONS (Hourly Pay)

Grade	Position
1	Shelver
2	N/A
3	N/A
4	Clerk Typist
5	Council on Aging Clerk Library Circulation Assistant
6	Administrative Assistant Animal Control Officer Council on Aging Van Operator Library Custodian
7	N/A

EXEMPT CLASSIFICATIONS (Annual Salary)

Grade	Position
8	N/A
9	Assistant to Town Administrator Council on Aging Program Coordinator
10	Adult Services Librarian Children's Services Librarian Technical Services Librarian
11	Assistant Library Director Council on Aging Outreach Coordinator
12	Executive Assistant to Town Administrator
13	Assistant Town Administrator Water Treatment Facilities Manager
14	N/A
15	Assistant Director, Highway/Trees & Grounds Council on Aging Director Library Director
16	N/A
17	Water Superintendent

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CLASSIFICATION PLAN

STIPEND POSITIONS

Harbormaster
Sealer of Weights and Measures
Veterans' Service Officer

SEASONAL POSITIONS

Recreation Summer Clinic Leader
Recreation Summer Clinic Supervisor
Recreation Summer Project Assistant
Recreation Summer Program Specialist
Recreation Summer Program Instructor
Recreation Summer Site Leader (SCENE)
Recreation Summer Site Supervisor (SCENE)
Recreation Summer Van Driver (SCENE)
Temporary Highway & Tree Laborer
Temporary Recycling Laborer
Temporary Water Laborer
Temporary Trails Laborer

FLAT HOURLY POSITIONS

Call/Alternate Building Inspector
Call Local Inspector
Call Firefighter, No Certifications
Call Firefighter, EMT-8 Certified or FF 1/2
Call Firefighter, Certified EMT-B & FF 1/2
Call Firefighter, Certified EMT-P & FF 1/2
Call Police Clerk
Call Special Police Officer
Substitute/Call COA Van Driver
Constable
Election Clerk
Election Teller
Election Warden
Police Matron
Recreation Program Supervisor
Recreation Program Leader
School Crossing Guard
Substitute/On Call Circulation Assistant

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PAID PER PARTICIPANT OR CLASS

Recreation Program Instructor

NOTE: Wage schedules for all Personnel Bylaw Classification Plan positions are on file with the Town Clerk and Town Accountant's office.

Chapter 6

CONTRACTS

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| <p>§ 6-1. Competitive bids.</p> <p>§ 6-2. Dividing contracts prohibited.</p> <p>§ 6-3. Authority of Selectmen if unable to secure competitive bids.</p> <p>§ 6-4. Emergencies; sole source situations.</p> | <p>§ 6-5. Funds appropriated for building projects.</p> <p>§ 6-6. Filing of executed contract.</p> <p>§ 6-7. Leases, rentals and contracts in excess of three years.</p> |
|--|---|

[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. VII. Amendments noted where applicable.]

§ 6-1. Competitive bids.

No contract shall be awarded for any work or service other than professional service in the interest of the Town and no purchase of materials or equipment shall be made, the estimate cost of which in either case is \$1,000 or more, without invitation for competitive bids.

- A. Said invitations shall be sent on the same day to such number of vendors or contractors as the Selectmen or purchasing board or officers deem advisable but must in any case be, at least, three qualified to bid on such supplies or service.
- B. Said invitations shall state where specifications may be obtained and shall also state where and when such bids will be opened, such opening to be in public.
- C. Invitations or proposals for goods and services shall meet the requirements and guidelines of the Massachusetts General Laws, when and where applicable. All goods and services other than professional services in the interests of the Town shall be awarded through competitive bidding as required by state statute. Bids and proposals for said competitive bidding shall be publicly advertised by at least one insertion in at least one newspaper of general circulation in the Town of Norwell, such publication to be at least 10 days before the opening of bids. Whenever possible, contracts must be awarded to the lowest responsible bidder. Any determination of the contrary must be made in good faith and the awarding authority shall file with the Town Clerk within 15 days a written statement ascribing the relevant and reasonable grounds for selecting other than the lowest bidder. **[Amended 5-14-2001 ATM, Art. 6]**

§ 6-2. Dividing contracts prohibited.

No contracts shall be split up or divided for the purpose of evading the foregoing section.

§ 6-3. Authority of Selectmen if unable to secure competitive bids.

In the event the Selectmen are unable to secure competitive bids, they are authorized to take whatever action they deem advisable, but the Selectmen must certify in writing that the required invitations were sent out and such certifications together with any returned refusals must be filed with the Town Accountant and shall be kept in file open to public inspection at least for three years.

§ 6-4. Emergencies; sole source situations.

The above sections shall not apply in cases of emergency requiring immediate action for the preservation of life or property or for such supplies and materials for which there is only one source of supply but such reasons for purchases must be certified by the purchasing officer or board.

§ 6-5. Funds appropriated for building projects.

Funds specifically appropriated for final plans and specifications for any building project shall only be used for architectural fees, and such use shall be limited to payments for those services normally provided by the architect without extra charge.

§ 6-6. Filing of executed contract.

All boards, committees and departments shall submit a copy of any executed contract with the Town Clerk for recording and then file such executed contract with the Town Accountant.

§ 6-7. Leases, rentals and contracts in excess of three years.¹

The Board of Selectmen shall be permitted to sign, award and negotiate leases, rentals and contracts in excess of three years, but no more than 20 years, subject to Town Meeting approval.

1. Editor's Note: Amendment pending.

Chapter 7

FINANCE

ARTICLE I Department of Finance

- § 7-1. Department established.
- § 7-2. Functions.
- § 7-3. Finance Director.
- § 7-4. Word usage.

ARTICLE II Departmental Revolving Funds

- § 7-5. Purpose.
- § 7-6. Expenditure limitations.
- § 7-7. Interest.
- § 7-8. Procedure and reports.

Table of Revolving Funds

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Department of Finance [Formerly designated part of Art. VI]

§ 7-1. Department established.

Notwithstanding the provisions of any bylaw, rule or regulation to the contrary, there is hereby established in the Town of Norwell a Department of Finance. The Department of Finance is established pursuant to the provisions of MGL c. 43C, § 11.

§ 7-2. Functions.

The Department shall include the present functions and statutory duties of the Assessing, Accounting and Treasury/Collecting Departments. Said Departments shall become divisions of the Department of Finance. Said functions shall include, but not be limited to, the following:

- A. Coordination of all financial services and activities of the Town;
- B. Maintenance of all account records and other financial statements for the Town;
- C. Payment of all financial obligations on behalf of the Town;
- D. Investment of Town funds and management of debt;
- E. Receipt of all funds due the Town from any source;
- F. Maintenance of a system of property valuation;
- G. Rendering of advice, assistance, guidance and recommendations to all Town agencies in any financial or fiscal affairs;

- H. Monitoring throughout the fiscal year the expenditure of funds by Town agencies; and
- I. Such other activities as may be assigned by the Board of Selectmen or bylaw.

§ 7-3. Finance Director.

- A. Said Department shall be managed by a Finance Director who shall be responsible to and appointed by the Board of Selectmen, for a term of three years. Said Director shall be a person especially fitted by education, training, and experience to perform the duties of the position.
- B. The Director shall exercise administrative control and direction of the Department. The Director may serve, ex officio, as the Accountant or Treasurer-Collector; provided, however, that no Director shall serve, ex officio, as both Accountant and Treasurer-Collector.
- C. The Director shall be responsible for the effective operation and coordination of operations within the Department, including the assessing, accounting, and treasury/collecting functions. Said Director shall be responsible for all of the fiscal and financial affairs of the Town. Said Director shall exercise the responsibilities of the position in accordance with policies adopted by the Board of Selectmen and in accordance with all laws, bylaws, rules and regulations and in accordance with generally accepted governmental financial practices. Said Director shall be cognizant of the statutory responsibilities of all of the officers within said Department and shall consult with such officers to ensure that these duties and responsibilities are properly exercised and discharged. Said Director shall make recommendations to the Board of Selectmen concerning the appointment and removal of the Accountant and/or Treasurer-Collector. The appointment of the position of Assistant Assessor/Appraiser shall be made by the Board of Assessors. In performing duties where approval of the Board of Assessors is statutorily required, the Assistant Assessor/Appraiser may be directed by the Finance Director but any final decision will be made by the Board of Assessors.
- D. In addition to supervising and directing the effective functioning of the Divisions of Assessing, Accounting, and Treasury/Collecting, the Director shall have the following specific powers and duties:
 - (1) To annually prepare and submit to the Board of Selectmen a five-year financial forecast of Town revenue, expenditures, and the general financial condition of the Town.
 - (2) To set policies and procedures for the collection of all revenues due and owing to the Town.
 - (3) To disburse, as Town government operations may require, all funds and sign all checks pursuant to warrants signed by the Board of Selectmen, to insure the efficient operation of government.
 - (4) To report all financial matters affecting Town government to the Town Administrator and Board of Selectmen.

§ 7-3

FINANCE

§ 7-6

- (5) To coordinate and act as the Town's chief contact with the State Department of Revenue pertaining to all financial matters.
- (6) To coordinate and manage all financial information received from the Board of Assessors to forecast future financial growth and anticipated revenues, and advise the Town Administrator and Board of Selectmen accordingly.
- (7) To create and implement written policies and procedures, and be responsible for the collection and deposit of all monies received by various Town agencies.
- (8) To maintain the fullest cooperation with the Advisory Board, and to furnish information to said Advisory Board within 14 working days of its written request or such other period of time as mutually agreed upon.

§ 7-4. Word usage.

In this bylaw, the words "Town agency" shall mean any board, commission, committee, department or office of Town government, whether elected, appointed or otherwise constituted, regardless of its sources of funding.

ARTICLE II

Departmental Revolving Funds**[Adopted 5-8-2017 ATM, Art. 25]****§ 7-5. Purpose.**

This bylaw establishes and authorizes revolving funds for use by Town departments, boards and committees in connection with the operation of programs or activities that generate fees, charges or other receipts to support all or some of the expenses of those programs or activities. These revolving funds are established under and governed by MGL c. 44, § 53E1/2.¹

§ 7-6. Expenditure limitations.

A department head, board or committee may incur liabilities against and spend monies from a revolving fund established and authorized by this bylaw without appropriation subject to the following limitations:

- A. Fringe benefits of full-time employees whose salaries or wages are paid from the fund shall also be paid from the fund.
- B. No liability shall be incurred in excess of the available balance in the fund.
- C. The total amount spent during a fiscal year shall not exceed the amount authorized by Annual Town Meeting on or before July 1 of that fiscal year, or any increased amount of that authorization that is later approved during that fiscal year by the Selectboard and Advisory Board.

1. Editor's Note: The table showing the authorized revolving funds is included as an attachment to this chapter.

§ 7-7. Interest.

Interest earned on monies credited to a revolving fund established by this bylaw shall be credited to the general fund.

§ 7-8. Procedure and reports.

Except as provided in MGL c. 44, § 53E1/2, and this bylaw, the laws, Charter provisions, bylaws, rules, regulations, policies or procedures that govern the receipt and custody of Town monies and the expenditure and payment of Town funds shall apply to the use of a revolving fund established and authorized by this bylaw. The Town Accountant shall include a statement on the collections credited to each fund, the encumbrances and expenditures charged to the fund and the balance available for expenditure in the regular report the Town Accountant provides the department, board or committee on appropriations made for its use.

FINANCE

7 Attachment 1

Town of Norwell

Table of Revolving Funds
[Adopted 5-8-2017 ATM, Art. 24; amended 5-7-2018 ATM, Art. 27]

Voted to authorize or reauthorize the revolving funds listed in the table below, pursuant to the provisions of MGL c. 44, § 53E 1/2.

Revolving Fund	Authorized To Spend	Revenue Source	Use of Fund	FY19 Spending Limit	Disposition of Fund Balance	Spending Restrictions
Stetson Ford House	Historical Commission	Rental charged for property use	Property Maintenance	\$21,000	Balance available for expenditure	Fund may not be spent for salaries
Recycling	Board of Health	Bag fees	Maintenance and Improvements at the Recycling Center and PAYT program purchases	\$50,000	Balance available for expenditure	Fund may not be spent for salaries
Council on Aging Program	Council on Aging	Program fees	Senior Center costs for trips and life-long learning programs	\$15,000	Balance available for expenditure	Fund may not be spent for salaries

Chapter 8

LEGAL AFFAIRS

§ 8-1. Selectmen to act as agents.

§ 8-2. Authority to settle claims.

§ 8-3. Annual Report.

**§ 8-4. Appointment of Town Counsel;
special counsel.**

§ 8-5. Duties of Town Counsel.

**§ 8-6. Sale of land acquired by tax
title.**

[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. VIII. Amendments noted where applicable.]

§ 8-1. Selectmen to act as agents.

The Selectmen shall be agents of the Town to institute, prosecute and defend any and all claims, actions and proceedings to which the Town is a party or in which the interests of the Town are or may be involved.

§ 8-2. Authority to settle claims.

When recommended in writing by Town Counsel, the Selectmen may, at their discretion, compromise or settle any claim or suit to which the Town is a party, unless otherwise expressly prohibited by law.

§ 8-3. Annual Report.

The Selectmen in their Annual Report shall state what actions have been brought against and on behalf of the Town, what cases have been compromised or settled, and the current standing of all suits at law involving the Town or any of its interests.

§ 8-4. Appointment of Town Counsel; special counsel.

The Selectmen shall annually, after the final adjournment of the Annual Town Meeting, appoint a member of the bar in good standing to serve as Town Counsel for the term of one year from the date of his appointment and until his successor is appointed and enters upon the performances of his duties. They shall likewise fill any vacancy in said office for the unexpired term, and may employ special counsel to assist the said Town Counsel whenever, in their judgment, necessity therefor arises.

§ 8-5. Duties of Town Counsel.

It shall be the duty of the Town Counsel to conduct the prosecution or defense in actions and proceedings to which the Town is a party, or to compromise claims, and the prosecution of actions or proceedings by or on behalf of any Town officer, board or committee as such; to

conduct the defense of any action or proceedings brought against any Town officer, board or committee as such when the Selectmen, having determined that any right or interests of the Town are or may be involved therein, shall so request; to conduct proceedings brought by or against the Assessors before the Board of Tax Appeals; to assist in the prosecution of complaints of violation of any bylaw of the Town, when requested to do so by the board or officers enforcing the same; to examine and report upon titles to all land to be acquired by the Town; to prepare and approve contracts, bonds, deeds and other legal instruments in which the Town is a party or in which any right or interest of the Town is involved; to appear at any and all hearings on behalf of the Town whenever his/her services may be required; and generally to advise and act for the Town committees upon and in legal matters touching the duties of their respective offices.

§ 8-6. Sale of land acquired by tax title.

The Selectmen are authorized to sell at public auction parcels of land acquired by tax title and possession. Such land must first be offered to other interested Town boards, departments, committees and commissions which shall decline or accept in writing.

- A. Notice of sale shall be posted in five public places and shall be published at least three times in a newspaper of general circulation in the Town between 30 and seven days before the date of sale.
- B. The Selectmen may reject any bid which they deem inadequate and the sale price must be a minimum bid to include back taxes and the cost of acquisition and sale.

Chapter 9

LICENSES AND PERMITS

ARTICLE I **Licensing Procedures**

- § 9-1. Licenses issued by Selectmen.**
- § 9-2. Notice of application for license; revocation of license.**
- § 9-3. Occupations requiring license.**
- § 9-4. License fees.**
- § 9-5. Issuance of licenses and permits if back taxes are owed.**

ARTICLE II **Junk and Secondhand Dealers**

- § 9-6. Dealers in junk, old metal or secondhand articles.**

- § 9-7. Dealers in precious metals or semiprecious metals.**

ARTICLE III **Peddling and Soliciting**

- § 9-8. Peddler's license.**

ARTICLE IV **Self-Service Gasoline Stations**

- § 9-9. Purpose.**
- § 9-10. Traffic control; permit required.**
- § 9-11. Violations and penalties.**
- § 9-12. Repeated violations.**

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Licensing Procedures** **[Formerly designated Art. XI, §§ 1, 2, 4 and 5]**

- § 9-1. Licenses issued by Selectmen.**

All licenses shall be granted and issued by the Selectmen except as otherwise provided in the General Laws and all statutes of the Commonwealth of Massachusetts.

- § 9-2. Notice of application for license; revocation of license.**

Except as otherwise provided by law or the bylaws, no license shall be granted without at least seven days' public notice of the application therefor and a license granted under these bylaws or any additional bylaws may be revoked by the board or officer granting the same.

- § 9-3. Occupations requiring license.**

The occupations requiring licenses shall be those established by law and by these or any additional bylaws of the Town.

§ 9-4. License fees.

Except as otherwise provided by law all license fees shall be established by the Selectmen.

§ 9-5. Issuance of licenses and permits if back taxes are owed. [Added 5-5-1994 ATM, Art. 29]

- A. The Treasurer-Collector or other municipal official responsible for records of all municipal taxes, assessments, betterments and other municipal charges, hereinafter referred to as the Tax Collector, shall annually, and may periodically, furnish to each department, board, commission or division, hereinafter referred to as licensing authority, that issues licenses or permits, including renewals and transfers, a list of any person, corporation, or business enterprise, hereinafter referred to as the party, that has neglected or refused to pay any local taxes, fees, assessments, betterments or other municipal charges, and that such party has not filed in good faith a pending application for an abatement of such tax or a pending petition before the Appellate Tax Board. **[Amended 5-8-2017 ATM, Art. 26]**
- B. The licensing authority may deny, revoke or suspend any license or permit, including renewals and transfers of any party whose name appears on said list furnished to the licensing authority from the Tax Collector; provided, however, that written notice is given to the party and the Tax Collector, as required by applicable provisions of law, and the party is given a hearing, to be held not earlier than 14 days after said notice. Said list shall be prima facie evidence for denial, revocation or suspension of said license or permit to any party. The Tax Collector shall have the right to intervene in any hearing conducted with respect to such license denial, revocation or suspension. Any findings made by the licensing authority with respect to such license denial, revocation or suspension shall be made only for the purposes of such proceeding and shall not be relevant to or introduced in any other proceeding at law, except for any appeal from such license denial, revocation or suspension. Any license or permit denied, suspended or revoked under this section shall not be reissued or renewed until the license authority receives a certificate issued by the Tax Collector that the party is in good standing with respect to any and all local taxes, fees, assessments, betterments or other municipal charges, payable to the municipality as the date of issuance of said certificate.
- C. Any party shall be given an opportunity to enter into a payment agreement, thereby allowing the licensing authority to issue a certificate indicating said limitations to the license or permit and the validity of said license shall be conditioned upon the satisfactory compliance with said agreement. Failure to comply with said agreement shall be grounds for the suspension or revocation of said license or permit; provided, however, that the holder be given notice and a hearing as required by applicable provisions of law.
- D. The Board of Selectmen may waive such denial, suspension or revocation if it finds that there is no direct or indirect business interest by the property owner, its officers or stockholders, if any, or members of his immediate family, as defined in MGL c. 268A, § 1, in the business or activity conducted in or on said property.¹

1. Editor's Note: Amendment pending.

- E. This bylaw shall not apply to the following licenses and permits: open burning, MGL c. 48, § 13; sale of articles for charitable purposes, MGL c. 101, § 33; children's work permits, MGL c. 149, § 69; clubs, associations dispensing food or beverage licenses, MGL c. 140, § 21E; dog licenses, MGL c. 140, § 137; fishing, hunting, trapping licenses, MGL c. 131, § 12; marriage licenses, MGL c. 207, § 28; and theatrical events, public exhibition permits, MGL c. 140, § 181.²

ARTICLE II

Junk and Secondhand Dealers [Formerly designated Art. XI, §§ 3 and 7]

§ 9-6. Dealers in junk, old metal or secondhand articles.

The Selectmen may license suitable persons to be dealers in junk, old metal or secondhand articles in the Town but the premises of such dealers may be examined at all times by the Selectmen and no person shall be engaged in such occupation in the Town without a license.

§ 9-7. Dealers in precious metals or semiprecious metals.

- A. License required. No person shall collect, deal or keep a shop for the purpose of purchase, barter or sale of secondhand articles containing precious metals or semiprecious metals, nor store the same in any building or place within the limits of the Town, without the issuance of a license for this purpose, issued by the Board of Selectmen or appointed authority.³
- B. Issuance; contents; terms; fee. Selectmen may license suitable persons to be dealers in and keepers of shops for purchase, sale, or barter of junk, precious metals or secondhand jewelry, at such place in the Town as designated in license, and under such conditions and restrictions as prescribed, which shall be incorporated in the license. Such license shall continue in force until the first day of May, then next issuing, unless sooner revoked, provided that such license may be granted in April to take effect the first day of May. The licensee shall pay a fee set by the Selectmen to the Town Clerk for the use of the Town.⁴
- C. General rules and regulations. No keeper of a shop as described in this section shall, directly or indirectly, either purchase or receive by way of barter or exchange any articles from a minor, knowing or having reason to believe them to be such. No article purchased or received shall be sold or altered in appearance, form or substance until a period of at least 10 days after written notice on approved form to the police station, delivered in hand or by registered mail, this being required weekly or sooner. Such shopkeeper shall not have his shop open for business nor shall he purchase any articles covered in the license except between the hours of 8:00 a.m. and 9:00 p.m.

2. Editor's Note: Amendment pending.

3. Editor's Note: Amendment pending.

4. Editor's Note: Amendment pending.

- D. Reporting transactions. Every such shopkeeper dealing in the purchase, barter or taking in possession shall report all transactions of junk jewelry, old metals, secondhand jewelry, precious metals or semiprecious metals and shall keep a record of the transactions.
- E. Record book; forms. Every licensee shall keep records on the premises in a form approved by the police showing the time, date, sale, exchange or receipt for the purpose of sale. This shall be written in English, legibly, and give description of all marks and numbers, manufacturers' names or any identifying marks on articles, name and address of seller, date of birth, social security number and name of the owner if not the same as the seller.
- F. Record book; contents. Such description shall also include the identifying number or numbers and shall also include a statement that the identifying number or numbers have been removed, defaced, altered, changed, destroyed, obliterated or mutilated if such is the fact. Such book shall at all times be open for the inspection of the Chief of Police, any member of the police force, any member of the Board of Selectmen. All articles kept shall be available for inspection by the above. No articles are to be destroyed, altered, melted, etc., prior to the period required by licensing authority.
- G. Whoever violates any provision of this section shall be punished by a fine or not less than \$50 nor more than \$100.

ARTICLE III

Peddling and Soliciting

[Formerly designated Art. XI, § 6]

§ 9-8. Peddler's license.

There shall be no peddling of commercial goods in the Town of Norwell without a peddler's license, issued by the Board of Selectmen. There shall be no door-to-door solicitation by commercial salesmen or agents in the Town of Norwell without written authorization from the Board of Selectmen. There shall be no door-to-door solicitation after sundown or 6:00 p.m., whichever is the earlier.

ARTICLE IV

Self-Service Gasoline Stations

[Formerly designated Art. XV, § 12]

§ 9-9. Purpose.

It is hereby declared to be a public purpose to promote the health, safety and welfare of the residents of the Town of Norwell by the prevention and control of fires, the control of traffic, the restraint of vandalism, and the regulation of the conditions of operation of self-service gasoline dispensing systems.

§ 9-10. Traffic control; permit required.

Any license issued under the provisions of MGL c. 148, § 13, shall be subject to the following additional conditions:

- A. Any such license shall be subject to reasonable traffic control regulations imposed by the Board of Selectmen after a public hearing as hereinafter provided.
- B. Any person making application for a license under said MGL c. 148, § 13, shall, concurrent therewith, make application to the Board of Selectmen for a permit under this bylaw. Such application shall be made on a form prescribed by the Board of Selectmen and shall be accompanied by a filing fee determined by the Board of Selectmen and reasonably calculated to defray the cost of advertising and conducting said hearing.
- C. The Board of Selectmen shall fix a date for said hearing not later than 30 days after receipt of said application and shall cause notice of hearing to be published in a newspaper of general circulation in the Town of Norwell not less than seven days prior to the date of the hearing. Notice shall also be given in writing to the applicant, the Fire Chief, the Police Chief, and all abutters of the subject property including owners of land directly across any street or way from the subject property.

§ 9-11. Violations and penalties.

Any violation of this bylaw shall be punishable by a fine of not more than \$20 for each offense.

§ 9-12. Repeated violations.

Evidence of repeated violations of this article shall be taken into consideration in connection with any proceedings for revocation of a license as provided in said MGL c. 148, § 13.

Chapter 10

RECORDS AND REPORTS

§ 10-1. Committee records; filing of rules and regulations.

§ 10-3. Contents of Annual Town Report.

§ 10-2. Annual report on expenditures.

§ 10-4. Filing of documents.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. IX and Art. XII. Amendments noted where applicable.]

§ 10-1. Committee records; filing of rules and regulations.

- A. All committees of the Town shall cause records of their doings and accounts to be kept in suitable books. Said books shall be kept in their respective places in the committee offices, and shall not be removed therefrom. Said books shall, unless otherwise provided by law, be open to public inspection at any reasonable time, but shall remain during such inspection under supervision of the committee having custody thereof.
- B. Every committee of the Town shall file with the Town Clerk, within two weeks after their adoption, a copy of their rules and/or regulations and all revisions, corrections and additions made thereto.
- C. The Town Clerk shall cause a copy of the rules and regulations of every committee of the Town to be included in Division 4, Rules and Regulations, of the Town Code.¹

§ 10-2. Annual report on expenditures.

All committees and special committees of the Town having charge of the expenditure of Town money shall annually report thereon in writing in such manner as to give the citizens a fair and full understanding of the objectives and methods of such expenditures, referring, however, to the report of the Town Accountant for statements in detail of receipts and payments, and may make therein such recommendations as they deem proper. Such reports shall be submitted to the Selectmen for inclusion in the Annual Report on or before the 15th day of January of each year.

§ 10-3. Contents of Annual Town Report.

The Annual Town Report shall contain, in addition to the reports of committees, as hereinbefore provided, a detailed report of all monies received into and paid out of the Town treasury in the financial year next preceding; the report of the Treasurer-Collector, of receipts, payments and abatements; statements of all funds belonging to the Town or held for the benefit of its inhabitants; a statement of the liabilities of the Town on bonds, notes, certificates of indebtedness, or otherwise, and of indebtedness authorized but not incurred,

¹ Editor's Note: Amendment pending.

and the purposes thereof; abstracts of the records of the meetings of the Town held since publication of the last Annual Report; and such other matters as the said report is required by law to contain, or as may be inserted by the Selectmen under the discretion granted them by law.

§ 10-4. Filing of documents.

All committees of the Town shall, at the completion of any building project, land acquisition, or contracted report or study involving the expenditure of Town money, other than those printed in the Town Report, file a copy of any plans and specifications, deed and plan, contracted reports or studies with the Town Clerk, who shall be responsible for keeping all of such documents.

Chapter 11

TOWN PROPERTY

§ 11-1. Care and custody of Town property.

§ 11-2. Insurance.

§ 11-3. Appropriations for Town buildings.

§ 11-4. Sale of personal property by departments.

§ 11-5. Gifts of land.

§ 11-6. Vehicles on Town landing.

§ 11-7. Flying American flag on Town property.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. XIII. Amendments noted where applicable.]

§ 11-1. Care and custody of Town property.

The Selectmen shall have the care and custody of all Town property not otherwise placed by law in the hands of other Town officers.

§ 11-2. Insurance.

Except as otherwise provided by law, the Selectmen shall protect the Town and Town property against any losses or claims due to any cause by such kinds and amounts of insurance as are necessary.

§ 11-3. Appropriations for Town buildings.

Annually, the Selectmen shall examine all Town buildings under their care and custody and shall request of the Town at each Annual Meeting such appropriations as seem necessary to keep such properties in proper condition to fulfill their purpose, such request to be presented with the recommendations of the Advisory Board.

§ 11-4. Sale of personal property by departments.

Any board or officer in charge of a department may with the approval of the Selectmen sell any personal property or material not required by said department. If the value of said property exceeds \$1,000, the approval of the Selectmen shall not be given unless the property has been appraised by a disinterested competent person and unless notice of sale has been given by publication at least one week before the sale in a newspaper of general circulation in the Town.

§ 11-5. Gifts of land.

The Selectmen may accept, from time to time, in behalf of the Town of Norwell, gifts of land and interests in land for the following purposes: walkway and sidewalk purposes, storm

§ 11-5

NORWELL CODE

§ 11-7

drainage and above- and below-ground drainage purposes, for slope maintenance purposes, for the purpose of rounding street corners and for any purpose approved by the Planning Board and shown on a plan approved by the Planning Board under MGL c. 41, §§ 81K to 81Y, inclusive.

§ 11-6. Vehicles on Town landing.

No vehicle shall be allowed on any Town landing without a permit issued under the direction of the Board of Selectmen.

§ 11-7. Flying American flag on Town property. [Added 5-6-2013 ATM (formerly designated Art. XV, § 18)]

- A. Intent and purpose. This bylaw is proposed for the purpose of providing a single, uniform policy with respect to flying the American Flag on Town of Norwell public buildings and property that is consistent with Title 4 of the United States Code. Additionally it establishes the American Flag as sovereign by prohibiting the display or flying of another nation's flag including the United Nations.
- B. Flying of the American Flag on Town of Norwell public buildings and property shall be governed solely in accordance with Title 4 of the United States Code.

Chapter 12

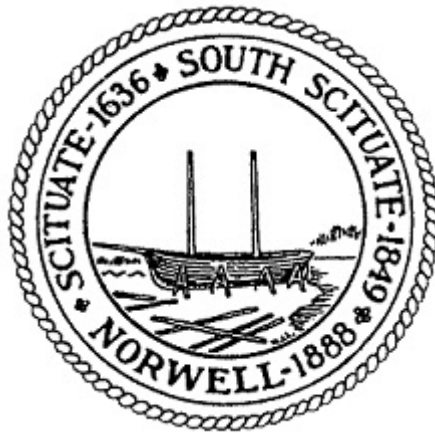
TOWN SEAL

§ 12-1. Design.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. II. Amendments noted where applicable.]

§ 12-1. Design.

The Town Seal shall be circular in shape and of a design as imprinted herein. This device shall be considered the Town Seal of the Town of Norwell, effective whenever used as required.



PART II

(RESERVED)

PART III

HEALTH AND PUBLIC SAFETY

Chapter 41

BOARD OF HEALTH

ARTICLE I	§ 41-8. Hearing.
Smoking in Public Places and Workplaces	§ 41-9. Enforcement.
§ 41-1. Finding and purpose.	§ 41-10. Penalties.
§ 41-2. Definitions.	§ 41-11. Conformity.
§ 41-3. Restrictions to smoking.	§ 41-12. Severability.
§ 41-4. Exceptions.	
§ 41-5. Implementation.	
§ 41-6. Violations.	
§ 41-7. Complaints.	

ARTICLE II

Sale of Tobacco Products

§ 41-13. Noncriminal disposition.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Regulations adopted by Board of Health — See Ch. 304.

ARTICLE I

Smoking in Public Places and Workplaces

[Adopted 5-5-1994 ATM; amended 5-15-2000 ATM (formerly designated Art. XV, § 15)]

§ 41-1. Finding and purpose.

There exists substantial evidence that tobacco smoke has a direct causal relationship to various cancers, heart diseases and lung disorders. Increasing evidence further demonstrates that the harmful effects of tobacco are not confined to smokers but also cause severe discomfort and in some cases illness to nonsmokers. Therefore, the purpose of this bylaw is for the protection and promotion of public health. The successful implementation of this bylaw requires a cooperative effort and mutual respect on the part of smokers and nonsmokers.

§ 41-2. Definitions.

For the purpose of this bylaw, the following words shall have the following meaning:

APPROVED MECHANICAL AIR VENTILATION SYSTEMS — A mechanical air handling system separate and distinct from the air handling system utilized in the nonsmoking section, which shall be certified by a certified industrial hygienist and:

- A. Meets or exceeds the BOCA National Mechanical Code/1993, the standard set forth in Chapter 16, Table M-1604.3, for the Required Mechanical Ventilation Air for Smoking Lounges, which states that a maximum occupant load of 70 persons per 1,000 square feet be allowed, with 60 cubic feet per minute (cfm) per person provided.
- B. Maintains a constant pressure differential between the designated smoking area and the nonsmoking area sufficient to direct air flow from the nonsmoking area to the designated smoking area and prevent the flow of smoke into the nonsmoking area.
- C. The mechanical exhaust system cannot recirculate any indoor air. Exhaust vents should be over smoking sections and fresh air coming into all areas from outdoors.

BAR — An area with seating, which is devoted to the serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of such beverages. Although a restaurant may contain a bar, the term "bar" shall not include the restaurant dining area.

DESIGNATED SMOKING AREA — An area within a restaurant or workplace where smoking is permitted pursuant to this bylaw.

EMPLOYEE — Any person, including but not limited to any contractor, who performs services for an individual, partnership, association, corporation, trust or other organized group.

ENCLOSED — A space bounded by walls and under a roof.

PUBLIC PLACE — Any enclosed area or portion thereof when such an area is open to the general public.

RESTAURANT — Any business which holds a common victualer's license and where food is prepared or served to the general public for consumption on the premises.

SMOKING — The lighting of or having in one's possession or control any lighted cigar, cigarette, pipe or other tobacco product.

WORKPLACE — Any enclosed area or portion thereof in which employees perform services.

§ 41-3. Restrictions to smoking.

- A. It shall be unlawful for any person to smoke in any public place or workplace except in those designated smoking areas which are authorized by this bylaw and allowed by permits, which may be granted by the Board of Health, or as otherwise authorized by this bylaw. In no case shall smoking be permitted in any rest room.
- B. Any person or entity in control of an area in which smoking is prohibited shall conspicuously display signs upon the premises in appropriate locations and numbers indicating that smoking is prohibited.

§ 41-4. Exceptions.

- A. The provisions of this bylaw shall not apply to:

- (1) Private events. Smoking may be allowed in an enclosed area within a public place which is not located in a municipal building when that entire area is being used for a private event.
 - (2) In-home businesses.
 - (3) Workplaces of businesses which employ a total of two employees or less. This exception shall not apply to any workplace which shares a common ventilation system with an unaffiliated individual or entity.
 - (4) Nursing homes.
- B. Smoking may be permitted within eating establishments that currently hold smoking permits and meet the following criteria as of July 1, 2000, as certified by a certified industrial hygienist:
- (1) The industrial hygienist must inspect, evaluate, test and certify that the mechanical air ventilation system was installed and is operating according to the standards defined in the definition of "approved mechanical air ventilation systems" in § 41-2 of this article.
 - (2) The certification submitted to the Board of Health each year must include a seating plot plan which defines the designated smoking area. Under no circumstances shall the seating capacity of the smoking area exceed the percentage of the original smoking permit.
- C. Smoking is allowed in workplaces, provided that the designated smoking area is separated from the nonsmoking area by floor to ceiling tangible and nonpermeable barriers and that the designated smoking area be equipped with a separate approved mechanical air ventilation system. Employees may, but shall not be required to, perform services within the designated smoking area.
- D. Establishments which do not meet these criteria shall be 100% smoke free. These exceptions are nontransferable. Establishments which are sold or change ownership after July 1, 2000, shall be required to be 100% smoke free. Any food-eating establishment that currently holds a smoking permit that fails to comply with these revised regulations will automatically have its smoking permit revoked.
- E. Any restaurant with a waiting area within a designated smoking area shall also provide a waiting area within a nonsmoking area.
- F. Any persons or entity in control of a designated smoking area shall conspicuously display within the area in appropriate locations and numbers signs indicating that smoking is permitted.
- G. Any person or entity in control of a restaurant, bar or workplace containing an approved air ventilation system shall provide unit maintenance records and recertification to the Board of Health annually by June 1 and shall insure that the system is operating when smoke is present.

- H. In the event of a breakdown or malfunction, in whole or in part, of a barrier or air ventilation system, smoking will not be permitted until the barrier or system is fully repaired.¹

§ 41-5. Implementation.

Any person or entity in control of a public place, restaurant or workplace shall implement this bylaw by:

- A. Providing proper signage in smoking and nonsmoking areas;
- B. Informing any person who is smoking in the public place, restaurant or workplace in other than a designated smoking area that he or she is smoking in violation of law and requesting that the person either refrain from smoking or move to a designated smoking area; and
- C. Promptly notifying a Board of Health member in the event that any person continues to smoke within the public place or workplace in other than a designated smoking area after being informed that his or her smoking is in violation of law.

§ 41-6. Violations.

- A. Any person or entity in control of a public place, restaurant or workplace that fails to implement the provisions of this bylaw shall be considered to have violated this bylaw.
- B. Any person who smokes in a public place or workplace in other than a designated smoking area in violation of this bylaw shall be considered to have violated this bylaw.

§ 41-7. Complaints.

Any person who has reason to believe that a person or entity has violated this bylaw may notify an appropriate law enforcement authority or file a complaint with the Board of Health or both. A complaint filed with the Board of Health shall be in writing, signed by the complainant, and shall set forth the time, place and details of the alleged violation.

§ 41-8. Hearing.

Any person or entity against whom a complaint has been filed with the Board of Health shall be informed of the complaint and his or her right to dispute the complaint. Any person or entity choosing to dispute a complaint shall, within 10 days after receiving notice, request a hearing before the Board of Health. After a hearing, a majority of the Board of Health shall either sustain or dismiss the complaint based on a preponderance of the evidence presented. If a complaint is not disputed or is sustained after hearing, the Board of Health shall issue a citation assessing a penalty in accordance with this bylaw or take any other appropriate action authorized by law.

1. Editor's Note: Amendment pending.

§ 41-9. Enforcement.

The Board of Health may issue a citation assessing a penalty in accordance with this bylaw whenever the Board determines that a person or entity has violated this bylaw.

§ 41-10. Penalties.

Any person or entity that violates this bylaw shall be subject to a fine of \$20 for a first offense, \$50 for a second offense, and \$200 for a third and each subsequent offense. In addition to any other penalty, the Board of Health may, after hearing, suspend or rescind a permit granted under this bylaw, or take any other action permitted by law. In determining the severity of the action to be taken, the Board of Health shall consider, among other things, the flagrancy of the violation and the expressed willingness of the violator to implement the bylaw in the future.

§ 41-11. Conformity.

Any construction modifications or changes to the premises necessary to come into compliance with this bylaw must also comply with all other federal, state and Town permits and requirements. The Building Department and the Fire Department should be consulted before any designs are finalized.

§ 41-12. Severability.

If any provision of this bylaw is declared invalid, the other provisions thereof shall not be affected.

ARTICLE II

Sale of Tobacco Products

[Adopted 4-26-1996 ATM; amended 5-15-2000 ATM (formerly designated Art. XV, § 16)]

§ 41-13. Noncriminal disposition.

- A. Whoever violates any provision of these bylaws may be penalized by a noncriminal disposition as provided in MGL c. 40, § 21D. The noncriminal method of disposition may be used for violations of any rule or regulation of the Board of Health which is subject to a specific penalty. Without intending to limit the foregoing, it is the intention of this section that the following rules and regulations be included within the scope of the subsection, that the specific penalties, as listed here, shall apply in such cases and that the municipal personnel listed for each section, if any, shall be enforcing persons for such section.
- B. A violation of the following listed regulatory provisions may be dealt with in a noncriminal manner as provided by Subsection A of this section. Each day on which any violations exist shall be deemed to be a separate offense.

- (1) Board of Health regulations regarding the sale and distribution of tobacco in the Town of Norwell:²
 - (a) Fine allowed: \$300.
 - (b) Enforcement agent: Board of Health, Director of Public Health or authorized Board of Health representative.
 - (c) Fine schedule for C, D, E, F, and G: first offense: \$100; second offense: \$200; third and subsequent offenses: \$300.
 - (d) Fine schedule for B: \$25 for violating the posting of the state law provision and \$10 for removing state law signs from premises.

2. Editor's Note: See Ch. 304, Board of Health, Art. III, Sale of Tobacco Products.

Chapter 42

BOARD OF WATER COMMISSIONERS

ARTICLE I Water Use Restrictions

§ 42-1. Authority.

§ 42-2. Purpose.

§ 42-3. Definitions.

§ 42-4. Declaration of state of water
supply conservation.

§ 42-5. Restricted water uses.

§ 42-6. Notification of state of water
supply conservation.

§ 42-7. Termination of state of water
supply conservation; notice.

§ 42-8. State of water supply
emergency; compliance with
Department of Environmental
Protection orders.

§ 42-9. Violations and penalties.

§ 42-10. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Regulations adopted by Board of Water
Commissioners — See Ch. 305.

ARTICLE I Water Use Restrictions [Adopted 5-15-2000 ATM, Art. 21]

§ 42-1. Authority.

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under MGL c. 40, § 21 et seq., and implements the Town's authority to regulate water use pursuant to MGL c. 41, § 69B. This bylaw also implements the Town's authority under MGL c. 40, § 41A, conditioned upon a declaration of water supply emergency issued by the Department of Environmental Protection.

§ 42-2. Purpose.

The purpose of this bylaw is to protect, preserve and maintain the public health, safety and welfare whenever there is in force a state of water supply conservation or state of water supply emergency by providing for enforcement of any duly imposed restrictions, requirements, provisions or conditions imposed by the Town or by the Department of Environmental Protection.

§ 42-3. Definitions.

PERSON — Shall mean any individual, corporation, trust, partnership or association, or other entity.

STATE OF WATER SUPPLY CONSERVATION — Shall mean a state of water supply conservation declared by the Town pursuant to § 42-4 of this bylaw.

STATE OF WATER SUPPLY EMERGENCY — Shall mean a state of water supply emergency declared by the Department of Environmental Protection under MGL c. 21G, §§ 15 to 17.¹

WATER USERS or WATER CONSUMERS — Shall mean all public and private users of the Town's public water system, irrespective of any person's responsibility for billing purposes for water used at any particular facility.

§ 42-4. Declaration of state of water supply conservation.²

The Town, through its Board of Water Commissioners, may declare a state of water supply conservation upon a determination by a majority vote of the Board that a shortage of water exists and conservation measures are appropriate to ensure an adequate supply of water to all water consumers. Public notice of a state of water supply conservation shall be given under § 42-6 of this bylaw before it may be enforced.

§ 42-5. Restricted water uses.

A declaration of a state of water supply conservation shall include one or more of the following restrictions, conditions, or requirements limiting the use of water as necessary to protect the water supply. The applicable restrictions, conditions or requirements shall be included in the public notice required under § 42-6.

- A. Odd/even day outdoor watering. Outdoor watering by water users with odd-numbered addresses is restricted to odd-numbered days. Outdoor watering by users with even-numbered addresses is restricted to even-numbered days.
- B. Outdoor watering ban. Outdoor watering is prohibited.
- C. Outdoors watering hours. Outdoor watering is permitted only during daily periods of low demand, to be specified in the declaration of a state of water supply conservation and public notice thereof.
- D. Filling swimming pools. Filling of swimming pools is prohibited.
- E. Automatic sprinkler use. The use of automatic sprinkler systems is prohibited.

§ 42-6. Notification of state of water supply conservation.

- A. Notification of any provisions, restriction, requirement or condition imposed by the Town as part of a state of water supply conservation shall be published in a newspaper

1. Editor's Note: Amendment pending.

2. Editor's Note: Amendment pending.

§ 42-6

BOARD OF WATER COMMISSIONERS

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of general circulation within the Town, or by such other means reasonably calculated to reach and inform all users of water of the state of water supply conservation. Any restriction imposed under § 42-5 shall not be effective until such notification is provided.

- B. Notification of the state of water supply conservation shall also be simultaneously provided to the Massachusetts Department of Environmental Protection.

§ 42-7. Termination of state of water supply conservation; notice.

A state of water supply conservation may be terminated by a majority vote of the Board of Water Commissioners, upon a determination that the water supply shortage no longer exists. Public notification of the termination of a state of water supply conservation shall be given in the same manner required by § 42-6.

§ 42-8. State of water supply emergency; compliance with Department of Environmental Protection orders.³

Upon notification to the public that a declaration of a state of water supply emergency has been issued by the Department of Environmental Protection, no person shall violate any provision, restriction, requirement, or condition of any order approved or issued by the Department intended to bring about an end to the state of emergency.

§ 42-9. Violations and penalties.

Any person violating this bylaw shall be issued a warning for the first violation and shall be liable to the Town in the amount of \$50 for the second violation and \$100 for each subsequent violation which shall inure to the Town for such uses as the Town may direct. Fines shall be recovered by indictment or on complaint before the District Court, or by noncriminal disposition in accordance with MGL c. 40, § 21D. Each day of violation shall constitute a separate offense.

§ 42-10. Severability.

The invalidity of any portion or provision of this bylaw shall not invalidate any other portion or provision thereof.

3. Editor's Note: Amendment pending.

Chapter 43

DIVISION OF INSPECTIONS

ARTICLE I **Excavations**

- § 43-1. Excavations to be filled or protected.
- § 43-2. Hazards to public safety.

ARTICLE II **Storage of Construction Machinery**

- § 43-3. Intent and purpose.
- § 43-4. Time limit for storage.
- § 43-5. Enforcement; violations and penalties.

ARTICLE III **Swimming Pools**

- § 43-6. Definition.
- § 43-7. Enclosures.
- § 43-8. Permit required.
- § 43-9. Enforcement.

ARTICLE IV **Stretch Energy Code**

- § 43-10. Acceptance and adoption.
- § 43-11. Purpose.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Excavations** **[Formerly designated Art. XV, §§ 8 and 9]**

§ 43-1. Excavations to be filled or protected.

All excavations for determining water table elevation, permeability of earth material, water percolation or similar matters left unattended shall be filled in, covered or protected by fencing material to prevent persons from becoming injured or endangered thereby.

§ 43-2. Hazards to public safety.

Any person excavating land or any person in charge of such excavation and the owner of land which has been excavated shall, within two days after such person has been notified in writing by the Selectmen or the Building Inspector/Zoning Enforcement Officer that in the opinion of the Selectmen or the Building Inspector/Zoning Enforcement Officer such excavation constitutes a hazard to public safety, erect barriers or take other suitable measures to eliminate such hazard. The penalty for violation of this section of the Norwell Bylaws shall not exceed \$200 per day for every day such person is in violation of such notice, commencing with the fourth day thereof.

ARTICLE II

Storage of Construction Machinery**[Adopted 5-7-2012 ATM (formerly designated Art. XV, § 17)]****§ 43-3. Intent and purpose.¹**

This bylaw is proposed for the purpose of maintaining the rural and scenic character of Norwell's neighborhoods, conserving the value of real estate, and lessening the threat of an adverse environmental impact by restricting the length of time the storage of construction machinery, excluding that which is owned by the property owner, used or intended to be used in the construction, maintenance, and demolition of structures or altering of land may be permitted.

§ 43-4. Time limit for storage.

- A. No hoisting, excavating, hauling, pushing, grading, paving, drilling, or pile driving machinery, excluding that which is owned by the property owner, intended to be used to construct, maintain or demolish structures or alter land may be stored unused for the primary purpose for which it was intended for a period greater than 10 consecutive days at any site, other than for municipal use, upon which said construction, maintenance, and/or demolition of structures or altering of land is proposed but for which no certification has been issued by the Building Inspector/Zoning Enforcement Officer that such action is in compliance with then-applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law.
- B. No hoisting, excavating, hauling, pushing, grading, paving, drilling, or pile driving machinery, excluding that which is owned by the property owner, used to construct, maintain or demolish structures or alter land may be stored unused for the primary purpose for which it was intended for a period greater than 45 consecutive days at any site, other than for municipal use, upon which said construction, maintenance, and/or demolition of structures or altering of land pursuant to a valid building or demolition permit issued by the Building Inspector/Zoning Enforcement Officer is pending, delayed or completed.

§ 43-5. Enforcement; violations and penalties.

The Building Inspector/Zoning Enforcement Officer shall enforce this article. Each day of any violation shall be considered a separate offense punishable by a fine of not more than \$50. The Board of Selectmen shall have the authority to dispose of said violations in accordance with the procedures and provisions of MGL c. 40, § 21D.

1. Editor's Note: Amendment pending.

ARTICLE III

Swimming Pools**[Formerly designated Art. XV, § 7]****§ 43-6. Definition.²**

A swimming pool shall be a body of water contained by an artificial or semi-artificial means from a natural watercourse, measuring greater than 10 feet in its shortest dimension wherein the depth of water four feet from the water edge is greater than 12 inches, primarily used or intended to be used for swimming, wading or recreational bathing, but not including portable pools incapable of containing a depth of water exceeding 24 inches at any point.

§ 43-7. Enclosures.

Every swimming pool shall be completely surrounded at all times, whether or not the same be filled with water, by a fence or other approved barrier not less than four feet in height at any point. Each such fence or barrier shall be so constructed as not to have openings, holes, or gaps larger than four inches in a dimension except for doors and gates and except for picket fences in which case, however, the gaps between pickets shall not exceed four inches. A building or the structural wall of an aboveground pool may be used as part or all of such barrier.

- A. All gates or doors opening through such enclosure shall be of not less than the same height as the fence or barrier and shall be equipped with a self-closing and self-latching device located not less than 42 inches above grade for keeping the gate securely closed at all times when not in actual use.
- B. In the case of the aboveground pools, whereby access is provided by means of ladder or stairway, such access shall be a retractable or detachable nature or shall be rendered unscalable by preschool children when not in use, or shall be enclosed by a fence or barrier as defined above.

§ 43-8. Permit required.

The construction or creation of any pool as described in § 43-6 shall require a permit from the Building Inspector/Zoning Enforcement Officer and Wiring Inspector.

§ 43-9. Enforcement.

This article shall be enforced by the Building Inspector/Zoning Enforcement Officer.

2. Editor's Note: Amendment pending.

ARTICLE IV

Stretch Energy Code**[Adopted 5-4-2015 ATM, Art. 30 (formerly designated Art. XXI)]****§ 43-10. Acceptance and adoption.³**

The Town of Norwell has accepted and adopted the provisions of 780 CMR 115.AA (i.e., Appendix 115.AA of the State Building Code or the "Stretch Energy Code"), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00 and 34.00.

§ 43-11. Purpose.

The purpose of the Stretch Energy Code shall be to provide the Town with a more energy-efficient alternative to the base energy code otherwise set forth under the State Building Code.

3. Editor's Note: Amendment pending.

Chapter 44

FIRE DEPARTMENT

ARTICLE I Underground Storage Tanks

§ 44-1. Authority.

§ 44-2. Purpose.

§ 44-3. Definitions.

§ 44-4. Registration of existing tanks.

§ 44-5. Installation standards for new
and replacement underground
tanks.

§ 44-6. Leak prevention and detection
for existing and new
underground tank systems.

§ 44-7. Equipment replacement.

§ 44-8. Administration; violations and
penalties.

Schedule A, Daily Inventory
Record

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Groundwater protection — See Ch. 304, Art. IV.

ARTICLE I Underground Storage Tanks [Amended 4-7-1986 ATM (formerly designated Art. XV, § 13)]

§ 44-1. Authority.

This bylaw is adopted by the Town of Norwell under its home rule powers; its police powers to protect the public health and welfare; and its authorization under MGL c. 40, § 21.

§ 44-2. Purpose.

The purpose of this regulation is to establish rules, within the Town of Norwell, governing the licensing of new and existing underground tank storage facilities, with particular emphasis towards adequately protecting the Town's public and private water resources, and to supplement the MGL c. 148 and 527 CMR regulations, which are herein incorporated in their entirety by reference thereto.

§ 44-3. Definitions.

API — Means American Petroleum Institute (re: "Recommended Practice for Bulk Liquid Stock Control at Retail Outlets," API Publication No. 1621).

FIRE CHIEF — Shall mean the Chief of the Town of Norwell Fire Department.

NFPA — Means National Fire Protection Association.

NONCORROSIVE SOIL — Is soil that, when tested by a qualified professional, is shown to have a resistivity greater than 10,000 ohm-cm, and that does not exhibit corrosive characteristics in a soil chemistry laboratory analysis.

OVERFILL PROTECTION — Shall mean utilization of OPW Model No. 84-D spill container device, or approved equal, at all individual UG tank fill locations to prevent groundwater pollution.

PIPELINE LEAK DETECTORS — Shall mean the Marley Co. "Red Jacket" two-second leak detector, or approved equal, suitable for remote submersible petroleum pumping systems.

TANK TESTING — Shall mean the Petro-tite test (formerly Kent-Moore), or approved equal, performed in accordance with the recommendations of NFPA Pamphlet No. 329. Tank testing shall include testing of all related and tank connected piping in accordance with standard industry practice by a qualified licensed contractor.

UNDERGROUND TANK — Shall mean any petroleum, hazardous or chemical storage containment system (residential or commercial), with no capacity exemption, 10% or more of which is located below the ground surface.

WATER RESOURCES — Shall mean any existing or potential source of water including both ground and surface water.

§ 44-4. Registration of existing tanks.

- A. Tank registration. Every operator and/or owner of an underground tank must file with the Fire Department the size, type, age, contents, and location of their underground tanks within 90 days of the enactment of this bylaw. No exception as a result of size or residential location is to be made. Forms shall be approved by the Fire Chief. Product suppliers are prohibited from making deliveries to any unregistered underground tank. Owners shall provide evidence of registration to supplier.
- B. Removal of hazardous conditions upon abandonment of underground tanks. The Board of Selectmen may order the elimination of hazardous conditions associated with the cessation of use and abandonment of underground tanks if the license holder has failed to do so within six months of the cessation of licensed activities. Reimbursement of such expenses shall be based on MGL c. 148, § 13.

§ 44-5. Installation standards for new and replacement underground tanks.

- A. Tank design shall be governed by the Massachusetts Board of Fire Prevention Regulations.¹
- B. Tank installation procedures shall conform to the following requirements:

1. Editor's Note: Amendment pending.

§ 44-5

FIRE DEPARTMENT

§ 44-6

- (1) Prior to the issuance of a permit for new underground tank storage, the Fire Chief shall require the applicant to submit a project plan, prepared by a qualified professional engineer, indicating the proposed system's number of tanks, individual size (and capacity), type of tank, soil and boring data, depth of water table, proposed tank contents, tank and piping locations, tank evaluations, anchor data (if applicable), any proposed monitoring leak detection system, and inventory control devices (other than required). Fuel oil tanks with a total combined capacity of 550 gallons or less connected to burning equipment shall be exempt.
 - (2) The Fire Chief or his designee shall inspect and approve underground tanks, in accordance with the Massachusetts Board of Fire Prevention regulations, prior to their burial.²
 - (3) Tanks must be installed in accordance with the manufacturer's installation techniques, and the recommendations of the API.
 - (4) New underground tanks and piping shall be tested for tightness, in accordance with the Massachusetts Board of Fire Prevention regulations. No new or replacement tank or component shall be installed except by a contractor who has been either licensed by state authorities for that purpose or certified in writing by the manufacturer or storage equipment association as qualified for the purpose. The contractor shall, prior to any installation, submit to the Fire Chief a copy of such license or certificate.
 - (5) Backfill material, used to cover all new tank installations, must be of the type and quality specified by the tank manufacturer's installation procedures, and by the pertinent regulations governing storage tank installations.
 - (6) Underground tanks that are to be located in areas subject to flooding or below the maximum water table elevation must be anchored according to manufacturer's instructions and to the satisfaction of the Fire Chief or his designee.
 - (7) All new underground tanks (more than 500 gallons capacity), as a result of the Town's reliance on its well system for water supply, shall be double-walled with provisions for a monitoring leak detection system.
- C. Public and private water resources. Any applicant who intends to install an underground tank (or tanks) within 2,000 feet of a water resource must submit a project plan, complete with procedures and details as outlined in provisions of this bylaw, to the Town's Fire Chief, Water Commissioners, and Board of Health for their review, and it shall be acted upon within 45 days after submission.

§ 44-6. Leak prevention and detection for existing and new underground tank systems.

- A. Inventory verification procedures shall conform to the following requirements:
- (1) All underground tanks, except fuel oil tanks connected to burning equipment, must be monitored for the prevention and the detection of leakage of flammable

2. Editor's Note: Amendment pending.

and combustible liquids in accordance with the provisions of the Massachusetts Board of Fire Prevention Regulations. This shall include, but is not limited to, tank testing, pipeline leak detectors, and overfill protection.

- (2) Daily inventory shall be mandatory, on standard form (See Schedule A),³ or by computer printout. Records shall be submitted to the Fire Chief, or his designee, every 60 days. Noncompliance with this requirement shall negate any renewal. **[Amended 4-23-1996 ATM]**
- (3) The Fire Chief shall require the operator of an underground tank storage system to test the system for tightness, at the operator's expense, when accurate daily inventory records have not been maintained as specified by these regulations.

B. Tank testing requirements.

- (1) Tank testing requirements shall be performed in accordance with 527 CMR, Massachusetts Board of Fire Prevention Regulations.⁴
- (2) The Fire Chief shall be given at least 48 hours' notice of the time, date, and place of testing. Test results shall be submitted to the Fire Chief within 21 days.
- (3) Tanks that have failed due to corrosion failure (internal or external) shall not be repaired and shall be removed.
- (4) Removal of abandoned tanks shall be performed in accordance with MGL c. 210, § 1.⁵

C. Leak or spill reporting procedure. Any person who is aware of a spill or abnormal loss of flammable hazardous or toxic fluids must report such spill or loss immediately to the Fire Chief. The Fire Chief shall be responsible for other notifications, including the Department of Environmental Protection.⁶

D. Leak monitoring systems.

- (1) When a new tank installation is undertaken, owner shall install an approved leak detection and alarm system for each individual tank.
- (2) Owners of existing systems shall install one observation well within one year of the enactment of this bylaw and two additional wells within five years.
- (3) Residential fuel oil tank systems with a total capacity of 550 gallons or less shall be exempt from Subsection D(1) and (2).
- (4) Fuel oil tank systems used for consumption on the premises shall be exempt from Subsection D(1) and (2).

3. Editor's Note: Schedule A is included as an attachment to this chapter.

4. Editor's Note: Amendment pending.

5. Editor's Note: Amendment pending.

6. Editor's Note: Amendment pending.

§ 44-7. Equipment replacement.

- A. After a leak is confirmed, the underground tanks involved must be emptied immediately and removed under the direction of the Fire Chief.
- B. If it is necessary to replace an underground steel tank that has developed a corrosion-induced leak, all other steel tanks at the facility, whether they are leaking or not, shall be tested and (if found to be leaking) shall be removed.

§ 44-8. Administration; violations and penalties.

- A. The provisions of this bylaw shall be administered by the Fire Chief.
- B. Variances from the specific requirements of this bylaw may be authorized by the licensing authority after notice and a public hearing.
- C. Licenses issued in accordance with MGL c. 148, § 13, for underground tanks must be renewed annually in April in the Town Clerk's office. Tank owners must submit to the Fire Chief and the licensing authority a statement certifying satisfactory leak detection result over the period of the license (in accordance with this bylaw), and inventory verification, at least 30 days before the issuance of a license renewal for the time periods specified herein. Test results must accompany the license renewal application.⁷
- D. Whoever violates any provision of this bylaw shall be subject to a fine of not less than \$50 nor more than \$100 per day per violation. Each day shall constitute a separate violation.⁸
- E. The invalidity of any provision of this bylaw shall not affect the validity of the remainder.

7. Editor's Note: Amendment pending.

8. Editor's Note: Amendment pending.

FIRE DEPARTMENT

44 Attachment 1

Town of Norwell

Schedule A
Daily Inventory Record

A	B		C		D		E		F	G
Product	Opening Physical Inventory	-	Sales	+	Receipts	=	Inventory Balance	-	Closing Physical Inventory	Over (Short)
_____	_____		_____		_____		_____		_____	_____
_____	_____		_____		_____		_____		_____	_____
_____	_____		_____		_____		_____		_____	_____
Total _____	_____		_____		_____		_____		_____	_____

F
Closing Inventory Stick Readings

Tank	Feet/Inches	Product	Gallons	
1	____/____	_____	_____	
2	____/____	_____	_____	
3	____/____	_____	_____	
4	____/____	_____	_____	
5	____/____	_____	_____	
6	____/____	_____	_____	
7	____/____	_____	_____	Initialed By: _____
8	____/____	_____	_____	Date: _____

NOTE: Forward Closing Physical Inventory F to Opening Physical Inventory B on next day's record.

Chapter 45

POLICE DEPARTMENT

ARTICLE I Alarm Systems

- § 45-1. Definitions.
- § 45-2. Administrative rules.
- § 45-3. Control of signals emitted by alarm systems; key box.
- § 45-4. Testing of equipment.
- § 45-5. Emergency notification list.
- § 45-6. False alarms.

ARTICLE II Animal Control

- § 45-7. Dog and kennel licenses.
- § 45-8. Disposition of money received.
- § 45-9. Damages caused by dogs.

- § 45-10. Dog bites.
- § 45-11. Animal Control Officer.
- § 45-12. General regulations.
- § 45-13. Violations and penalties; noncriminal disposition.
- § 45-14. Dogs on posted Town property; leash required.

ARTICLE III Peace and Good Order

- § 45-15. General regulations.
- § 45-16. Unregistered motor vehicles.
- § 45-17. Public consumption of alcoholic beverages.
- § 45-18. Marijuana not medically prescribed.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Alarm Systems [Amended 5-5-1994 ATM (formerly designated Art. XV, § 14)]

§ 45-1. Definitions.

ALARM SYSTEM — Means an assembly of equipment and devices, arranged to signal the presence of a hazard requiring urgent attention and to which the Police and/or Fire Department is expected to respond.¹

ALARM USER or USER — Means any person on whose premises an alarm system is maintained within the Town except for alarm systems on motor vehicles. Excluded from this definition and from the coverage of this bylaw are central station personnel and persons who use alarm systems to alert or signal persons within the premises in which the alarm system is located of an attempted unauthorized intrusion or holdup attempt. If such a system, however, employs an audible signal emitting sounds to signal persons outside the premises, such system shall be within the definition of "alarm system," as that term is used in this bylaw, and shall be subject to this bylaw.

¹ Editor's Note: Amendment pending.

AUTOMATIC DIALING DEVICE — Refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of the emergency situation that the alarm system is designed to detect.

CENTRAL STATION — Means an office to which remote alarm and supervisory signaling devices are connected, where operators supervise circuits.

FALSE ALARM — Means:

- A. The activation of an alarm system through mechanical failure, malfunction, improper installation, or negligence of the user of an alarm system or of his employees or agents.
- B. Any signal or oral communication transmitted to the Police and/or Fire Department when in fact there has been no unauthorized intrusion or attempted unauthorized intrusion into a premises and no attempted robbery or burglary at a premises.

§ 45-2. Administrative rules.

The Police Chief may promulgate such rules as necessary for the implementation of this bylaw.

§ 45-3. Control of signals emitted by alarm systems; key box.

- A. No alarm systems shall emit a continuous, intermittent or uninterrupted noise for more than 30 minutes, and the owner or tenant in any building who installs, operates or maintains an alarm system that violates this provision shall be fined not more than \$200 for each day such system is in operation. Any alarm system that is designed to emit a noise which cannot be shut off or is not shut off or curtailed after 30 minutes of continuous, intermittent or uninterrupted noise due to the absence or unavailability of the alarm user or those persons designated by him under § 45-5, which disturbs the peace, comfort or repose of a community, or a neighborhood of the area where the alarm system is located, shall constitute a public nuisance. Upon receiving complaints regarding such a continuous, intermittent or uninterrupted noise, the Police Chief shall endeavor to contact the alarm user under § 45-5 in an effort to abate the nuisance. The Police Chief shall cause to record the names and addresses of all complainants and the time each complaint was received.
- B. When access to or within a structure or an area where an alarm is sounding is unduly difficult because of secured openings or where immediate access is necessary for life saving or firefighting purposes, the Fire Chief may require a key box to be installed in an accessible location. The key box shall be of a type approved by the Fire Chief and shall contain keys to gain necessary access as required by the Fire Chief.

§ 45-4. Testing of equipment.

The Police and/or Fire Department shall be notified if an alarm is to be tested or serviced which may cause said alarm to be called in to the Police or Fire Department.

§ 45-5. Emergency notification list.²

Every business establishment within the Town whether alarmed or not shall provide written notice to the Police Chief listing the names, addresses, and telephone numbers of at least two persons who may be reached at any time, day or night, and who are authorized to respond to any emergency which has caused the Police and/or Fire Department to be dispatched to said premises. Such notice shall be kept current at all times reflecting any changes in authorized personnel.

§ 45-6. False alarms.

- A. Any user of an alarm system which transmits false alarms shall be assessed a fine of \$25 after the third false alarm. Thereafter, each fine shall increase at increments of \$25 for each subsequent false alarm in each calendar year as follows: fourth, \$25; fifth, \$50; sixth, \$75; etc. to a maximum of \$300. [Amended 4-23-1996 ATM]
- B. All fines will be payable to the Town of Norwell, care of the Treasurer-Collector. Fines not paid within 30 days will be reviewed for possible court action, interest, and costs of collection.
- C. Alarm systems that have continuous false alarms or a series of malfunctions shall be reviewed by the Police Chief, and the user shall be fined an additional \$300 if a serious attempt has not been made to correct the alarm system so that it does not malfunction, or the Police Chief may order that the user of the alarm system discontinue use of the alarm system.³

ARTICLE II

Animal Control

[Formerly designated Art. XV, § 11]

§ 45-7. Dog and kennel licenses.

- A. The registering, numbering, describing and licensing of dogs, if kept in the Town of Norwell, shall be conducted in the office of the Town Clerk of said Town. All dogs within the Town of Norwell shall at all times display on a collar or harness the Town/City license tag in which the dog is licensed and a current rabies vaccination tag. [Amended 5-7-2018 ATM, Art. 31]
- B. Notwithstanding the provisions of MGL c. 140, § 139, or any other provision of law to the contrary, the annual fees to be charged by the Town of Norwell for the issuance of licenses for dogs shall be established by the Board of Selectmen of said Town.
- C. Notwithstanding the provisions of MGL c. 140, § 137A, or any other provisions of the law to the contrary, the owner or keeper of more than four dogs, six months of age or over, may make written application to the Town Clerk for a kennel license.⁴

2. Editor's Note: Amendment pending.

3. Editor's Note: Amendment pending.

4. Editor's Note: Amendment pending.

- D. The license period for the licensing of dogs and kennels in the Town of Norwell shall be the time between January 1 and the following December 31, both dates inclusive, provided, the Town Clerk may provide up to a three-year license when proof of a three-year rabies vaccine is submitted. [Amended 5-8-2017 ATM, Art. 29]

§ 45-8. Disposition of money received.⁵

All money received for licenses or from the sale of dog licenses by the Town of Norwell or recovered as fines or penalties by said Town under the provisions of MGL c. 140 or this bylaw, relating to dogs, shall be paid into the Town treasury of said Town and shall not thereafter be paid over by the Town Treasurer-Collector to Plymouth County.

§ 45-9. Damages caused by dogs.

Whoever suffers loss by the worrying, maiming or killing of his livestock or fowl by dogs, outside the premises of the owners or keepers of such dogs, shall after investigation as described in MGL c. 140, § 161, be paid from the treasury of said Town, as provided by said § 161.

§ 45-10. Dog bites.

In the event any person suffers a dog bite, the Animal Control Officer shall be notified, and the dog quarantined, and if necessary, permanently restrained. All restraining orders will be issued through the Selectmen's office.

§ 45-11. Animal Control Officer.

- A. Loose livestock and/or horses will only be restrained at the owner's expense. Unless life threatening, the Animal Control Officer will not be called out.⁶
- B. Wildlife (bats, snakes, raccoons, etc.), unless sick or life threatening, is not the responsibility of the Animal Control Officer. If the officer wishes to respond, then it is a private matter between the officer and the homeowner.
- C. Emergencies are for injured dogs or cats. Calls received before 8:00 a.m. and after 4:00 p.m. shall be on an emergency basis only. Dead animals, barking dogs, lost animals, etc., are not to be considered emergencies. Dead animals will be removed during the tour of duty. When the animal's owner is known, the Animal Control Officer will advise that it is the owner's responsibility to dispose of the animal. If the owner requests, the officer may, at his/her option, dispose of the animal at an established fee.⁷

5. Editor's Note: Amendment pending.

6. Editor's Note: Amendment pending.

7. Editor's Note: Amendment pending.

§ 45-12. General regulations.

- A. No person shall own or keep a dog which by barking, biting, howling, being unlicensed, unvaccinated or uncollared, causing littering, property damage, or harassment, or displaying vicious behavior, or in any other manner disturbs the peace and quiet in any neighborhood or endangers the safety or damages the property of any person or otherwise violates the intent of the bylaw. **[Amended 5-7-2018 ATM, Art. 31⁸]**
- B. The owner, keeper or parent or guardian of a minor owner or keeper of a dog or other animal shall not abuse said animal or allow said dog or animal to trespass on private or public property except under the supervision and control of the owner or keeper and with permission of such property owners.
- C. In addition, any violation shall permit the Animal Control Officer to order the dog/animal restrained and enable the Animal Control Officer to impound the dog/animal. Return to the owner or keeper shall not be made until after the payment of a sum to the Town established by the Board of Selectmen. Disposition of dogs impounded and unclaimed shall be in accordance with the laws of the Commonwealth. **[Amended 5-7-2018 ATM, Art. 31]**

§ 45-13. Violations and penalties; noncriminal disposition. [Amended 5-13-2002 ATM, Art. 21]

In addition to any of the penalties and/or remedies set forth in this bylaw, pursuant to MGL c. 40, § 21D, the penalties for violations of the aforementioned Animal Control Bylaw and any rules or regulations promulgated thereunder shall be \$25 for the first offense, \$50 for the second offense, \$100 for the third offense, and \$200 for the fourth and subsequent offenses. Each day of any violation shall be considered a separate offense. The Board of Selectmen, acting through its Animal Control Officer, shall have the authority to dispose of said violations in accordance with the procedures and provisions of MGL c. 40, § 21D.

§ 45-14. Dogs on posted Town property; leash required. [Amended 5-10-2004 ATM, Art. 38; 5-7-2018 ATM, Art. 31]

- A. No person shall allow a dog onto any Town property posted "No Dogs Allowed." Service dogs under close control of their owners wearing a valid dog license and certified as a service dog shall be excluded from this provision. Any person in violation of this section shall be punishable by a fine of not more than \$50 for each offense. The Board of Selectmen shall have the authority to dispose of said violations in accordance with MGL c. 40, § 21D.
- B. All dogs being walked on the pathways under the jurisdiction of the Town shall be on a leash.

8. Editor's Note: Amendment pending.

ARTICLE III

Peace and Good Order**[Formerly designated Art. XV, §§ 1 to 6, 10 and 19]****§ 45-15. General regulations.**

- A. No person shall, between the hours of 8:00 p.m. and 8:00 a.m., set up on any property, public or private, without permission of the owner thereof, or the Board of Selectmen in the case of public property, a camp or tent or sleep in the open on any property, public or private, within the territorial limits of the Town of Norwell.
- B. No person shall behave in an indecent or disorderly manner, or use profane, indecent language in any public place or building, or on any sidewalk or street of the Town of Norwell, to the annoyance of any reasonable person there being or passing.
- C. Three or more persons shall not continue to stand or remain in a group or near each other on any sidewalk or in any public place in such a manner as to obstruct the free passage of foot passengers or motor vehicle traffic after having been requested by a constable or police officer to move on.
- D. No person shall operate, for recreational purposes, a snowmobile, motorcycle, minibike, all-terrain vehicle (ATV), or any other motor-driven vehicle on or through the land of another, except on driveways, roadways and easements of record, without first obtaining written permission from the property owner.
- E. Whoever violates any section of this bylaw shall be punished by a fine of not more than \$50.

§ 45-16. Unregistered motor vehicles. [Added 5-12-2003 ATM, Art. 11; amended 5-10-2004 ATM, Arts. 33 and 34]

No person in charge of any real estate within a residential, commercial or industrial zone of the Town whether as owner, tenant, occupant, lessee, or otherwise shall park, store, maintain, or leave any unregistered motor vehicle whether assembled or disassembled for a period in excess of 30 days unless a special permit has been obtained from the Board of Selectmen, unless said vehicle is stored within a building. In granting such permit, the Selectmen shall consider the effect on the neighborhood and any nuisances or hazards caused by said vehicle or vehicles. Each day of any violation shall be considered a separate offense punishable by a fine of not more than \$50. The Board of Selectmen shall have the authority to dispose of said violations in accordance with the procedures and provisions of MGL c. 40, § 21D.

§ 45-17. Public consumption of alcoholic beverages.

- A. Except as provided in Subsection D hereof, no person shall drink or consume alcoholic beverages as defined in MGL c. 138, § 1, while on, in, or upon any public way or way to which the public has the right of access, any Town-owned forest or recreation area, any Town landing, school property, or parking area. No person shall drink or consume alcoholic beverages on private land without the consent of the owner or person in charge.

§ 45-17

POLICE DEPARTMENT

§ 45-18

- B. Possession of an open can, bottle or other container which upon analysis by the Department of Public Health is determined to contain an alcoholic beverage as defined in MGL c. 138, § 1, shall be prima facie evidence of drinking or consuming said beverage. All alcoholic beverages being used in violation of this section will be seized and safely held until final adjudication of the charge against the person or persons arrested or summoned before the court.
- C. Violation of this section shall be punishable by a fine of not more than \$200. A police officer may arrest without a warrant anyone who violates this law.
- D. The Board of Selectmen is authorized to issue one-day permits for the consumption of such alcoholic beverages in such public places and to make and prescribe such reasonable rules and regulations for the issuance of such permits as will preserve and maintain the public peace and good order. Such rules and regulations shall be adopted at a public hearing, advertised in a newspaper of general circulation in the Town of Norwell two weeks prior to the hearing. After adoption such rules and regulation will be posted conspicuously in five public places and will become effective seven days after such posting.

§ 45-18. Marijuana not medically prescribed. [Added 5-8-2017 ATM, Art. 33]

Consistent with MGL c. 94G, §3(a)(2), all types of marijuana establishments as defined in MGL c. 94G, §1(j), to include marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related businesses shall be prohibited within the Town of Norwell.

PART IV

**LAND USE AND
NATURAL RESOURCES**

Chapter 61

CONSERVATION COMMISSION

ARTICLE I Wetlands Protection

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| <p>§ 61-1. Authority and purpose.</p> <p>§ 61-2. Definitions.</p> <p>§ 61-3. Activities regulated.</p> <p>§ 61-4. Request for determination.</p> <p>§ 61-5. Filing requirements; public hearing.</p> <p>§ 61-6. Denial.</p> <p>§ 61-7. Conditions.</p> | <p>§ 61-8. Emergency projects.</p> <p>§ 61-9. Fees.</p> <p>§ 61-10. Reimbursement for review costs.</p> <p>§ 61-11. Right of entry.</p> <p>§ 61-12. Enforcement; violations and penalties.</p> <p>§ 61-13. Security and restrictions.</p> <p>§ 61-14. Regulations.</p> <p>§ 61-15. Severability.</p> |
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[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Regulations adopted by Conservation Commission —
See Ch. 303.

ARTICLE I Wetlands Protection

[Adopted 5-13-2002 ATM, Art. 20 (formerly designated Art. XVI-a)]

§ 61-1. Authority and purpose.

This article is adopted under authority of Section 6, Article 89 of the Amendments to the Massachusetts Constitution, known as the Home Rule Amendment, and MGL c. 40, § 21. The purpose of this bylaw is to protect the floodplains, wetlands and related water resources, riverfront areas and adjoining land areas of the Town of Norwell by controlling any activities in or near wetlands and riverfront areas deemed to have a significant effect upon wetland values, including, but not limited to, the following: public or private water supply, groundwater and groundwater quality, flood control, sedimentation and erosion control, storm damage prevention, water pollution prevention, wildlife and wildlife habitats, recreation, aesthetics, fisheries, fish and shellfish habitats, rare plant and animal species, and riverfront areas.

§ 61-2. Definitions.

Unless otherwise set forth in a regulation hereinafter adopted by the Conservation Commission, the terms set forth herein shall have the following meanings. The term

"applicant," as used in the bylaw, shall mean the person giving notice of intention to remove, fill, dredge, or alter wetlands or to perform any regulated activity within the area of jurisdiction defined by the bylaw. The term "person," as used in this bylaw, shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth, or any political subdivision of the Commonwealth, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representative, agents, or assigns.

§ 61-3. Activities regulated.

- A. Except as permitted by the Norwell Conservation Commission ("Conservation Commission") or as otherwise provided in this bylaw, no person shall remove, fill, dredge, alter or build upon or within 100 feet of any bank, freshwater wetland, including, without limitation, isolated vegetated wetlands, flat, marsh, meadow, bog, swamp, creek, river, stream, pond or lake, any land under said waters, any land subject to flooding or inundation by groundwater, surface water or tidal action other than 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, sanitary sewer, storm drainage, public roadway, telephone, telegraph, and other telecommunication services, without filing written notice of this intention to so remove, fill, dredge, alter or build upon or within 100 feet of said wetland resources and without receiving and complying with an order of conditions and provided all appeal periods have elapsed. Such notice shall be sent by certified mail to the Norwell Conservation Commission, including such plans as may be necessary to describe such proposed activity and its effect on the environment.
- B. Except as authorized by the Norwell Conservation Commission, no activity or alteration shall be permitted within a fifty-foot buffer strip ("buffer strip") between any wetland resource area, bordering vegetated wetland, and/or isolated vegetated wetland and any proposed site disturbance.
 - (1) Prohibited activities shall include, but are not limited to, the following:
 - (a) New construction of any buildings, sheds, and/or driveways of any nature and type (excepting water-dependent structures expressly approved by the Commission);
 - (b) Alteration, reconstruction or relocation of existing buildings, sheds and/or driveways of any nature or type; and
 - (c) Activities which involve or result in the removal, filling or altering of land within the buffer strip.
 - (2) Nothing herein shall preclude the maintenance of an existing structure located within the buffer strip.
 - (3) The Conservation Commission may allow the prohibited activities upon an express determination that the applicant has made a clear and convincing showing that the proposed work in the buffer strip and its natural and consequential impacts and effects will not adversely affect the wetland values of this bylaw.

§ 61-4. Request for determination.¹

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may request a determination from the Conservation Commission in writing. The Conservation Commission shall issue its determination, in writing, within 21 days from the receipt of such request. The Commission, its agent, officers and employees, may enter upon the land upon which the proposed work is to be done in response to a request for a prior determination or for the purpose of carrying out its duties under this bylaw and may make or cause to be made such examination or survey as deemed necessary.

§ 61-5. Filing requirements; public hearing. [Amended 5-3-2016 ATM, Art. 27]

The same notice of intent, plans and specifications required to be filed by an applicant under MGL c. 131, § 40, (with the addition that Cornell Rainfall Data must be utilized to design and evaluate any and all stormwater systems or components) will be accepted as fulfilling the filing requirements of the bylaw. Within 21 days after receiving a notice of intent, the Conservation Commission shall hold a public hearing on the proposed activity. Notice of the date, time and place of said hearing shall be given by the Commission at the expense of the applicant not less than five days prior to such hearing by publication in a newspaper of general circulation in the Town and by mailing a notice to the applicant by mail. The applicant may be present at said hearing and may be represented by counsel and shall be entitled to present evidence, call witnesses, and question any witnesses appearing at the hearing. The Commission shall make and keep a record of its proceedings and, upon request, shall furnish copies at reasonable cost. Said hearing shall be conducted simultaneously with the public hearing required to be held under the provisions of said MGL c. 131, § 40, and in conformity with said regulations promulgated by the Department of Environmental Protection.

§ 61-6. Denial.

The Conservation Commission is empowered to deny permission for any removal, dredging, filling, or altering of subject lands within the Town if, in its judgment, such denial is necessary for the protection of public or private water supply, groundwater, flood control, storm damage prevention, and the prevention of pollution or any of the wetland values protected hereunder. Due consideration shall be given to possible effects of the proposal on all values to be protected under this bylaw.

§ 61-7. Conditions.

The Conservation Commission may, as an alternative to a denial, impose such conditions as it deems necessary to contribute to the protection and preservation of the subject lands in accordance with the purpose of this bylaw. An order of conditions issued under this bylaw may be identical to such an order issued by the Norwell Conservation Commission under the provisions of MGL c. 131, § 40.

1. Editor's Note: Amendment pending.

§ 61-8. Emergency projects.²

The notice required by § 61-3 of this bylaw shall not apply to emergency projects necessary for the protection of the health and safety of the citizens of Norwell and to be performed, or ordered 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 Protection and Conservation Commission if this bylaw and MGL c. 131, § 40, as amended, are both applicable or by the Conservation Commission if only the 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 any mosquito control work done under the provisions of MGL c. 40, § 5, or MGL c. 252 or to work performed for normal maintenance or improvement of lands in agricultural use as of the effective date of this bylaw.

§ 61-9. Fees.

The Conservation Commission is authorized to establish filing fees to defray costs incurred in conducting hearings under the Wetlands Protection Bylaw and to adopt rules and regulations regarding the establishment and collection of such fees. Such rules and regulations may be adopted or amended at any regularly scheduled meeting of the Conservation Commission subject to the approval of the Board of Selectmen. Upon such approval they shall be published once in a newspaper of general circulation in the Town, shall thereafter be posted for seven consecutive days in five conspicuous places, and shall become effective upon the expiration of said seven days.

§ 61-10. Reimbursement for review costs.³

In addition to the fees authorized by § 61-9, notices of intent filed for business, commercial, industrial and/or subdivision projects shall reimburse the Town for certain costs incurred by the Town in processing the application, inclusive of consulting and expert fees incurred in reviewing any such proposals. The applicant shall, with submission of a notice of intent, deposit with the Treasurer-Collector of the Town funds equal to 1% of the estimated cost of the project or \$500, whichever is greater. For business, commercial and industrial filings "estimated cost" shall mean the estimated cost of the entire project, including building construction. For subdivisions "estimated cost" shall mean the estimated cost of land preparation, grading, placement of utilities, and construction of roads and drainage systems. The Conservation Commission shall direct the Treasurer-Collector to expend such funds to pay for all reasonable design review by its consulting engineer, or by other professional persons required to assist the Conservation Commission to determine the adequacy of the submitted plan(s) with regard to MGL c. 131, § 40, and this bylaw. However, no such payment shall be directed until 14 days after a photocopy of the bill purporting to represent charges for such services and review has been sent, by first-class mail, to the applicant. If the applicant disputes the amount, the bill shall be reconsidered by the Conservation Commission, and the Commission's decision will prevail. The balance of this account shall at

2. Editor's Note: Amendment pending.

3. Editor's Note: Amendment pending.

no time be less than 1/2 the initial deposit; upon notice from the Commission by first-class mail, the applicant shall deposit with the Treasurer-Collector such additional funds as are required to restore the account to the amount of the initial deposit. Within 21 days of issuance of a certificate of compliance, all remaining funds shall be returned to the applicant. The Conservation Commission may require similar deposits for filings by persons other than businesses if the submitted plan(s) require(s) design review by its consulting engineer or other professional persons. If a deposit is required for a request for determination of applicability, all remaining funds shall be returned to the applicant within 21 days of issuance of a certificate of occupancy by the Building Inspector/Zoning Enforcement Officer.

§ 61-11. Right of entry.

The Commission, its agents, officers and employees shall have the authority to enter upon privately owned land pursuant to warrant, court procedure, or other appropriate administrative order for the purpose of performing their duties under the bylaw and may make or cause to be made such examinations, surveys or sampling as the Commission deems necessary.

§ 61-12. Enforcement; violations and penalties.⁴

The Commission shall have the authority to enforce this bylaw, its regulations, and permits issued thereunder by violation notices, administrative orders, and civil and criminal court actions. Upon request of the Commission to the Board of Selectmen, the Town Counsel may take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police may take legal action for enforcement under criminal law. Any person who violates any provision of this bylaw, regulations or permits issued thereunder, may be punished by a fine issued by the Conservation Commission. Each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations or permit violated shall constitute a separate offense. In addition to the procedure of enforcement as described above, the provision of this bylaw may also be enforced by the Commission or its agent, by noncriminal complaint pursuant to the provisions of MGL c. 40, § 21D. The penalty for violation of any provision of this bylaw shall be \$100 for the first offense; \$200 for the second offense; \$300 for the third offense and each subsequent offense.

§ 61-13. Security and restrictions.

- A. The Conservation Commission may require the posting of a bond with or without surety, running to the municipality, and sufficient as to form and surety in the opinion of the Commission's Counsel to secure faithful and satisfactory performance of work required by any order of conditions, in such sum and upon such conditions as the Conservation Commission may require. 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. Forfeiture of any such bond or other security shall be recoverable in an action in any court of competent

4. Editor's Note: Amendment pending.

jurisdiction. Such bond or other security shall be released upon issuance of a certificate of compliance.

- B. The Commission may also consider a conservation restriction, easement, or other covenant enforceable in a court of law as a way to secure adherence to conditions imposed by the Commission. Such covenant shall be executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant.

§ 61-14. Regulations.

The Norwell Conservation Commission may, from time to time, adopt such other and further definitions, regulations, fees and performance standards as it may deem necessary to protect the interest and/or intent of this bylaw. Said definitions, regulations, fees and performance standards shall become effective upon publication following a public hearing.⁵

§ 61-15. Severability.

The invalidity of any section or provision of the bylaw shall not invalidate any other section or provision thereof.

5. Editor's Note: See Ch. 303, Conservation Commission, Art. I, Wetlands Regulations.

Chapter 62

SOIL, LOAM, SAND OR GRAVEL REMOVAL

§ 62-1. Residential and conservation districts.

§ 62-2. Business districts.

§ 62-3. Standards, procedures and requirements.

§ 62-4. Exceptions.

§ 62-5. Violations and penalties.

§ 62-6. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated as Art. XVI. Amendments noted where applicable.]

§ 62-1. Residential and conservation districts.

- A. The removal of soil, loam, sand or gravel from land located within the residential and conservation districts, as defined in the Norwell Zoning Bylaw, as from time to time amended, except as otherwise provided by law and except for Town use with the approval of the Board of Selectmen, is expressly prohibited.
- B. If the removal of soil, loam, sand or gravel from land located within the residential and conservation districts, as defined in the Norwell Zoning Bylaw, as from time to time amended, is authorized or provided by law, such removal shall be subject to the standards, procedures and requirements set forth in § 62-3 hereof.

§ 62-2. Business districts.

The removal of soil, loam, sand or gravel from land located within the business districts, as defined in the Norwell Zoning Bylaw, as from time to time amended, may be allowed by the issuance of a permit by the Board of Selectmen, subject, however, to the standards, procedures and requirements set forth in § 62-3 hereof.

§ 62-3. Standards, procedures and requirements.

- A. No soil, loam, sand or gravel shall be removed from any land within the Town of Norwell without a removal permit issued by the Board of Selectmen. Written application for a permit must be made to the Selectmen upon a form approved by them and the payment of a reasonable filing fee established by them. An original and three copies of a topographical survey plan, with a scale of not less than 80 feet to one inch, by a registered land surveyor, must be submitted with each application. The plan must contain the following:
 - (1) Original plot plan with property boundaries and topographical contours at five-foot intervals.
 - (2) Contours of all areas restored from previous removals.

- (3) Contours of all existing unrestored areas at time of application for removal permit.
 - (4) Contour of removals under last permit [a portion of Subsection A(3)].
 - (5) Contour of application removal area in one-foot interval.
 - (6) Water table in application for removal area.
- B. The Board of Selectmen shall fix a reasonable time for a hearing upon such application and shall cause the notice of the time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing and shall also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the Board to be affected thereby, as they appear on the most recent local tax list, and to the Board of Health, the Water Commissioners, and Planning Board of the Town. At the hearing any party whether entitled to notice thereof or not may appear in person or by agent or by attorney.
- C. The Board of Selectmen may issue a permit for the removal of soil, loam, sand or gravel in those areas of the Town hereinbefore authorized, provided:
- (1) That such removal will not adversely affect the water table of the natural or engineered drainage in the Town;
 - (2) That such removal will not create a waste area within the Town;
 - (3) That such removal will not create unreasonable noise, dust, fumes or other effects which are detrimental to the public health or public welfare; and
 - (4) That such removal will not create an area which is different in topography from surrounding properties.
- D. The Board of Selectmen shall adopt rules and regulations not inconsistent with the provisions of the bylaw for conducting its business and otherwise carrying out the purposes of this bylaw.
- E. The Board of Selectmen shall require a suitable restoration and performance bond from the applicant before any permit is issued hereunder.

§ 62-4. Exceptions.

The requirements of this bylaw shall not apply to the following:

- A. The excavation and removal of soil, loam, sand or gravel when required for the purpose of constructing foundations for buildings or other structures allowable under the Zoning Bylaw, including service drives or roadways, as from time to time amended, for which building permits have been properly issued.
- B. The excavation and removal of soil, loam, sand or gravel when required in order to construct a road over the location from which such removal is made, in an approved

§ 62-4

SOIL, LOAM, SAND OR GRAVEL REMOVAL

§ 62-6

subdivision in accordance with location lines and grades approved by the Planning Board.

§ 62-5. Violations and penalties.

The penalty for the violation of this bylaw, or the removal of any soil, loam, sand or gravel within the Town of Norwell without a permit hereunder, except as hereinbefore provided, shall be as follows:

- A. For the first offense, \$50;
- B. For the second offense, \$100;
- C. For each subsequent offense, \$200; and
- D. Each unit of removal, used to remove soil, loam, or gravel, such as a truck load of any size, from the original site constitutes a separate offense under this bylaw.

§ 62-6. Severability.

The invalidity of any section or part of this bylaw shall not affect the validity of any section or part hereof otherwise valid.

Chapter 63

RIGHT TO FARM

§ 63-1. Purpose and intent.

§ 63-4. Disclosure notification.

§ 63-2. Definitions.

§ 63-5. Resolution of disputes.

§ 63-3. Right to farm declaration.

§ 63-6. Severability.

[HISTORY: Adopted by the Town Meeting of the Town of Norwell 5-3-2016, Art. 53. Amendments noted where applicable.]

§ 63-1. Purpose and intent.

- A. The purpose and intent of this bylaw is to state with emphasis the right to farm accorded to all citizens of the Commonwealth under Article 97 of the Constitution, and all statutes and regulations thereunder, including but not limited to MGL c. 40A, § 3, Paragraph 1; MGL c. 90, § 9; MGL c. 111, § 125A; and MGL c. 128, § 1A. We the citizens of Norwell restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution ("Home Rule Amendment").
- B. This general bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities and protects farmlands and forests within the Town of Norwell by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This bylaw shall apply to all jurisdictional areas within the Town.

§ 63-2. Definitions.

- A. The word "farm" shall include any parcel or contiguous parcels of land or water bodies used for the primary purpose of commercial agriculture, or accessory thereto.
- B. The words "farming" or "agriculture" or their derivatives shall include, but not be limited to, the following:
 - (1) Farming in all its branches and the cultivation and tillage of the soil;
 - (2) Dairying;
 - (3) Production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural, viticulture or horticultural commodities including orchards;
 - (4) Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;
 - (5) Raising and/or boarding of livestock including horses;
 - (6) Keeping and/or training of horses as a commercial enterprise; and

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- (7) Keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and alpacas) and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

C. "Farming" shall encompass activities including, but not limited to, the following:

- (1) Operation and transportation of slow-moving farm equipment over roads within the Town;
- (2) Control of pests, including, but not limited to, insects, weeds, predators and disease organism of plants and animals;
- (3) Application and storage of manure, fertilizers and pesticides under generally accepted management practices;
- (4) Conducting agriculture-related educational and farm-based recreational activities, including "agritourism," provided that the activities are related to marketing the agricultural output or services of the farm;
- (5) Processing and packaging of the agricultural output of the farm and the operation of a farmer's market or farm stand including signage thereto;
- (6) Maintenance, repair or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management or sale of the agricultural products;
- (7) On farm relocation of earth and the clearing of ground for farming operations; and
- (8) Maintaining drainage or irrigation ditches; picking stone; constructing, repairing or maintaining fences; and clearing, renovating and maintaining pastures including using the practice of prescription burning.

§ 63-3. Right to farm declaration.

The right to farm is hereby recognized to exist within the Town of Norwell. The above-described agricultural activities may occur on holidays, weekdays and weekends by night or day and shall include the attendant incidental noise, odors, dust and fumes associated with normally accepted agricultural practices. It is hereby determined that whatever impact may be caused to others through the normal practice of agriculture is more than offset by the benefits of farming to the neighborhood, community and society in general. The benefits and protections of this bylaw are intended to apply exclusively to those commercial agricultural and farming operations and activities conducted in accordance with generally accepted agricultural practices. Moreover, nothing in this Right to Farm Bylaw shall be deemed as acquiring any interest in land, or as imposing any land use regulation, which is properly the subject of state statute, regulation or local zoning law.

§ 63-4. Disclosure notification.

- A. In order to ensure that prospective owners and tenants are aware of the policy of the Town of Norwell expressed in this bylaw regarding agricultural uses, the following

notification shall be prominently posted in the Norwell Town Hall, the Norwell Library and on the Town of Norwell website within 30 days of this bylaw becoming effective. In addition, the notification language required by this section shall appear each year in the Town's Annual Report.

It is the policy of this community to conserve, protect and encourage the maintenance and improvement of forest and agricultural lands for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers or occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers and occupants are also informed that the location of property within the Town may be impacted by commercial agricultural and farming activities.

- B. Property owners should make efforts to inform prospective tenants or buyers that Norwell is a "Right to Farm" community.

§ 63-5. Resolution of disputes.

- A. Any person having a complaint about a farm activity or practice is encouraged to seek an amicable resolution to the complaint, including talking directly with the involved farmer.
- B. Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Building Inspector/Zoning Enforcement Officer, or the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have.
- C. The Board of Health, except in cases of imminent danger or public health risk, may forward a copy of the grievance to the Board of Selectmen, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

§ 63-6. Severability.

If any part of this bylaw is for any reason held to be unconstitutional or invalid, such decision shall not affect the remainder of this bylaw. The Town of Norwell hereby declares the provisions of this bylaw to be severable.

Chapter 64

WATERWAYS

ARTICLE I **Town Landings**

- § 64-1. Definition.**
- § 64-2. Town launching ramps.**
- § 64-3. Town landing parking areas.**
- § 64-4. Hours of use.**
- § 64-5. Violations and penalties.**
- § 64-6. Severability.**

ARTICLE II **Moorings**

- § 64-7. Authority.**
- § 64-8. Purpose.**
- § 64-9. Definitions.**
- § 64-10. Mooring permits; regulations.**
- § 64-11. Violations and penalties.**

[HISTORY: Adopted by the Town Meeting of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I **Town Landings** **[Adopted 5-9-2006 ATM, Art. 37 (formerly designated Art. XIX)]**

§ 64-1. Definition.

Town landings for the purpose of this bylaw are defined as the landings to the east of the Union Street Bridge and at the end of Chittenden Lane.

§ 64-2. Town launching ramps.

- A. The proper usage of the Town launching ramps shall be determined by the Selectmen. This shall include the proper parking of trailers and motor vehicles at the approach to the ramp.
- B. Persons using Town ramps for hauling of larger boats requiring cradles shall apply to the Selectmen for permission. Such cradles and/or boats shall not remain on the Town ramps for more than one tide.
- C. No major boat repairs or complete maintenance work shall be done at Town ramps or docks. Ramps and walkways shall be kept clear at all times. After 24 hours, equipment stored in violation of this section will be considered abandoned and removed at the owner's expense.
- D. The Town is not responsible for any loss or damage to boats at Town ramps and docks. Owners will be held responsible for damage to structures and pilings owned by the Town.

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- E. Open alcoholic beverages are prohibited from the landings and the adjacent parking areas.
- F. No person shall swim or dive from Town-owned ramps or docks.
- G. Minor children shall not be allowed the use of Town launch ramps without adult supervision unless age 16 or 17 and in possession of a boating safety certificate.

§ 64-3. Town landing parking areas.

Parking at the Union Street Bridge and Chittenden Landing is restricted to Norwell residents and property owners. All vehicles parked on these properties must purchase and visibly display a current Norwell Town Landing Permit (available from the Board of Selectmen) or a Norwell Recycling Permit (available from the Board of Health). Unauthorized parking in all roadways and fire lanes approaching the parking lot is prohibited at all times. Fines for such unauthorized parking will be determined by the Board of Selectmen. All parking is on a first come, first serve basis. When parking capacities are reached, vehicle access restrictions will be imposed.

§ 64-4. Hours of use.

The landings shall be closed to all use daily from sunset to sunrise.

§ 64-5. Violations and penalties.

Whoever violates any provision of this bylaw or any rule or regulation adopted under this bylaw will be fined and/or may have their use privileges revoked. Fines will be determined by the Board of Selectmen. This bylaw shall be enforced by the Selectmen or their designees. In addition to the foregoing, and as an alternative to such methods of enforcement, the Board of Selectmen or their designees may, at their discretion, enforce the provisions of this bylaw using the noncriminal disposition manner provided for under MGL c. 40, § 21D.

§ 64-6. Severability.

In the event that any provision, section or clause of the bylaw is hereinafter judicially found to be invalid, such invalidity shall not affect the validity of the remaining portions of the bylaw.

ARTICLE II

Moorings

[Adopted 5-15-2007 ATM, Art. 47 (formerly designated Art. XX)]

§ 64-7. Authority.

This bylaw is adopted by the Town under its police powers to protect public health and welfare and its powers under MGL c. 90B, § 15; c. 91, § 10A; c. 102, §§ 19 to 28; c. 43B,

§ 13; c. 40, §§ 21D and 57; and c. 60B, § 4, and 310 CMR 9.07 and all other applicable laws and regulations.

§ 64-8. Purpose.

The purpose of this bylaw is to protect the public peace, good order and general welfare; to preserve and protect the waters of the North River within the jurisdiction of the Town of Norwell; to promote, preserve and protect the exercise and enjoyment of the public rights of fishing, fowling and navigation; and to so regulate the use of the waters of the North River within the jurisdiction of the Town of Norwell as to protect and promote the public health, safety, convenience and enjoyment thereof.

§ 64-9. Definitions.

In construing this bylaw, the following words shall have the meaning herein given, unless a contrary intent clearly appears:

BERTH — Any space wherein a boat is confined by a mooring, wet slip, pier, dock, float, or any other type of docking facility.

BOAT or VESSEL — Includes every description of watercraft, used or capable of being used as a means of transportation on the water, including seaplanes, amphibious vehicles, and any other variable use craft when navigating, moored, or berthed on the water, excluding canoes, kayaks, and boats 12 feet in length and under.

BOATYARD — A facility whose function is the construction, repair, or maintenance of boats, which may include provisions for boat storage and docking while awaiting service.

HARBORMASTER — Any Harbormaster and any Assistant Harbormasters duly appointed by the Norwell Board of Selectmen from time to time, and in the absence of any such appointment, the powers and authority of the Harbormaster shall be vested in the Norwell Board of Selectmen.

MARINA — A berthing area with docking facilities under common ownership or control and with berths for 10 or more vessels, including commercial marinas, boat basins, and yacht clubs. A marina may be an independent facility or may be associated with a boatyard.

MOORING — A place where buoyant vessels, lobster-cars, floats, or rafts are secured to the bottom of a water body and the mooring tackle, including the block, chain, buoy, pennant, and any other equipment, used to secure the vessel by permit from the Harbormaster.

MOORING PERMIT — Written authorization issued by the Town of Norwell to place a mooring within the North River or to berth a boat upon a wet slip, pier, dock, or float within the North River.

NORTH RIVER — The waters within the North River lying within the Town of Norwell, as defined in NOAA map dated February 1979.

PERSONS — Includes individuals, corporations, societies, associations, and partnerships.

§ 64-10. Mooring permits; regulations.

- A. No person shall place any block, chain, pennant or other mooring device within the North River, or moor or berth any boat or vessel upon any wet slip, pier, dock or float within the North River, without first obtaining a mooring permit from the Harbormaster.
- B. A mooring permit must be obtained for each mooring placed and for each boat moored or berthed within the North River for each calendar year, and a fee set by the Selectmen shall be paid for said permit to the Harbormaster on a form prescribed by the Selectmen. The application shall set forth the name and address of the owner, the size and type of the boat to be moored or berthed, the size and type of the mooring, and, if the mooring is already in the water, the location thereof with sufficient details to enable the Harbormaster to locate it. No mooring shall be rented, except by an operator of a private, public, or commercial marina upon such terms, conditions, and regulations established by the Harbormaster. The Harbormaster shall not issue mooring permits to persons who have delinquent excise taxes.
- C. The Harbormaster shall prepare regulations governing the use of moorings, applications for mooring permits, and the size and specifications for moorings, their hardware and pennants. All such regulations shall be submitted approval. Upon approval, the regulations shall be published once in a newspaper of general circulation in the Town and shall be posted for seven consecutive days at the Harbormaster's office and at the Town Clerk's office and shall become effective upon expiration of said seven days. Copies of such regulations shall be available upon request at the Town Clerk's office and at the Harbormaster's office. Such regulations may be amended from time to time in the same manner.
- D. Any hazard to navigation or property, or any mooring placed or boat berthed within the limits of the North River in violation of the foregoing provisions, may be removed by the Harbormaster at the expense of the owner.

§ 64-11. Violations and penalties.

- A. Whoever violates any provision of this article or any rule or regulation adopted under § 64-10 hereof, and whoever fails to obey the lawful and reasonable orders of the Harbormaster, or resists him/her in the execution of his/her duties, shall be fined up to \$50 for each such violation and/or may have their mooring privileges revoked. This article shall be enforced by the Harbormaster or by the Board of Selectmen.
- B. As an alternative to initiating criminal proceedings as described above, the Harbormaster or the Board of Selectmen may dispose of a violation of this bylaw and any rule or regulation promulgated hereunder as a noncriminal disposition and subject to a penalty of \$50 for each such violation pursuant to the provisions of MGL c. 40, § 21D.
- C. A violation of each specific bylaw, rule or regulation shall be deemed a separate offense, and each day on which a violation occurs shall be deemed a separate offense and subject to the penalties stated herein.

PART V

STREETS AND WAYS

Chapter 81

PUBLIC WAYS

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| <p>§ 81-1. New ways.</p> <p>§ 81-2. Conditions for acceptance of ways.</p> <p>§ 81-3. Street numbers.</p> <p>§ 81-4. Street names.</p> <p>§ 81-5. Construction of sidewalks.</p> <p>§ 81-6. Obstructions on public ways.</p> <p>§ 81-7. Operation of vehicles.</p> <p>§ 81-8. Vehicles interfering with snow removal.</p> | <p>§ 81-9. Water on public ways.</p> <p>§ 81-10. Salt on public ways and parking areas.</p> <p>§ 81-11. Parking restrictions.</p> <p>§ 81-12. One-way streets.</p> <p>§ 81-13. Widening or alteration of Town roads.</p> <p>§ 81-14. Engine braking prohibited.</p> <p>§ 81-15. Street openings on public ways.</p> |
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[HISTORY: Adopted by the Town Meeting of the Town of Norwell. Formerly designated Art. X. Amendments noted where applicable.]

GENERAL REFERENCES

Subdivision Rules and Regulations — See Ch. 302.

Regulations adopted by Permanent Drainage Committee — See Ch. 308.

§ 81-1. New ways.

All new ways shall be laid out in conformance with the rules and regulations of the Planning Board, unless shown on a plan approved by the Planning Board, or unless such layout was made prior to June 1, 1949, and is so certified in writing by the Selectmen.

§ 81-2. Conditions for acceptance of ways.

- A. No private way shall be accepted unless and until the Planning Board shall have certified in writing to the Selectmen that such way is well built and so constructed that it is at least equal to the average construction of existing highways of the Town, with the proper grades in relation to abutting land and connecting streets, and that it conforms with the Planning Board's rules and regulations, provided, however, this subsection shall not apply to the ways laid out subject to any provisions of law relating to the assessments of betterments.
- B. No private way shall be accepted for the purpose of construction or alterations, or any way laid out or altered by the Selectmen until all claims for damage have been estimated.
- C. No private way shall be accepted unless drainage as may be required shall be installed as directed by the Drainage Committee.

- D. Each petition for the layout of a street or way for acceptance at any Town Meeting shall be presented to the Selectmen at least three months before such meeting, and the Board of Selectmen, the Planning Board, the Drainage Committee, the Board of Health, the Water Commissioners and the Highway Surveyor shall attach thereto an affidavit stating that the road is or is not satisfactory in width and so constructed as to be acceptable.

§ 81-3. Street numbers.

The Board of Selectmen shall determine and designate numbers of the buildings on such streets or portions of streets as they think best and no person shall neglect to affix to any building owned by him the street number designated to him by said Board, nor shall any person affix or suffer to remain on any building owned by him a street number other than the one designated by said Board.

§ 81-4. Street names.

The names of new ways shall be approved by the Planning Board.

§ 81-5. Construction of sidewalks.

Prior to the location of any sidewalk a detailed street layout establishing blacktop and abutters' property lines shall be developed for cost estimate and bidding purposes and an abutters' hearing shall be held prior to the final location of any sidewalk. The specifications for such a project shall have the approval of the Highway Surveyor, Tree Warden, and Board of Selectmen, collectively responsible for the required construction, maintenance, operational conditions and contract negotiations.

§ 81-6. Obstructions on public ways.

No person, other than a public officer or Town agent, servant or employee in the performance of his duties, shall place any obstruction to travel on any public way without the consent of the Selectmen; provided, however, that this section shall not be construed to prohibit reasonable emergency action to warn travelers of any obviously dangerous condition observed in the public way, provided the condition and action taken are reported by the person taking such action as soon as reasonably may be to the Selectmen, the Norwell Police Department or the Highway Surveyor. No person shall leave any rubbish or refuse, or any noxious, dangerous, offensive or unsightly object or matter on or in any public way or common lands of the Town.

§ 81-7. Operation of vehicles.

Every person operating or having charge of a vehicle in any public way shall operate it as may be directed by any Norwell police officer in performance of his legal duties.

§ 81-8. Vehicles interfering with snow removal.

The Highway Surveyor may for the purposes of removing or plowing snow, or removing ice, from any public way remove or cause to be removed, to some convenient place, including any public garage, any vehicle which interferes with the removal or plowing of such snow, or the removal of such ice. In the event that such vehicle is so removed, the owner of such vehicle shall be liable for the cost of such removal and for the storage charges, if any, resulting therefrom, but shall not, notwithstanding any other provisions of these bylaws, be otherwise liable to any fine, penalty or other charges solely by reason of the fact that such vehicle was interfering with such plowing or removal.

§ 81-9. Water on public ways.

No person shall pipe or otherwise deposit in or upon any public street or public place any water or other substance which may freeze and thereby create a hazardous condition.

§ 81-10. Salt on public ways and parking areas.

- A. No person, including public officers and employees, shall place or deposit salt or similar contaminating substances in excess of a moderate and well-controlled amount upon any street, public parking area or road or highway under the jurisdiction of the Town of Norwell at any season of the year.
- B. The use of de-icing salt on private parking areas where parking for more than 10 motor vehicles is provided is hereby banned. The use of de-icing salt by the Town is hereby restricted to an absolute minimum, but in no case will the total amount of salt used by the Town exceed 1,200 tons in a twelve-month period, unless approved by the Board of Selectmen as necessary for public safety. The use of de-icing salts upon the public sidewalks within the Town of Norwell is hereby banned.

§ 81-11. Parking restrictions.

- A. No person shall park or place any motor vehicle or trailer or other obstruction in or upon the westerly side of the public way of Bridge Street in the area lying between Main Street and the North River.
- B. No person shall park or place any motor vehicle or trailer in or upon the area of Town-owned land known as Bridge Street Town Landing unless such motor vehicle or trailer shall exhibit evidence of a permit issued by the Town of Norwell. Such permits shall be issued only to the residents of the Town of Norwell.
- C. Pursuant to Subsections A and B above, the Selectmen shall make regulations for the occupancy of said public way and Town-owned land for the parking of motor vehicles, trailers, and other vehicles and obstructions, as shall provide for the public safety and convenience. Such regulations may provide among other things for the issuance of permits and the use of stickers evidencing the issuance of such permit and may provide for a schedule of increasing fines for first and subsequent offenses, such fines not to exceed the sum of \$50 for any one offense, and may further provide that vehicles shall be towed at the owner's expense. Such rules and regulations shall be adopted after

public hearing pursuant to notice by publication not less than 14 days prior to such hearing.

§ 81-12. One-way streets.

Upon the following streets or ways, traffic shall move only in the direction indicated below, provided that official traffic signs are erected at each exit at each one-way street:

- A. The roadway beginning at the Norwell Library entrance at South Street shall be one-way in the direction of the playing fields and around the high school.

§ 81-13. Widening or alteration of Town roads.

No board, department, or officer of the Town is authorized to engage in widening or other alteration of any Town road which will substantially change the character of the Town road or to expend monies therefor without first having obtained approval for such work by a Regular or Special Town Meeting at which a majority has voted for approval of specific plans and specifications. The intent of this provision is not to impair the regular maintenance of any Town road.

§ 81-14. Engine braking prohibited. [Added 5-8-2006 ATM, Art. 8]

- A. The use of engine brakes, so called, shall be prohibited on all streets in the Town of Norwell. Engine ("Jake") braking is allowed in emergency situations and to avoid injury, or an accident, and the truck driver may use that claim as an affirmative defense if ticketed for violating the Town bylaw.
- B. Violations of this section shall be enforced by the Norwell Police Department by the issuance of a civil citation with a fine not to exceed \$300 per violation and shall be disposed of as a noncriminal disposition under MGL c. 40, § 21D.

§ 81-15. Street openings on public ways. [Added 5-7-2018 ATM, Art. 30]

- A. Any applicant seeking to open, occupy, use, obstruct, and/or close a portion of a public way within the Town of Norwell shall apply for a street opening permit on a form prescribed by the Town Administrator.
- B. Except in cases of emergencies or special situations, no street opening shall occur on a moratorium road, defined as a road that has been repaved and/or reconstructed within the previous five years. In such emergencies or special situations, a special permit issued by the Town Administrator and the Highway Surveyor is required, as well as payment of associated fees as amended from time to time.

Chapter 82

SCENIC ROADS

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| <p>§ 82-1. Authority and purpose.</p> <p>§ 82-2. Definitions.</p> <p>§ 82-3. Criteria for designation as scenic road.</p> <p>§ 82-4. Procedure for designating scenic roads.</p> <p>§ 82-5. Design standards for scenic roads.</p> <p>§ 82-6. Filing for work affecting trees or stone walls; emergencies.</p> | <p>§ 82-7. Considerations when acting on applications.</p> <p>§ 82-8. Enforcement; violations and penalties.</p> <p>§ 82-9. Severability.</p> <p>§ 82-10. Designated scenic roads.</p> <p>§ 82-11. Notice.</p> <p>§ 82-12. Power to adopt rules and regulations.</p> |
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[HISTORY: Adopted by the Town Meeting of the Town of Norwell 3-15-1976. Amendments noted where applicable.]

§ 82-1. Authority and purpose.

- A. Authority. This chapter is adopted under authority of MGL c. 40, § 15C (scenic roads), and MGL c. 40, § 21.
- B. Purpose. The purpose of this chapter is to provide a clearly defined public process and procedure for the implementation of the Scenic Road Act. The provisions of this act should ensure that:
 - (1) The semi-rural, natural, historic and scenic character of the Town's roads (as defined herein) is maintained.
 - (2) The need to preserve the character of scenic roads is balanced by the Town's need to efficiently maintain roads, acknowledging that roads serve a transportation function for pedestrians and bicyclists, as well as motorized vehicles.
 - (3) Town roads will be recommended for designation as scenic roads in accordance with the criteria set forth in this chapter.
 - (4) Trees (as defined herein) and stone walls within the right-of-way of all designated scenic roads will not be altered without the required Planning Board public hearing, nor without following the other procedures set forth in this chapter.

§ 82-2. Definitions.

For terms not qualified or defined in MGL c. 40, § 15C (scenic roads), the following meanings shall apply for the purposes of this bylaw:

ABUTTER — All property owners, including those across the street, abutting the property where work requiring a scenic road hearing is required.

BRANCH — A living branch that is fully attached to a tree (as defined herein) and that has a diameter of three inches or more, 12 inches from the point at which said branch connects to the tree.

CUTTING OR REMOVAL OF TREES — The removal of one or more trees, trimming of branches (both as defined herein) or cutting of roots sufficient in the Tree Warden's written opinion to cause eventual destruction of the tree. This definition does not apply to clearing nuisance growth, routine or emergency tree maintenance that removes only permanently diseased or damaged limbs, trunks, roots and dead whole trees or thinning crowded trees as determined by the Tree Warden.

POSTING — The marking of a tree or stone wall along a road for the purpose of a scenic road hearing. For trees, such marking is described in MGL c. 87, § 3. For stone walls, a ribbon or other appropriate flagging material shall be temporarily affixed at the limit of work on both ends of the stone wall.

REPAIR, MAINTENANCE, RECONSTRUCTION OR PAVING WORK — Any work done within a road (as defined herein) by any person or agency, public or private. Construction of new driveways or widening of existing ones is included, insofar as it takes place within the road. Roadside clearing of trees to provide for vehicular clearance or for improvements to the line of sight shall also be included in this definition. The definition of "repair, maintenance, reconstruction or paving work" shall not apply to the construction or alteration of water, sewer, electric, telephone, cable television or other utilities within the road unless such construction or alteration requires the tearing down or destruction of stone walls or the cutting or removal of trees.

ROAD — The entire legal right-of-way of a vehicular traveled right-of-way in Norwell, including any necessary appurtenances, and including bridge structures, drainage systems, retaining walls, traffic control devices and sidewalks. The right-of-way includes the area on and within the boundaries of the right-of-way and the air space above. The applicant shall be responsible for determining the limits and width of the right-of-way by utilizing layout plans available. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the right-of-way until shown by the proponent of the work to be otherwise.

SCENIC ROAD — A road so designated in accordance with MGL c. 40, § 15C.

STONE WALL — A man-made grouping of stones forming a straight or curved line.

STREET RESIDENTS — The full list of all of the residents with an address on the subject street or streets, as found in the Norwell Board of Registrars most current edition of the Resident List of the Town of Norwell.

TEARING DOWN OR DESTRUCTION OF STONE WALLS — The destruction, removal, covering, or painting of any stone wall, or segment thereof, within or partially within the right-of-way. Temporary removal and replacement of a stone wall at the same location, within a six-month period, with the same materials is permitted without Planning Board approval, but only if the Planning Board is notified before the work begins so that it can

confirm that the wall is properly replaced. Repair of a stone wall, not involving tearing down or destruction of the wall, is permissible and outside the scope of this bylaw.

TREE — A living tree in its naturally standing position within or partially within the right-of-way, the trunk of which has a diameter of four inches or more, four feet above the ground. Nothing in this definition shall be construed to permit a person, other than the Tree Warden, to trim, cut down or remove a public shade tree.

TREE WARDEN — The Town of Norwell Tree Warden or his designated deputy.

§ 82-3. Criteria for designation as scenic road.

- A. In determining which roads or portions of roads should be recommended to Town Meeting for designation as scenic roads, the Planning Board shall consider the following criteria:
 - (1) Overall scenic beauty.
 - (2) Contribution of trees to scenic beauty.
 - (3) Contribution of stone walls to scenic beauty.
 - (4) Age and historic significance of roads, trees and stone walls.
 - (5) Built features along the street such as historic buildings, historic monuments, historic burial grounds and historic structures.
 - (6) Features of the road, such as surface, pavement width, use restrictions and bridges.
- B. Roads that have previously been designated as scenic roads may be reevaluated using the foregoing criteria.

§ 82-4. Procedure for designating scenic roads.

- A. The Planning Board, the Conservation Commission or the Historical Commission, or a petition of 10 registered voters of the Town, may propose scenic road designation by the timely submission of an article for the Annual Town Meeting warrant for any road or portion thereof other than a numbered route or state highway.
 - (1) Following the close of the warrant, the Planning Board shall hold a public hearing by advertising twice in a newspaper of general circulation, the first advertisement to appear at least 14 days prior to the date of the public hearing.
 - (2) The Planning Board shall provide a copy of the public hearing notice to all street residents, the Board of Selectmen, the Building Inspector/Zoning Enforcement Officer, the Conservation Commission, the Historical Commission and the Tree Warden/Highway Department before the public hearing commences. The Planning Board shall also ask the Town Administrator to announce the public hearing during the on-air segment of the Selectmen's meeting.

- (3) The Planning Board shall ensure that any recommendation for scenic road designation is accompanied by a written description of the characteristics of the road that require the protection afforded by these regulations.
- B. The Planning Board shall make its recommendation to Town Meeting on the merits of designation of the road as a scenic road. Following scenic road designation by Town Meeting, the Planning Board shall:
 - (1) Notify all municipal departments that may take any action with respect to such road.
 - (2) Notify all utility companies or other such parties that may work on such road.
 - (3) Notify the Massachusetts Department of Transportation.¹
 - (4) Indicate such designation on the next revision of the Zoning Map.

§ 82-5. Design standards for scenic roads.

- A. Only one driveway cut per lot onto any designated scenic road shall be allowed as the direct result of the cutting or removal of trees or the tearing down or destruction of any stone wall. The driveway width shall be limited to 18 feet.
- B. The use of a common driveway is encouraged for multiple-lot projects, but not required.
- C. Stone wall sections to be removed for a driveway shall not exceed the driveway width by more than two feet on each side edge of the driveway.
- D. Removed stone for driveway breaches shall be used to repair other sections of the wall along the road at the sole expense of the applicant.
- E. Stone walls that are breached should be provided with appropriate termini. Appropriate termini shall consist of, but not be limited to, stone piers, granite posts, or tapered ends to the stone wall that turn back onto the property.
- F. The Planning Board retains the right to waive any or all of the design standards in this section if it deems doing so is consistent with the intent of MGL c. 40, § 15C (scenic roads), and it enhances the considerations enumerated in § 82-7.

§ 82-6. Filing for work affecting trees or stone walls; emergencies.

- A. Filing. Any person, organization or agency seeking the consent of the Planning Board under MGL c. 40, § 15C (scenic roads), regarding repair, maintenance, reconstruction or paving work, including new driveways, that may involve the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof, within or partially within the right-of-way of a designated scenic road, shall provide notice to all abutters and file a request with the Planning Board, submitting the following information:

1. Editor's Note: Amendment pending.

- (1) The text of the notice of the public hearing, identifying the location of the proposed action in terms enabling the readers to locate it with reasonable specificity on the ground without the need for additional plans or references and describing in reasonable detail the proposed changes to trees and stone walls.
 - (2) A statement of the purpose(s) for the proposed action.
 - (3) Any further explanatory material useful to adequately inform the Planning Board, including clearly identifiable digital or printed photographs of the proposed work area and its existing conditions including an identical set of existing conditions photographs marked up to demonstrate the proposed work. All pictures shall be signed and dated by the applicant.
 - (4) A plan or drawing showing the proposed work with specific design details shall be required. A description of the proposed changes to either trees or stone walls should be included on these plans. Such plans shall show all work that might involve the tearing down or destruction of stone walls, including the potential installation of electric, water, and gas lines.
 - (5) Except in the case of Town agencies, a fee sufficient to reimburse the cost of advertising and shall be provided before the public hearing commences.
 - (6) A list of abutters to the property requiring the scenic road hearing and proof of notice given.
 - (7) Adequate posting per § 82-2 of this bylaw, at least one calendar week before the public hearing.
 - (8) An explanation of any proposed compensatory actions that may be useful to the Planning Board before the start of the public hearing.
- B. Notice. The Planning Board shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area, with the first publication of the notice to be at least 14 days prior to the hearing and the last at least seven days prior to the hearing. Copies of the notice shall be sent to the Board of Selectmen, the Tree Warden/Highway Department, the Conservation Commission and the Historical Commission before the public hearing commences.
- C. Public hearing and decision. The Planning Board shall hold a public hearing within 30 days of receipt of a properly filed request and shall file a decision with the Town Clerk 15 days after the hearing, unless the applicant agrees to an extension. The Planning Board shall also send a copy of its decision to the applicant, the Board of Selectmen, Building Inspector/Zoning Enforcement Officer, the Conservation Commission, the Historical Commission and the Tree Warden/Highway Department.
- D. Public shade trees. When required by MGL c. 87 (Shade Trees), notice shall be given and the Planning Board hearing required by MGL c. 40, § 15C (scenic roads), shall be held in conjunction with those held by the Tree Warden, with the Planning Board responsible for the consolidated notice acting under MGL c. 87 (Shade Trees). Consent to an action by the Planning Board shall not be construed as consent by the Tree Warden or vice versa.

- E. The approval of the Planning Board or Tree Warden under these regulations for any proposed work shall be valid for two years from the date the decision is filed with the Town Clerk. After two years from this date, the decision is void unless an extension is granted before the expiration.
- F. Emergency repair. This chapter shall not apply when the Tree Warden acts in an emergency in accordance with law. In cases where a tree or branch poses a threat to public safety and there is not sufficient time to obtain prior approval from the Planning Board, the Planning Board must be notified by the Tree Warden within the calendar week after any action, where if the threat had not existed, would be a violation of this chapter. Under no circumstances are stone walls to be torn down or destroyed on a scenic road under the auspices of emergency repair.

§ 82-7. Considerations when acting on applications.

In acting on filings concerning designated scenic roads, the Planning Board shall take into consideration the following:

- A. That abutters were notified.
- B. Contribution of trees to scenic beauty.
- C. Contribution of stone walls to scenic beauty.
- D. Age and historic significance of roads, trees and stone walls.
- E. Features of the road, such as surface, pavement width and bridges.
- F. Public safety.
- G. Compensatory actions proposed, such as stone wall and tree replacement (tree replacement per § 82-8A). The Board may approve any plan where the compensatory action is deemed to be of greater value, as defined by this section, than the proposed alteration.
- H. Functional importance and urgency of repair, maintenance, reconstruction or paving.
- I. Additional evidence contributed by abutters, Town agencies and other interested parties.
- J. Existence or absence of reasonable alternatives.
- K. Recreational uses of the road.
- L. Other planning information, including how what is proposed relates to the Master Plan.

§ 82-8. Enforcement; violations and penalties.

- A. Failure to file with the Planning Board for permission to cut or remove trees or for the tearing down or destruction of any portion of a stone wall within any designated scenic road will require an immediate after-the-fact filing and the applicant shall be required to restore features altered by the work. Unless waived, the applicable restoration shall

consist of restoring the stone wall to existing conditions and/or replacing the trees cut with nursery quality trees that are acceptable to the Planning Board, in consultation with the Tree Warden. For every three inches of tree cut, measured across its stump, a nursery quality replacement tree with a two-inch caliper, measured four feet from the ground, shall be planted by the applicant.

- B. Failure to comply with a duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures that the Planning Board deems necessary. Any decision not carried out within two years of issue shall be void and shall require a new filing, unless an extension is granted before the two-year expiration.
- C. The location of any tree replacement shall be at the direction of the Tree Warden.
- D. The Planning Board and the Tree Warden shall have the authority to enforce the provisions of this chapter, as applicable.
- E. Any violation of this bylaw, whether for the tearing down or destruction of stone walls or the cutting or removal of trees, shall result in a fine levied against the offending property owner. The first violation shall result in a fine of \$100, the second violation shall result in a fine of \$200, and the third violation shall result in a fine of \$300. Each day or portion thereof, up to the date upon which an after-the-fact application is filed, that a violation of this bylaw continues shall be deemed a separate offense. **[Amended 5-8-2017 ATM, Art. 38]**
- F. In addition to the foregoing remedies, the Town of Norwell acting by and through its Planning Board, and with the approval of the Board of Selectmen, shall have all other legal and equitable remedies which may exist, including without limitation the right to seek injunctive relief.
- G. In addition and as an alternative method of enforcement, the Town of Norwell may in its discretion enforce the provisions of this bylaw in the manner provided in MGL c. 40, § 21D.

§ 82-9. Severability.

If, in an aspect, any provision of this bylaw, in whole or part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision found invalid. In all other aspects, all provisions of this bylaw will remain in full force.

§ 82-10. Designated scenic roads.

The following roads are designated as scenic roads under MGL c. 40, § 15C, and this bylaw:

- A. Bowker Street: Annual Town Meeting March 1976.
- B. Norwell Avenue: Annual Town Meeting March 1976.
- C. Jacobs Lane: Annual Town Meeting March 1980.
- D. Stetson Road: Annual Town Meeting March 1980.

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- E. Stetson Shrine Lane: Annual Town Meeting March 1980.
- F. Tiffany Road: Annual Town Meeting March 1980.
- G. Central Street: Annual Town Meeting May 2005.
- H. First Parish Road: Annual Town Meeting May 2005.
- I. High Street: Annual Town Meeting May 2005.
- J. Old Oaken Bucket Road: Annual Town Meeting May 2005.
- K. Prospect Street: Annual Town Meeting May 2005.
- L. River Street: Annual Town Meeting May 2005.
- M. Circuit Street: Annual Town Meeting May 2006.
- N. Green Street: Annual Town Meeting May 2006.
- O. Lincoln Street: Annual Town Meeting May 2006.
- P. Pine Street: Annual Town Meeting May 2006.
- Q. Pleasant Street: Annual Town Meeting May 2006.
- R. Mount Blue Street: Annual Town Meeting May 2006.
- S. Wildcat Lane: Annual Town Meeting May 2006.
- T. Winter Street: Annual Town Meeting May 2006.
- U. Cross Street: Annual Town Meeting May 2008.
- V. Forest Street: Annual Town Meeting May 2008.
- W. Summer Street: Annual Town Meeting May 2008.

§ 82-11. Notice. [Added 5-8-2017 ATM, Art. 38]

Not less than once each calendar year, the Town shall notify in writing each property owner of record as of the prior January 1, whose property is located on any street designated as a scenic road, of this bylaw's applicability to them. Failure to receive such notice, however, shall not exempt any such property owner from the rules and regulations hereunder.

§ 82-12. Power to adopt rules and regulations.

The Planning Board, in its discretion, shall have the authority to adopt rules and regulations consistent with this bylaw.

PART VI

(RESERVED)

PART VII

(RESERVED)

PART VIII

(RESERVED)

PART IX

(RESERVED)

PART X

(RESERVED)

DIVISION 3

ZONING BYLAW

Chapter 201

ZONING

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Business District A Use
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[HISTORY: Adopted by the Town Meeting of the Town of Norwell 4-10-1952. Amendments noted where applicable.]

GENERAL REFERENCES

Right to farm — See Ch. 63.

Regulations adopted by Board of Appeals — See Ch. 301.

Subdivision Rules and Regulations — See Ch. 302.

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Part 1
Administration and Procedure

ARTICLE 1
Purpose, Authority and Definitions

§ 201-1.1. Purpose and authority. [Amended 5-10-2004 ATM, Art. 23]

These regulations are enacted to promote the general welfare of the Town of Norwell, 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 to, the provisions of the Zoning Act, MGL c. 40A, as amended, and Section 2A of 1975 Massachusetts Acts 808. This Zoning Bylaw is enacted in accordance with the provisions of MGL c. 40A, any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

§ 201-1.2. Definitions.

In this bylaw, the following terms shall have the following meanings unless a contrary meaning is required by the context or is specifically prescribed. Words used in the singular include the plural and words used in the plural include the singular. Words used in the present tense include the future.

ABOVE GROUND LEVEL (AGL) — A measurement of height from the natural grade of a site to the highest point of a structure. [12-8-1997 STM]

ACCESSORY BUILDING — A building devoted exclusively to a use subordinate to and customarily incidental to the principal use.

ACCESSORY SIGN — Any sign that advertises or indicates the person occupying the premises on which the sign is erected or maintained or the business transacted thereon or advertises the property itself or any part thereof as for sale or rent and which contains no other matter.¹

ACCESSORY USE — A use subordinate to and customarily incidental to the principal use.

ADULT BOOKSTORE — An establishment having as a substantial or significant portion of its stock-in-trade, books, magazines and other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

1. Editor's Note: Amendment pending.

ADULT MOTION-PICTURE THEATER — An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT PARAPHERNALIA STORE — An establishment having as a substantial or significant portion of its stock devices, objects, tools or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ADULT VIDEO STORE — An establishment having as a substantial or significant portion of its stock-in-trade, videos, movies or other film materials which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in MGL c. 272, § 31.

ANTENNA — The surface from which wireless radio signals are sent and received by a personal wireless service facility. [**12-8-1997 STM; 12-1-2003 ATM**]

BODY ART — Means the practice of physical body adornment by permitted establishments and practitioners using the following techniques: body piercing, tattooing and cosmetic tattooing. Extreme forms of body art, such as, but not limited to, branding, cutting, braiding and scarification, shall not be permitted. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which are prohibited.

BODY ART ESTABLISHMENT OR ESTABLISHMENTS — Means a business where the practices of body art are performed. [**5-15-2001 ATM**]

BUILDING (in part or parts thereof) — A combination of any materials, whether portable or fixed, having a roof to form a structure for the shelter of persons, animals or property. Roof shall include an awning or any similar covering whether or not permanent in nature.

CAMOUFLAGED — A personal wireless telecommunications facility is considered "camouflaged" if it is disguised, hidden or made to appear as an architectural component of an existing or proposed structure, the use of which is otherwise permitted under the Zoning Bylaw of the Town of Norwell. No personal wireless telecommunications facility attached to an existing structure shall be deemed "camouflaged" for the purposes of this bylaw where it extends more than 10 feet above the height of a structure or horizontally more than 10 feet beyond the face of any exterior sidewall or the exterior of any surface of a structure with no sidewalls. Antennas or other components of a personal wireless telecommunications facility situated within a freestanding personal wireless telecommunications facility shall not be considered "camouflaged" for the purpose of this Zoning Bylaw. [Amended **12-1-2003 STM**]

CARRIER — A company that provides wireless services. [**12-8-1997 STM**]

CO-LOCATION — The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier. [**12-8-1997 STM**]

CONCEALED — A personal wireless telecommunications facility is considered "concealed" if it is entirely contained within the architectural features of an existing or proposed structure the use of which is otherwise permitted under the Zoning Bylaw of the Town of Norwell. [Amended **12-1-2003 STM**]

CROSS-POLARIZED (OR DUAL-POLARIZED) ANTENNA — A low mount that has three panels flush-mounted or attached very close to the shaft. [**12-8-1997 STM**]

DWELLING — Any fixed structure containing one or more dwelling units, but not including hotels, motels, boardinghouses or structures solely for transient or overnight occupancy.

DWELLING UNIT — A room or group of rooms designed and equipped exclusively for use as living quarters for only one family including provisions for living, sleeping, cooking and eating.

ELEVATION — The measurement of height above sea level. [**12-8-1997 STM**]

ENVIRONMENTAL ASSESSMENT (EA) — An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas. [**12-8-1997 STM**]

EQUIPMENT SHELTER — An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment. [**12-8-1997 STM**]

ESTABLISHMENT WHICH DISPLAYS LIVE NUDITY — Establishment which provides live entertainment for its patrons, which includes the display of nudity, as that term is defined in MGL c. 272, § 31.²

FALL ZONE — The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material. [**12-8-1997 STM**]

FLOOR AREA, GROSS — The sum of the area of the several floors of each building on a lot including areas used for, or available for conversion to, human occupancy in basements, attics and penthouses, as measured from the exterior faces of the walls.

FLOOR AREA, NET — Gross floor area less areas for incidental storage, mechanical or heating equipment, rest rooms, stairways, corridors and space for services incidental to the operation or maintenance of the building.

FRONTAGE — A continuous and uninterrupted portion of a side line of a way, public or private, between the side lines of a lot in common ownership and, in the case of a corner lot, between a side line of such lot and the intersection of side lines of ways or the midpoint of the curve connecting such side lines.

FUNCTIONALLY EQUIVALENT SERVICES — Cellular, personal communication services (PCS), enhanced special mobile radio, specialized mobile radio and paging. [**12-8-1997 STM**]

FUNERAL ESTABLISHMENT — One or more buildings upon a single lot used for the profession of funeral directing, in accordance with MGL c. 40A, § 6, Clause 1, and MGL c. 112, § 83, funeral establishment certificate, inclusive of the alteration and use of one such building for the personal residence of the Board of Registration licensed funeral director, and his or her family, during his or her term of service as such licensed funeral director. [**5-11-2010 ATM, Art. 37**]

2. Editor's Note: Amendment pending.

GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS — Installations not located on the roof of a building as defined by this section. **[Amended 5-5-2015 ATM, Art. 31]**

- A. **SMALL-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS** — Ground-mounted solar photovoltaic installations that contain solar modules of 500 square feet or less (calculation is based on combined square footage of all ground-mounted modules located on a lot).
- B. **MEDIUM-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS** — Ground-mounted solar photovoltaic installations that contain solar modules of greater than 500 but less than 43,560 square feet (calculation is based on combined square footage of all ground-mounted modules located on a lot).
- C. **LARGE-SCALE GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS** — Ground-mounted solar photovoltaic installations that contain solar modules of greater than 43,560 square feet (calculation is based on combined square footage of all ground-mounted modules located on a lot).

GROUNDWATER RECHARGE — As defined in the Massachusetts Department of Environmental Protection (MA DEP) and Massachusetts Office of Coastal Zone Management (MA CZM) Stormwater Management Technical Handbook of March 1997. Groundwater recharge is defined on Page A-5 of Volume Two of the above-referenced handbook as: "The return of water to an underground aquifer by either natural or artificial means such as exfiltration of a BMP."

GUYED TOWER — A monopole or lattice tower that is tied to the ground or other surface by diagonal cables. **[12-8-1997 STM]**

HALF STORY — That part of a building under a sloping roof where the full-length rafters rest on the top beam of the story below.

HEIGHT — The vertical distance above the average grade adjoining the building or surrounding the structure to the ridgeline of the building.

LATTICE TOWER — A type of mount that is self-supporting with multiple legs and cross bracing of structural steel. **[12-8-1997 STM]**

LICENSED CARRIER — A company authorized by the FCC to construct and operate a commercial mobile radio services system. **[12-8-1997 STM]**

LOT — A single area of land in one ownership throughout defined by metes or bounds or boundary lines as shown in a recorded deed or on a recorded plan. The area of a lot shall not include any part of a way, public or private, which adjoins the lot.

LOT, CORNER — A lot at the point of intersection of, and abutting on, two or more intersecting streets, the angle of intersection of the street lines or, in the case of a curved street, street lines extended being not more than 135°.

MEDICAL MARIJUANA TREATMENT CENTER OR SIMILAR FACILITY — A not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils or ointments), transfers,

transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana. [**5-6-2013 ATM; amended 5-5-2014 ATM**]

MONOPOLE — The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top. [**12-8-1997 STM**]

MOTOR HOME — A vehicle with motive power designed for sleeping or living quarters for one or more persons, which is not a dwelling.

MOUNT — The structure or surface upon which antennas are mounted, including the following four types of mounts: [**12-8-1997 STM**]

- A. Roof-mounted: mounted on the roof of a building.
- B. Side-mounted: mounted on the side of a building.
- C. Ground-mounted: mounted on the ground.
- D. Structure-mounted: mounted on a structure other than a building.

OMNI-DIRECTIONAL (WHIP) ANTENNA — A thin rod that beams and receives a signal in all directions. [**12-8-1997 STM**]

PANEL ANTENNA — A flat surface antenna usually developed in multiples. [**12-8-1997 STM**]

PERSON — An individual, corporation, society, association, partnership, trust or other entity, public or private.

PERSONAL WIRELESS SERVICE FACILITY — Facility for the provision of personal wireless services, as defined by the Telecommunications Act. [**12-8-1997 STM**]

PERSONAL WIRELESS SERVICES — The three types of services regulated by this bylaw. [**12-8-1997 STM**]

PUBLIC UTILITY — A public service corporation, either private or municipal, supplying or transmitting gas, water, electricity or communications to any or all members of the public and subject to federal, state or Town regulations by virtue of its natural or legal monopoly, except for a corporation or other business enterprise which provides cellular telephone service, personal communication services or enhanced specialized mobile radio services to any or all members of the public. [**12-8-1997 STM**]

RADIOFREQUENCY (RF) ENGINEER — An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies. [**12-8-1997 STM**]

RADIOFREQUENCY RADIATION (RFR) — The emissions from personal wireless service facilities. [**12-8-1997 STM**]

SECURITY BARRIER — A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass. [**12-8-1997 STM**]

SEPARATION — The distance between one carrier's array of antennas and another carrier's array. [**12-8-1997 STM**]

SETBACK, FRONT, SIDE AND REAR — The minimum horizontal distance from a street line or lot line, as the case may be, to any part of a building or structure, excluding overhang three feet or under, bulkheads or fences.

SIGN — Any privately owned permanent or temporary device, placard, painting, drawing, poster, letter, word, banner, pennant, insignia, trade flag or representation used as or which is in the nature of an advertisement, announcement or direction which is on a public way or on private property within public view of a public way.

SIGN, AREA OF —

- A. The area of a sign shall be considered to include all lettering, wording, and accompanying designs and symbols together with the background on which they are displayed, any frame around the sign and any "cutouts" or extensions, but shall not include any supporting or bracing.
- B. The area of a sign consisting of individual letters or symbols attached to or painted on a surface, building, wall or window shall be considered to be that of the smallest quadrangle or triangle which encompasses all of the letters and symbols.
- C. The area of a sign consisting of a three-dimensional object shall be considered to be the area of the largest vertical cross section of that object.
- D. In computing the area of a sign, only one side of back-to-back signs shall be counted.

STORMWATER — Stormwater shall mean water that collects as a result of precipitation, including rainfall, sleet, hail, snow or snowmelt. [**5-9-2006 ATM, Art. 16**]

STORMWATER BASIN — A stormwater basin shall mean any surface or subsurface drainage system that is designed to collect, slow, infiltrate or otherwise control stormwater or stormwater runoff or a combination of stormwater and stormwater runoff. [**5-9-2006 ATM**]

STORMWATER MANAGEMENT SYSTEM — A stormwater management system shall mean any structure or equipment or use of land, including any natural or preexisting condition or any artificial condition, which is used or to be used to control stormwater or stormwater runoff in order to prevent same from running onto adjacent land or into the Town's Stormwater Management System. A stormwater management system shall include any and all of the following elements: [**5-9-2006 ATM**]

- A. Any structure or other natural or artificial collection device that is used to collect or slow stormwater or stormwater runoff, including any catch basin, dry well, French drain and any stormceptor or other similar device;
- B. Any stormwater basin;
- C. Any side slope for a surface stormwater basin;
- D. Any galley for an underground stormwater basin which is designed to hold or hold and then disperse stormwater or stormwater runoff;
- E. Any connecting pipe between a collecting structure and a stormwater basin;
- F. Any connecting pipe between a stormwater basin and an outfall structure;

- G. Any outfall structure, consisting of riprap or crushed stone of any type, which is designed to slow or otherwise control the progress of stormwater or stormwater runoff from one point to another;
- H. Any berm, channel, culvert, ditch, gutter, pipe or swale, whether natural or artificial, which is designed or used to conduct stormwater or stormwater runoff;
- I. Any berm, channel, culvert, ditch, gutter, pipe or swale, whether natural or artificial, which is designed or used to slow, disperse or infiltrate stormwater or stormwater runoff;
- J. Any access roadway or access easement which is designed to allow access for persons, vehicles or equipment to or from any portion of a stormwater management system in order to provide access for inspection, maintenance (which shall include mowing and other similar landscaping activities) repairs or replacement; and
- K. Any easement area reserved to provide for the expansion or replacement of any element of a stormwater management system.

STORMWATER RUNOFF — Stormwater runoff shall mean water that moves as a result of precipitation, including rainfall, sleet, hail, snow or snowmelt. [**5-9-2006 ATM**]

STORY — That part of a building between any floor, other than a basement, and the floor or roof next above.

STREET or WAY — Any public way or any private way shown on a plan approved under the provisions of the Subdivision Control Law³ or in existence when the provisions of said Subdivision Control Law became effective in the Town of Norwell, having in the opinion of the Planning Board suitable width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

STRUCTURE — Anything constructed or erected, the use of which requires a fixed location on the ground or attached to something located on the ground, including tennis courts, and an artificial or a constructed swimming pool having a depth of water of two feet, but excluding a fence, boundary wall, public utility pole, public utility supporting device or a structure with less than 64 square feet ground coverage and a height of less than seven feet.

TOWN STORMWATER MANAGEMENT SYSTEM — The Town Stormwater Management System shall include any portion of the stormwater drainage system maintained by the Town of Norwell in order to collect, conduct, disperse, infiltrate, slow or otherwise control stormwater or stormwater runoff that is generated by or from: [**5-9-2006 ATM**]

- A. Any Town-owned or Town-used property;
- B. Any public way accepted by the Town;
- C. Any non-public roadway that is maintained by the Town;

3. Editor's Note: See MGL c. 41, §§ 81K to 81GG.

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- D. Any berm, channel, culvert, ditch, gutter, pipe or swale, whether natural or artificial, that is owned, used or maintained by the Town;⁴
- E. Any catch basin, dry well, French drain and outfall structure that is owned, used or maintained by the Town;⁵
- F. Any stormwater basin owned or maintained by the Town; and
- G. Any drainage easement area that is owned, maintained or used by the Town to collect or otherwise control stormwater or stormwater runoff.

TRAILER — A vehicle without motive power, designed to be and capable of being towed, including but not limited to a utility trailer, storage or box trailer, boat trailer, horse trailer, tent trailer and mobile home.

ARTICLE 2

Administration

[Amended 5-3-1994 ATM; 5-10-2004 ATM, Art. 24]

§ 201-2.1. Enforcement.

This bylaw shall be enforced by the Building Inspector/Zoning Enforcement Officer, as agent for the Board of Selectmen, who shall take such action as may be necessary to enforce full compliance with the provisions of this bylaw and of permits and variances issued hereunder, including notification of noncompliance and initiation of legal action through the Town Counsel.

§ 201-2.2. Compliance certification.

- A. 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, without certification by the Building Inspector/Zoning Enforcement Officer that such action is in compliance with then-applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state or local law. Issuance of a building permit or certificate of occupancy, where required under the Commonwealth of Massachusetts State Building Code, may serve as such certification.
- B. Prior to the issuance of certificate of occupancy, the designated street number will be affixed to the building or to a signpost, either of which is clearly visible from the public way or way from which the lot gets its frontage.

4. Editor's Note: Amendment pending.

5. Editor's Note: Amendment pending.

§ 201-2.3. Complaints; violations and penalties.

Whoever violates any provision of this bylaw shall be subject to the following procedure, which will govern the enforcement of this bylaw:

- A. A complaint form, available at the office of the Building Inspector/Zoning Enforcement Officer for the Town of Norwell, shall be completed, signed and provided to the Building Inspector/Zoning Enforcement Officer for the Town.
- B. Within 14 days of the receipt of said complaint by the Building Inspector/Zoning Enforcement Officer's office, the Building Inspector/Zoning Enforcement Officer will investigate said complaint and respond to the complainant.
- C. If the Building Inspector/Zoning Enforcement Officer determines that a violation of this bylaw exists, a cease-and-desist order shall be issued to the party found in violation within 14 days of receipt of the complaint.
- D. The cease-and-desist order shall name the party alleged to be in violation, shall describe the nature of the violation and shall reference the provision(s) of the bylaw found to be in violation.
- E. The cease-and-desist order shall be served upon the party found to be in violation by delivery in-hand to said party and/or by posting in conspicuous places upon the property where the violation is found to exist.
- F. The party named in said order shall correct the violation described in said order within seven days, said seven days to be extended by the Building Inspector/Zoning Enforcement Officer if the violation cannot be corrected within that time.
- G. Failure of the party named in the complaint to eliminate the violation within the time defined in Subsection F shall result in the imposition of fines running from \$50 to \$300 per day for each such day or portion thereof which the violation continues to exist as defined in Subsection F, in accordance with the following schedule:
 - (1) Day No. 1: \$50.
 - (2) Day No. 2: \$100.
 - (3) Day No. 3: \$200.
 - (4) Day No. 4 and each day thereafter: \$300.
- H. If the party named in the complaint objects to the issuance of a cease-and-desist order or requires additional time to eliminate the violation beyond that granted by the Building Inspector/Zoning Enforcement Officer under Subsection F that party may appeal to the Board of Appeals for the Town of Norwell within seven days which shall consider said appeal and issue an order relative to the same.
- I. No fine will accrue during the pendency of any appeal to the Board of Appeals regardless of the Board's ultimate disposition of said appeal.
- J. Noncriminal disposition of violations of Zoning Bylaw. The Building Inspector/Zoning Enforcement Officer shall have the duty to enforce the Town's Zoning Bylaw and may institute appropriate civil or criminal proceedings, or both, in the fulfillment of such

duty. In addition, and as an alternative to such methods of enforcement, the Building Inspector/Zoning Enforcement Officer may, at his discretion, enforce the provisions of this bylaw in the manner provided in MGL c. 40, § 21D. [**5-10-2004 ATM, Art. 25**]

ARTICLE 3 Board of Appeals

§ 201-3.1. Establishment. [**5-6-1989 ATM, Art. 46**]

The Board of Appeals shall consist of three members and not more than five associate members who shall be appointed by the Selectmen and shall act in all matters under this bylaw in the manner prescribed by MGL c. 40A and c. 41.

§ 201-3.2. Powers.

The Board of Appeals shall have and exercise all the powers granted to it by MGL c. 40A and c. 41 and by this bylaw. The Board's powers are as follows:

- A. Special permits. To hear and decide applications for special permits upon which the Board is empowered to act under this bylaw, in accordance with § 201-3.3.
- B. Variances. To hear and decide appeals or petitions for variances from the terms of this bylaw with respect to particular land or structures but not uses. Such variance shall be granted only in cases where the Board of Appeals finds all of the following: [**5-10-2004 ATM, Art. 26**]
 - (1) A literal enforcement of the provisions of this bylaw would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.
 - (2) The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
 - (3) Desirable relief may be granted without either:
 - (a) Substantial detriment to the public good; or
 - (b) Nullifying or substantially derogating from the intent or purpose of this bylaw.
- C. Other appeals. To hear and decide other appeals. Other appeals will also be heard and decided by the Board of Appeals when taken by:
 - (1) Any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of MGL c. 40A; or by
 - (2) The Metropolitan Area Planning Council; or by
 - (3) Any person including any officer or board of the Town of Norwell or of any abutting town, if aggrieved by any order or decision of the Building Inspector/

Zoning Enforcement Officer, in violation of any provision of MGL c. 40A or this bylaw.

- D. To issue withheld building permits. Building permits withheld by the Building Inspector/Zoning Enforcement Officer acting under MGL c. 41, § 81Y, as a means of enforcing the Subdivision Control Law may be issued by the Board of Appeals where the Board finds practical difficulty or unnecessary hardship, and if the circumstances of the case do not require that the building be related to a way shown on the subdivision plan in question.

§ 201-3.3. Special permits.

- A. Special permit granting authority. Unless specifically designated otherwise, the Board of Appeals shall act as the special permit granting authority.
- B. Criteria for approval. In considering whether or not to grant a special permit under this section of the Zoning Bylaw, the Board of Appeals shall not grant a special permit unless all of the following conditions are satisfied:
 - (1) The conduct of the proposed use will not be detrimental to the neighborhood and zoning district;
 - (2) The conduct of the proposed use will not significantly alter the character of the zoning district; and
 - (3) The conduct of the proposed use will not be injurious, noxious, or offensive to the neighborhood by reason of the emission of odors, fumes, dust, smoke, noise or other cause, nor hazardous to the community on account of fire, explosion or other cause.
 - (4) If the proposed use will be located within the Aquifer Protection District, the conduct of such use will not cause any significant degradation of the quantity or quality of groundwater supplies and further that groundwater quality resulting from on-site waste disposal and other on-site operations will not fall below federal or state standards for drinking water at the downgradient property boundary. In making such determination the Board of Appeals may utilize the information/standards enumerated in § 201-19.6B(4) of this bylaw.
- C. Public hearing. Special permits shall only be issued following public hearings held within 65 days after filing with the special permit granting authority an application, a copy of which shall forthwith be given to the Town Clerk by applicant.
- D. Conditions. Special permits may be granted with such reasonable conditions, regulations, or limitations as the special permit granting authority may deem necessary to serve the purposes of the bylaw.
- E. Expiration. Special permits shall lapse at the expiration of two years from the date of approval (exclusive of time required to pursue or await the determination of an appeal referred to in MGL c. 40A, § 17, from the grant thereof) if a substantial use thereof or construction has not begun, except for good cause.

§ 201-3.4. Site plan review. [Amended 5-10-2004 ATM, Art. 28]

- A. When required. No structure shall hereafter be erected or externally enlarged by more than 200 square feet on any lot in any nonresidential district (meaning thereby all districts under the Zoning Bylaw except Residential Districts A and B) and no use hereafter be established or expanded in ground area on any lot in any such district except in conformity with a site plan of such lot and structures proposed to be constructed on such lot bearing endorsement of approval by the Board of Appeals.
- B. Contents of site plan.
- (1) Said site plan shall show among other things:
- (a) All existing and proposed buildings and structures (showing front, side and rear elevation and layouts).
 - (b) Signs.
 - (c) Parking spaces.
 - (d) Driveway openings.
 - (e) Service areas.
 - (f) Open uses.
 - (g) All facilities for sewage, refuse and other waste disposal and for surface water drainage.
 - (h) All landscape and screening features (such as fences, walls, planting areas and walks) on the lot.
 - (i) Proposed site lighting.
 - (j) Existing and proposed easements and/or rights-of-way.
 - (k) Existing conditions of the surrounding area to sufficiently determine the impact of the proposed project to the surrounding area, including, but not limited to, curb cuts, driveway openings, existing buildings, and surrounding topography.
 - (l) Drainage calculations stamped by a registered professional engineer licensed by the Commonwealth of Massachusetts.
 - (m) Parking and density calculations.
 - (n) Documentation of curb cut approval by the Massachusetts Department of Transportation on state highways.⁶
 - (o) Statement and certification on the plan by the engineers certifying the site plan submitted complies with the Zoning Bylaw.

6. Editor's Note: Amendment pending.

- (2) Failure to comply at the time of submission with the above requirements is grounds for denial of site plan approval for the lack of sufficient information.

C. Procedure.

- (1) Any person desiring approval of a site plan under this section shall submit said site plan to the Board of Appeals for action and, either simultaneously or forthwith thereafter, shall submit said plan (together with seven copies) to the Planning Board. The Planning Board shall review the plan and, as appropriate, obtain technical review of the plan at the applicant's sole cost. The Planning Board shall prepare its report and recommendations regarding said plan and submit same to the Board of Appeals. The Board of Appeals shall not approve said plan unless and until it either has reviewed the Planning Board's report and recommendations or the applicant has provided evidence that 45 days have elapsed from the date that the plan first was submitted to the Planning Board without issuance of a report and recommendations. No building permit shall issue until the Board of Appeals has approved the plan. Furthermore, no building permit shall issue if the Planning Board has not provided the Board of Appeals with the Planning Board's report and recommendations and fewer than 45 days have elapsed after the plan was first submitted to the Planning Board.
- (2) The Board of Appeals shall have the power to modify or amend its approval of a site plan on application of the person owning or leasing the premises shown on such site plan in the event of changes in the physical condition of the site sufficient to justify such action within the intent of this section.
- (3) After receiving the report and recommendations of the Planning Board, the Board of Appeals shall have the power to modify or amend its approval of a site plan on application of the person owning or leasing the premises shown on such site plan in the event of changes in the physical condition of the site sufficient to justify such action within the intent of this section.

D. Criteria for approval. In considering a site plan under this section, the Board of Appeals shall assure, to a degree consistent with a reasonable use of the site for the purposes permitted by the regulations for the district in which it is located, such factors as the following:

- (1) The protection of the district in which the site is located and adjoining district against detrimental, offensive, or incompatible uses or structures on the site;
- (2) The convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and land; and
- (3) The adequacy of the methods of disposal for sewage, refuse, and other wastes resulting from the uses permitted on the site, and the methods of drainage for surface water from its parking spaces and driveways.

E. Implementation and expiration. Within 15 days after approval of any site plan, the Board of Appeals shall file an endorsed copy of said plan in the office of the Town Clerk. Within one year of the date of site plan approval, the applicant shall have completed the work described on the plans as approved and substantial use thereof shall have commenced unless the Board of Appeals grants an extension of the time as it shall

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deem necessary to carry the site plan into effect. In each such instance where an extension is granted, the Board of Appeals shall certify to the Town Clerk that it has granted an extension of time and the date on which the extension is to lapse. **[Amended 5-10-2004 ATM, Art. 29]**

- F. As-built plans. Prior to the issuance of a certificate of occupancy, the owner shall provide as-built plans to the Town. The plan shall be prepared and stamped by a registered land surveyor or a professional engineer of the Commonwealth of Massachusetts certifying that the site plan has been built according to the approved plan and submitted to the Building Inspector/Zoning Enforcement Officer. Such certification shall also include that the surface and subsurface drainage discharge has been installed according to the approved site plan. Field reports by the design engineer may be requested by the Building Inspector/Zoning Enforcement Officer during construction for prior approval of changes from the approved site plan.
- G. Regulations; fees. The Board of Appeals may adopt and from time to time amend reasonable regulations, including reasonable administrative fees and technical review fees, for the administration of site plan review. **[Added 5-20-2004 ATM]**

ARTICLE 4 **Applicability**

§ 201-4.1. Municipal uses.

None of the requirements of this Zoning Bylaw shall apply to any municipal purpose or use authorized by vote of the Town, unless otherwise specified (e.g., § 201-8.1).

§ 201-4.2. Greater restrictions to control.

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

§ 201-4.3. Conformance with amendments.

Construction or use under a building permit or special permit shall conform to any subsequent amendment of this bylaw unless the use or construction is commenced within not more than six months after the issuance of the permit and, in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

§ 201-4.4. Nonconformance.

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

- A. Abandonment. A nonconforming use which has been abandoned or discontinued for a period of two years or more shall not be reestablished and any future use shall conform with this bylaw.
- B. Alteration, reconstruction, extension or structural changes to lawfully preexisting nonconforming structures and uses. **[Amended 5-10-2004 ATM, Art. 30; 5-14-2007 ATM, Art. 9]**
 - (1) Single- or two-family residential structures. The Building Inspector/Zoning Enforcement Officer, in accordance with MGL c. 40A, § 6, may issue a building permit to allow an alteration, reconstruction, extension or structural change to a lawfully preexisting nonconforming single- or two-family residential structure, provided that the alteration, reconstruction, extension or structural change meets the following criteria:
 - (a) Dwellings on nonconforming lots equal to or greater than one acre. Alterations, reconstruction, extension or structural change that complies with all current setback, building coverage, and building height requirements, provided that such alteration, reconstruction, extension, or structural change does not increase the footprint of the dwelling by more than 50%, and further provided that the lot nonconformity is limited to lack of frontage and/or failure to meet standards set forth in §§ 201-9.3A and B and 201-9.5A(1), (2) and (3).
 - (b) Other structures on nonconforming lots equal to or greater than one acre. The gross floor area of sheds and other outbuildings shall not exceed 10% of the main dwelling's gross floor area as determined by the data on file in the Assessor's office. Said sheds and other outbuildings shall meet all current setback requirements and be no taller than the dwelling.
 - [1] Decks shall meet all current setback requirements.
 - [2] Pools shall meet all current setback requirements.
 - (c) Main dwellings on nonconforming lots of less than one acre. Alteration, reconstruction, extension or structural change that complies with all current setback, building coverage and building height requirements provided that such alteration, reconstruction, extension or structural change does not increase the footprint or roofline of the dwelling.
 - (d) Other structures on nonconforming lots of less than one acre. The gross floor area of sheds and other outbuildings shall not exceed 10% of the main dwelling's gross floor area as determined by the data on file in the Assessor's office, provided that such 10% shall be cumulative to include the gross floor area of existing sheds and other outbuildings.
 - [1] Decks shall meet all current setback requirements.

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[2] Pools shall meet all current setback requirements.

[3] Once changed to a conforming use, no structure or land shall be permitted to revert to a nonconforming use.

- C. Restoration. Necessary repairs and rebuilding after damage by fire, storm or similar disaster are hereby permitted provided they are accomplished without undue delay and do not substantially change the character or size of the buildings nor the use to which they were put prior to such damage.

§ 201-4.5. Isolated lots. [5-9-2005 ATM, Art. 34; amended 5-14-2007 ATM, Art. 16]

- A. Any increase in lot areas, frontage or yard requirements of this bylaw shall not apply to a legally created lot for single-family (and two-family) residential use in Residential Districts A and B not meeting current requirements, provided that the applicant documents that:
- (1) At the time such increased requirement became applicable to it:
 - (a) The lot had at least 5,000 square feet of lot area and 50 feet of frontage on a street; and
 - (b) Said lot was not held in common ownership with any adjoining land; and
 - (c) The lot conformed to then-existing dimensional requirements; and
 - (2) The lot is not to be used for hotel, motel or nursing home use.
- B. Such nonconforming lots may be changed in size or shape or their land area recombined without losing this exemption, so long as the change does not increase the actual or potential number of buildable lots.

ARTICLE 5

General

§ 201-5.1. Public hearings.

The Board of Appeals shall hold public hearings in accordance with the provisions of MGL c. 40A, c. 40B, and c. 41 on all appeals and petitions brought before it.

§ 201-5.2. Repetitive petitions.

Repetitive petitions for special permits, appeals and petitions for variances and applications to the Board of Appeals shall be limited as provided in MGL c. 40A, § 16.

§ 201-5.3. Court appeal.

Any person aggrieved by a decision of the Board of Appeals or any special permit granting authority, whether or not previously a party to the proceeding, or any municipal officer or board may, as provided in MGL c. 40A, § 17, appeal to the Superior Court or to the Land

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Court by bringing an action within 20 days after the decision has been filed in the office of the Town Clerk.

§ 201-5.4. Amendment.

This bylaw may be amended in accordance with the procedure described in MGL c. 40A, § 5.

§ 201-5.5. Severability. [5-10-2004 ATM, Art. 31]

In the event that any section of this bylaw or part thereof shall for any reason be held or declared to be illegal or otherwise unenforceable, such holding or declaration shall not affect the legality or enforceability of any other section or part thereof.

§ 201-5.6. Temporary moratorium on sale and distribution of recreational marijuana. [Added 5-8-2017 ATM, Art. 32]

A. Purpose.

- (1) By vote at the state election on November 8, 2016, the voters of the Commonwealth approved a law regulating the cultivation, distribution, possession and use of marijuana for recreational purposes. The law provides that it is effective on December 15, 2016, and a Cannabis Advisory Board is required to issue regulations regarding implementation by September 15, 2017. Currently, under the Zoning Bylaw, recreational marijuana establishments and marijuana retailers are not a permitted use in the Town and any regulations promulgated by the State Cannabis Advisory Board are expected to provide guidance to the Town in regulating recreational marijuana establishments and marijuana retailers. Further, the ballot measure establishes two important provisions that require ballot action by the Town prior to the adoption of zoning. First, the Town must, by ballot, determine whether it will issue licenses for recreational marijuana establishments and marijuana retailers, and second, by ballot that cannot occur prior to November 6, 2018, the next biennial state election, on whether to allow on-site consumption of marijuana products should the Town decide to allow licenses for such facilities.
- (2) The regulation of recreational marijuana establishments and marijuana retailers raises novel and complex legal, planning and public safety issues and the Town needs time to study and consider the regulation of recreational marijuana establishments and marijuana retailers as well as to address the potential impact of state regulations on local zoning and to undertake a planning process to consider amending its Zoning Bylaw regarding recreational marijuana establishments and marijuana retailers and other uses relating to the regulation of recreational marijuana. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for recreational marijuana establishments and marijuana retailers so as to allow the Town sufficient time to engage in the planning process to address the effects of such structures and uses

in the Town and adopt provisions of the Zoning Bylaw in a manner consistent with sound land use and planning goals and objectives.

- B. Temporary moratorium. For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaw to the contrary, the Town hereby adopts and/or enacts a temporary moratorium on the use of land or structures for the processing, sale and/or transport of marijuana products, including products that have been manufactured and contain marijuana or an extract from marijuana that are intended for recreational use and consumption, including without limitation, edible products, beverages, topical products, ointments, oils and tinctures and also the operation of recreational marijuana or marijuana product establishments and recreational marijuana retailers. The temporary moratorium will end on June 30, 2018, unless this moratorium is sooner repealed by Town Meeting upon recommendation of the Planning Board. The moratorium enacted by this subsection will provide the Planning Board and Town sufficient time to write amendments to the bylaw to determine the best way to regulate facilities associated with selling and processing recreational marijuana and marijuana products, determine whether the Town shall restrict any, or all licenses for recreational marijuana establishments and marijuana retailers, and/or determine whether the Town will prohibit on-site consumption at recreational marijuana establishments and marijuana retailers. Nothing herein shall be construed as precluding the use of land or structures for a medical marijuana treatment center as that term is defined in this Zoning Bylaw which may be authorized under § 201-8.4A hereof.
- C. Severability. The provisions of this bylaw are severable. If any provision, paragraph, sentence, or clause of this bylaw or the application thereof to any person, establishment, or circumstance shall be held invalid, such invalidity shall not affect the other provisions or application of this bylaw.

Part 2 District Regulations

ARTICLE 6 Establishment of Districts

§ 201-6.1. Division of Town into districts; Zoning Map.

- A. The Town is hereby divided into the following districts:
- (1) Residential Districts A and B.
 - (2) Business Districts A, B and C.
 - (3) Saltmarsh Conservation District (Overlay District).
 - (4) Floodplain, Watershed and Wetlands Protection District (Overlay District).
 - (5) Aquifer Protection District (Overlay District).
 - (6) Wireless Facility (Overlay District). [**12-8-1997 STM, Art. 3**]
 - (7) Village Overlay District. [**5-25-1999 ATM, Art. 14**]

- (8) Adult Entertainment Overlay District. [**12-17-2001 STM, Arts. 1 and 2**]
 - (9) Open Space Residential Design (OSRD). [**5-12-2008 ATM**]
 - (10) Solar Photovoltaic Overlay District.⁷
- B. All zoning districts are shown on "Zoning Map, Town of Norwell," September 1959, revised June 21, 1972, March 20, 1980, March 9, 1981, December 30, 1985, and further revised on December 8, 1997, May 25, 1999, and December 17, 2001, and revised July 2007, which is filed in the Town Clerk's office and is made a part hereof, and are described in § 201-6.2 of this Zoning Bylaw.

§ 201-6.2. Description of districts.

- A. Residential District A. Residential District A shall include all the land, except Business District A, east of a line starting at the Norwell-Hanover Town line marker on Main Street at Jacobs Lake and running northerly to a point on Grove Street 1,000 feet west of the westerly way line of Prospect Street, thence running northerly to a point on the Norwell-Hingham Town line 1,000 feet west of the westerly way line of Prospect Street, and east of extension thereof northerly and southerly.
- B. Residential District B. Residential District B shall include all the land, except Business District B and Business District C, west of a line starting at the Norwell-Hanover Town line marker on Main Street at Jacobs Lake and running northerly to a point on Grove Street, 1,000 feet west of the westerly way line of Prospect Street thence running northerly to a point on the Norwell-Hingham Town line, 1,000 feet west of the westerly way line of Prospect Street.
- C. Business District A. Business District A shall include all land within the following boundaries: Beginning at the intersection of the easterly way line of River Street and the northwesterly way line of Dover Street, due east to a point 300 feet from the southeasterly way line of Dover Street; thence, parallel to the southeasterly way line of Dover Street and 300 feet therefrom to a point due south of the intersection of the northerly way line of Dover Street and the southerly way line of Main Street; thence, due north to a point 300 feet from the northerly way line of Main Street; thence, westerly parallel to the northerly way line of Main Street, and 300 feet therefrom, to Central Street; thence, southerly along the easterly way lines of Central and River Streets to a point of beginning.
- D. Business District B. Business District B shall include all the land shown as B-1, B-2, B-3, B-4, B-5, B-6, B-7, and B-8, on map entitled "Zoning Map of Norwell," September 1959, revised June 21, 1972, and March 20, 1980, and described as follows:
 - (1) Business District B-1. Starting at the southwesterly way line of Washington Street at the Hanover-Norwell Town line, thence northwesterly by the southwesterly way line of Washington Street to the southeasterly lot line of the Washington Street Cemetery; thence, southwesterly in the southeasterly lot line of the Washington Street Cemetery; and thence, on the same course to the Hanover-

7. Editor's Note: Amendment pending (subsection added).

Norwell Town line, thence easterly by the Hanover-Norwell Town line to the point of beginning.

- (2) Business District B-2. Starting at a point in the southwesterly way line of Washington Street at the northwesterly corner of the Washington Street Cemetery; thence, southwesterly by the northwesterly property line of the Washington Street Cemetery to a point 200 feet from the southwesterly way line of Washington Street measured at a right angle therefrom; thence northwesterly by a line 200 feet southwesterly from the southwesterly way line of Washington Street and parallel thereto to a point 200 feet southwesterly from the southwesterly way line of Washington Street at *Station 69 plus 45 (approximate northerly property boundary of Frederick H. and Edith M. Hall shown on the 1959 Assessor's records) measured at a right angle therefrom; thence southwesterly 100 feet to a point 300 feet southwesterly from the southwesterly way line of Washington Street measured at a right angle therefrom; thence, northwesterly by a line 300 feet southwesterly from a southwesterly way line of Washington Street and parallel thereto to a point 300 feet southwesterly from the southwesterly way line of Washington Street at *Station 40 plus 55 (approximate northerly property bound by Elmer G. and Irene T. MacDonald as shown on 1959 Assessor's records) measured at a right angle therefrom; thence, northeasterly to the southwesterly way line of Washington Street at *Station 40 plus 55; thence, southeasterly by the southwesterly way line of Washington Street to the point of beginning.
- (3) Business District B-3. Starting at the intersection of the northerly way line of Oak Street and the southwesterly way line of Washington Street; thence, westerly by the northerly way line of Oak Street to a point 300 feet westerly from the southwesterly way line of Washington Street measured at right angles therefrom; thence, northwesterly by a line 300 feet from the southwesterly way line of Washington Street and parallel thereto to the easterly way line of High Street; thence, by the easterly way line of High Street to the southwesterly way line of Washington Street; thence, by the southwesterly way line of Washington Street to the point of beginning.
- (4) Business District B-4. Starting at the intersection of the southwesterly way line of Washington Street and the westerly way line of High Street; thence, southerly by the westerly way line of High Street to a point 500 feet from the southwesterly way line of Washington Street measured at a right angle therefrom; thence, northwesterly by a line 500 feet southwesterly from the southwesterly way line of Washington Street and parallel thereto to a point in the Norwell-Hingham Town line 500 feet southwesterly from the southwesterly way line of Washington Street measured at a right angle therefrom; thence, northeasterly by the Norwell-Hingham Town line, to the southwesterly way line of Washington Street; thence, southeasterly by the southwesterly way line of Washington Street to the point of beginning; also to include the entirety of Lot 15, Block 17 on the easterly side of Pond Street, as shown on Sheets 5D and 11B of the Atlas of the Town of Norwell.
- (5) Business District B-5. Starting at a point in the northeasterly side line of Washington Street, at the intersection of the Hingham-Norwell Town line thence

in a northeasterly direction, by the Hingham-Norwell Town line, to a point, which is 1,000 feet measured at right angles therefrom from the side line of said Washington Street, thence in a southeasterly direction and parallel to the northeasterly side line of said Washington Street to a point (and land shown on the Atlas of the Town of Norwell but including Lot 43 shown on the Town of Norwell Assessor's Map, Sheet 5D, Block 12) shown as Lot 25, Block 12, Sheet 5D, thence in a southerly direction 950.80 feet, by Lots 25, 39, 40, 41, 42 and 43, shown on Block 12, Sheet 5D northerly side line of Grove Street, thence a southwesterly direction by said Grove Street to its intersection with the northeasterly side line of said Washington Street, thence in a northwesterly direction, by the northeasterly side line of said Washington Street to the point of beginning.

- (6) Business District B-6. Starting at the intersection of the northeasterly way line of Washington Street and the southeasterly way line of Grove Street; thence, northeasterly by the southeasterly way line of Grove Street to a point 500 feet from the northeasterly way line of Washington Street measured at right angles therefrom; thence, southeasterly by a line 500 feet from the northeasterly way line of Washington Street and parallel thereto to a point 500 feet northeasterly from the northeasterly way line of Washington Street at *Station 74 plus 90 (approximate southerly property boundary of Helene L. Hall as shown on 1959 Assessor's records) measured at a right angle therefrom; thence, southwesterly to the northeasterly way line of Washington Street at *Station 74 plus 90; thence northwesterly by the northeasterly way line of Washington Street to the point of beginning.
- (7) Business District B-7. Starting at a point in the northeasterly way line of Washington Street at *Station 86 plus 18 (approximate northerly property line of Pilgrim Motel & Realty Co., Inc., as shown on 1959 Assessor's records); thence, northeasterly to a point 400 feet northeasterly from the northeasterly way line of Washington Street measured at right angles therefrom; thence, southeasterly by a line 400 feet from the northeasterly way line of Washington Street and parallel thereto to a point 400 feet northeasterly from the northeasterly way line of Washington Street at *Station 99 plus 08 (approximate southerly property line of Edward F. and Helen M. Farmer as shown on 1959 Assessor's records) measured at a right angle therefrom; thence, to the northeasterly way line of Washington Street at *Station 99 plus 08; thence, by the northeasterly way line of Washington Street to the point of beginning.
- (8) Business District B-8. Starting at a point in the northeasterly way line of Washington Street at *Station 107 plus 25 (approximate southerly property line of Ralph G. and Edith F. Lambert as shown on the 1959 Assessor's records); thence, northeasterly to a point 400 feet from the northeasterly way line of Washington Street measured at a right angle therefrom; thence, by a line 400 feet from the northeasterly way line of Washington Street and parallel thereto to a point at the Hanover-Norwell Town line; thence, by the Hanover-Norwell Town line to the

northeasterly way line of Washington Street; thence, by the northeasterly way line of Washington Street to the point of beginning.

(*Station refers to the center line distance as shown on the Massachusetts State Highway Layout Plans dated November 18, 1919, and as altered and laid dated December 29, 1931, and recorded Plymouth Country Registry of Deeds. Stations are 100 feet apart and start at the Hingham-Norwell Town line.)

E. Business District C. Business District C shall include all the land shown as C-1, C-2, and C-3 on map entitled "Zoning Map of Norwell," September 1959, revised June 21, 1972, and March 20, 1980, and described as follows:

- (1) Business District C-1. Beginning at the intersection of the southeasterly way line of Pond Street and the Norwell-Rockland Town line; thence, southerly in the Norwell-Rockland Town line to its intersection with the northeasterly way line of the Southeast Expressway; thence, southeasterly in the northeasterly way line of the Southeast Expressway to a point 475 feet southwesterly from the center line of High Street measured at a right angle therefrom; thence, generally northwesterly and northerly in a line 475 feet from the center line of High Street and parallel thereto to a point in the southwesterly line of Zone Area B-4, which is 500 feet southwesterly from the southwesterly way line of Washington Street measured at a right angle therefrom; thence, northwesterly in the southwesterly line of Zone Area B-4 to its intersection with the southeasterly way line of Pond Street; thence, southwesterly in the southeasterly way line of Pond Street to its intersection with the Norwell-Rockland Town line at the point of beginning; also to include Lots 1, 2, 3, 4, 5, and 6, Block 16 on the westerly side of Pond Street as shown on Sheets 5C and 5D as shown on the Atlas of the Town of Norwell.
- (2) Business District C-2. Starting at a point in the southwesterly way line of the Southeast Expressway, and in the westerly boundary line of the Towns of Norwell and Rockland; thence, running southeasterly by the southwesterly way line of the Southeast Expressway, a distance of approximately 3,280 feet to the northwesterly corner of Lot 14; thence, turning and running southerly by the westerly property line of Lot 14 to the southwesterly corner of Lot 14; thence, turning and running easterly by the southerly property lines of Lots 14 and 13 to the northwesterly corner of Lot 12; thence, turning and running southerly by the westerly property lines of Lots 12 and 11 to the southwesterly corner of Lot 11; thence, running southerly in a straight line, through Lots 10 and 9 to the northwesterly corner of Lot 8; thence, running southerly by the westerly property line of Lot 8 to the southwesterly corner of Lot 8; thence, turning and running easterly in the southerly property line of Lot 8 to a point in the westerly way line of High Street; thence, turning and running southerly by the westerly way line of High Street to the northeasterly property corner of Lot 7; thence, turning and running westerly by the northerly property line of Lot 7 to the northwesterly corner of Lot 7; thence, turning and running southerly by westerly property line of Lot 7 to a point in the Norwell-Hanover Town line; thence, turning and running westerly by the Norwell-Hanover Town line; thence, turning and running westerly by the Norwell-Hanover Town line to a stone monument marking the Norwell-Hanover-Rockland corner; thence, turning and running northerly by the Norwell-Rockland Town line to the point of beginning. The lot numbers referred

to above are all shown on the Atlas of the Town of Norwell Assessor's Map, Sheet R-17, Block 18. Also including Lot 2 consisting of 1.904 acres situated on the westerly side of High Street and the southerly side of Longwater Drive, as shown on a plan entitled "Plan of Land in Norwell, Mass.," Loring H. Jacobs, 293R Washington Street, Norwell, Mass., dated July 26, 1983, and recorded in the Plymouth County Registry of Deeds, Plan Book 23, Page 1164, which is a portion of Lot 7, Block 18, Sheet R-17 as shown on the Atlas of the Town of Norwell.

- (3) Business District C-3. Beginning at the intersection of the southwesterly way line of the Southeast Expressway and the northwesterly way line of South Street; thence, southwesterly in the northwesterly way line of South Street to its intersection with the northerly way line of Mill Street; thence, westerly in the northerly way line of Mill Street to its intersection with the thread of Third Herring Brook which is also the Norwell-Hanover Town line; thence, in a generally northwesterly direction in the thread of Third Herring Brook which is the Norwell-Hanover Town line to the intersection with the southwesterly way line of the Southeast Expressway to its intersection with the northwesterly way line of South Street at the point of beginning.
- F. The Wireless Facility Overlay District. Includes those portions of Business District C described in § 201-6.2E(1) and (2) of the Zoning Bylaw. The district shall also include the Norwell High School Property, South Street, as shown on Assessor's Map, Block 53, Lot 35, and described in a deed dated December 29, 1970; Book 3641, Page 499, in the Plymouth County Registry of Deeds. (Wording corrected describing Wireless Facility Overlay District by Janice M. Lawson, Town Clerk, January 8, 2007.) [**12-8-1997 STM**]
 - G. Village Overlay District. Voted to designate the following parcel of land as within the Village Overlay District: The parcel of land, containing ±45 acres, having frontage on Circuit Street as shown as a Plan of Land prepared for the Town of Norwell by Modern Continental Enterprises, dated May 14, 1999 (former Donovan property). [**5-25-1999 ATM, Arts. 14 and 15**]
 - H. Adult Entertainment Overlay District (AEOD). The AEOD shall include that portion of the land within Business District C-1, described in § 201-6.2E(1), which is situated between a line which runs 200 feet from, and parallel to, the southeasterly side of Pond Street and an easterly boundary line which runs 1,000 feet from, and parallel to, the boundary line between Residence B and Business C-1, aforesaid, shown as the AEOD Overlay District (as designated on the Town Zoning Map) and made a part hereof. [**12-17-2001 STM**]
 - I. Solar Photovoltaic Overlay District (SPOD). The SPOD shall include that portion of land within the Business District C-1 [(§ 201-6.2E(1))] and Business District C-2 [§ 201-6.2E(2)]. The district shall also include the land as shown on Assessor's Map, Block 64, Lot 13, and described in a deed dated January 17, 1990; Land Court Certificate No. 79659. [**5-5-2015 ATM, Art. 31**]

ARTICLE 7
Use Requirements

§ 201-7.1. Application.

No building or structure shall be erected, and no premises shall be used, except as provided in Article 8, District Use Regulations.

§ 201-7.2. Classification.

Where an activity might be classified under more than one of the following uses, the more specific classification shall determine permissibility; if equally specific, the more restrictive shall govern.

§ 201-7.3. Marijuana not medically prescribed. [Added 5-8-2017 ATM, Art. 34]

Consistent with MGL c. 94G, §3(a)(2), all types of marijuana establishments as defined in MGL c. 94G, §1(j), to include marijuana cultivators, marijuana testing facilities, marijuana product manufacturers, marijuana retailers or any other type of licensed marijuana-related businesses shall be prohibited within any zoning district of the Town or the Town.

ARTICLE 8
District Use Regulations

§ 201-8.1. Residential districts.**A. Permitted residential uses.**

- (1) One-family detached dwellings and associated outbuildings, with not more than one such dwelling located on any lot.
- (2) Conversion of a dwelling existing on April 10, 1952, to a two- or three-family dwelling, provided that such conversion does not substantially change the character or size of the structure, and provided further that the lot appurtenant to said dwelling has an area per family unit of at least half that required for a single-family unit.

B. Permitted community service uses.

- (1) Municipal buildings conforming to area and setback requirements and properly landscape screened.
- (2) Public utility buildings directly needed to provide services to the townspeople, which conform to area and setback requirements and which are properly landscape screened, but not including business offices, repair garages or outside storage areas.
- (3) Cemetery.

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- (4) Educational and religious uses exempt from zoning prohibition by MGL c. 40A, § 3.
- (5) Other institutional, educational, recreational, philanthropic or religious buildings or use, provided such building or use is not a business undertaking, but not including one, the chief activity of which is a service:
 - (a) To delinquent criminal, mentally deficient or mentally deranged persons; or
 - (b) Customarily carried on as a business.

C. Permitted accessory uses.

- (1) An office of either a doctor, or a dentist, or a lawyer, provided that the principal use is residential and the business is conducted in the dwelling by the person residing on the premises and involves not more than two agents, servants or employees, including the resident doctor, dentist or lawyer. **[Amended 5-10-2004, Art. 32]**
- (2) Agricultural pursuits (and buildings necessary to such pursuits) in accordance with MGL c. 40A, § 3, as amended.
- (3) Customary home occupations, conducted within the dwelling, such as insurance, or real estate, craft manufacturing, dressmaking, millinery, hair dressing, preparing food for sale, mail order businesses, the taking of not more than four boarders or lodgers at any one time, and the like, conducted by a person residing on the premises and involving not more than two additional operatives, and provided that such occupations and uses are not injurious or offensive to the neighborhood because of the emission of odors, fumes, dust, noise, smoke, vibration or other causes.⁸
- (4) Service businesses provided that:
 - (a) The business is conducted by a resident occupant;
 - (b) The business is conducted principally away from the premises;
 - (c) The business is not injurious or offensive to the neighborhood because of the emission of odors, fumes, dust, noise, smoke, vibrations or other cause; and
 - (d) There is no display of goods visible from the street.

D. Uses requiring a special permit from the Board of Appeals. **[Amended 5-3-1994 ATM]**

- (1) The business uses enumerated in Subsection C(1) through (3), inclusive, but not meeting the requirements in Subsection C(1).
- (2) Accessory scientific uses (see § 201-20.1).
- (3) A private club managed and controlled by the membership, but not including one whose chief activity is a service customarily carried on as a business. However,

8. Editor's Note: Amendment pending.

the foregoing shall not prohibit the customary functions of bona fide country clubs, sportsman clubs, amateur dramatic clubs, social or educational clubs, and the like.

- (4) Conversion to add one accessory dwelling unit to a single-family dwelling which has been in existence for and not substantially altered within 24 months or longer at the time of application. For purposes of this subsection, an accessory dwelling unit shall mean one or more rooms with kitchen and bathroom facilities not shared with any other dwelling unit and located in a main dwelling originally designed and constructed as a single-family dwelling.

(a) Such special permit shall be granted only if:

- [1] The owner of the premises will occupy one of the units except for temporary absences and the other unit will be occupied by one of more persons directly related to the owner by blood, marriage, or adoption or 60 years of age or more.
- [2] Exterior alterations will not change the appearance of the main dwelling as a single-family residence.
- [3] The Board of Health documents to the Board of Appeals that sewage disposal will be satisfactorily provided for, and that there is an appropriate reserve area on the site meeting requirements of the Board of Health rules and regulations and Title 5 of the State Environmental Code, having soils suitable for replacement on-site disposal system.

(b) Occupation of the accessory dwelling unit as a separate dwelling will require a special permit. This permit will terminate upon the transfer of ownership, and use will revert back to a single-family dwelling.

(c) In addition to any applicable conditions specified in this subsection, the Board of Appeals may impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose of this bylaw, including but not limited to the following:

- [1] Maximum number of occupants.
- [2] Maximum number of rooms.
- [3] Modification of driveway or parking spaces to provide adequate off-street parking.

E. Prohibited home occupations. The following uses shall be prohibited: **[Amended 5-3-1994 ATM; 5-15-2001]**

- (1) Ambulance service.
- (2) Automobile, truck, trailer, small engine or boat repair; automobile, truck, trailer, or boat parts sales, washing or detailing service on site.
- (3) Veterinary services, principally at home.

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- (4) Health salons, gyms and tanning salons.
- (5) Restaurants and taverns.
- (6) Junk, salvage or storage yards.
- (7) Tow truck services.
- (8) Laundry, laundromat, and/or dry-cleaning services.
- (9) Photo developing as primary use.
- (10) Sales of firearms and/or ammunition.
- (11) Body art establishments or establishment. See § 201-1.2, Definitions.
- (12) Medical marijuana treatment center or similar facility. See § 201-1.2, Definitions. [**5-6-2013 ATM**]

F. Common driveways. [**5-15-2005 ATM, Art. 17**]

- (1) Purpose. To minimize curb cuts onto public ways and minimize paved surface area, while maintaining safe access to residential lots for year-round residential traffic and emergency vehicle access.
- (2) Definitions.

COMMON DRIVEWAY — A common driveway shall mean a driveway that is designed to serve a minimum of two residential lots or a maximum of three residential lots and for which one of the permits provided for below has been issued and taken final effect.

PRIVATE WAY — A private way shall mean any way that is not a common driveway or a public way.

PUBLIC WAY — A public way shall mean a way duly accepted by Town Meeting pursuant to MGL c. 82.

- (3) Types of permits.
 - (a) Building permit common driveway: up to 100 feet in length. The Building Inspector/Zoning Enforcement Officer may issue a common driveway building permit to allow a common driveway, as of right, provided that the Building Inspector/Zoning Enforcement Officer is satisfied that all of the requirements set forth below are satisfied:⁹
 - [1] The common portion of the driveway shall not exceed 100 feet in length;
 - [2] The common driveway shall not serve more than two residential lots;

9. Editor's Note: Amendment pending.

[3] The common driveway application and plan shall conform to all of the requirements set forth below under Subsection F(4), Standards and criteria, Subsection F(4)(a) to (k); and

[4] A fee of \$100 was duly paid with the application.

(b) Special permit common driveway: 100 feet to 300 feet or for three lots. A common driveway special permit may be issued by the Planning Board to allow a common driveway of between 100 feet to 300 feet or to serve up to three residential lots, with a common driveway length of not more than 300 feet, provided that the Planning Board is satisfied that all of the requirements set forth below are satisfied:

[1] The common portion of the driveway shall not exceed 300 feet in length;

[2] The common driveway shall not serve more than three residential lots;

[3] The common driveway application and plan shall conform to all of the requirements set forth below under Subsection F(4), Standards and criteria; and

[4] A fee of \$500 was duly paid with the application, plus the applicant(s) shall pay for the cost of legal notices and mailings and shall pay for the cost of technical engineering review of the plan and drainage calculations by the Planning Board's engineering consultant.

(4) Standards and criteria for common driveways.

(a) Application form. The applicant(s) for a common driveway shall execute an application form supplied by the Building Inspector/Zoning Enforcement Officer or the Planning Board, as appropriate.

(b) Assent of all owners to the application. The application form shall be signed by all of the owners of record for all of the residential lots to be served by the proposed common driveway.

(c) Minimum setback from property lines. All portions of the common driveway shall be set back a minimum of 25 feet from any adjoining property line, other than one property line for each of the residential lots to be served by the driveway.

(d) Minimum setback from other ways. The common driveway shall be located a minimum of 50 feet from any existing driveway or public or private way (except for an existing driveway that is to be eliminated and revegetated).

(e) Zoning compliance requirement. All of the residential lots to be served by the common driveway shall conform to all applicable zoning requirements, including minimum frontage and area requirements, and the common driveway shall access over the legal frontage of at least one of the lots to be served by the driveway. The common driveway shall access from the way common to each of the lots that it serves. The common portion of the

common driveway shall not be used to calculate lot area for any of the lots served by it. **[Amended 5-13-2008 ATM]**

- (f) Sole means of access. The lots to be served by the common driveway shall each use the common driveway as the sole means of access.
- (g) Minimum design and construction requirements. The common portion of the common driveway shall satisfy all of the following requirements:
 - [1] It shall intersect with a public way.
 - [2] It shall have corner radii of 25 feet at the point of intersection with the public way.
 - [3] It shall satisfy the minimum required stopping distance. The minimum required stopping sight distance shall be calculated under the Stopping Sight Distance of the American Association of State Highway and Transportation Officials, "A Policy on Geometric Design of Highways and Streets 2001," 4th edition, based on the 85th percentile speed of the major roadway. The 85th percentile speed shall be determined from an acceptable engineering speed study with a minimum of 20 speed observations in each direction.
 - [4] It shall satisfy the minimum required intersection sight distance. The minimum required intersection sight distance shall be measured a minimum of 15 feet from the edge of pavement along the center line of the proposed roadway. For all calculations, the height of the driver's eye shall be considered to be 3.75 feet above the road surface and the height of the object shall be considered to be 0.50 foot above the road surface in accordance with AASHTO policy.
 - [5] It shall have a minimum grade of 1% and a maximum grade of 7%.
 - [6] It shall have a minimum paved width of 16 feet and a maximum paved width of 18 feet.
 - [7] It shall be constructed with an initial minimum six-inch gravel borrow base course, with M.030.1 Type B gravel and 95% compaction; that shall be followed by a minimum six-inch processed gravel base course, MI.03.1, 95% compaction; and shall be topped by two courses of Massachusetts Department of Transportation (DOT) Type 2-1 bituminous concrete, which shall have a total minimum thickness of three inches and have a 1/4 inch per foot crown.¹⁰
 - [8] It shall have a two-foot-wide gravel shoulder on each side, consisting of the same twelve-inch gravel base as the driveway.
 - [9] The two-foot-wide shoulders shall be free of any aboveground structures, buildings and other obstructions, including, but not limited to, trees, shrubs, plantings and utility poles. If vegetated, then the

10. Editor's Note: Amendment pending.

shoulders shall be mowed a minimum of three times per growing season.

- [10] A common driveway shall have permanent signage, which shall satisfy all of the requirements of the Highway Surveyor as to size, materials and siting, at the intersection of the common driveway with the public way, and the signage shall state the name of the public way and the numbers of the houses that are served by the common driveway. In addition, the common driveway shall be provided with signage at each point where it branches off to an individual driveway. The signage shall list the individual addresses of all of the properties served by the individual driveway, together with an arrow indicating the direction of the individual driveway.
 - [11] The common driveway shall be provided with an easement area of sufficient size to allow for adequate snow storage to serve the common portion of the driveway. This easement area shall be clearly marked and kept free of obstructions during snow season and shall be constructed with a six-inch gravel base, which may be loamed and seeded, provided that the area shall be mowed at least three times per growing season. The required size of the easement area shall be determined by the Building Inspector/Zoning Enforcement Officer under Subsection F(3)(a) and by the Planning Board under Subsection F(3)(b).
 - [12] The common driveway and all necessary appurtenances, including utilities, shoulders, signage, turnouts, turnarounds and snow storage areas, shall be clearly delineated on the engineered plan and shall be within the easements to be conveyed between and among the owners of the lots that are to be served by the common driveway.
- (h) Engineered plan requirements. The applicant(s) shall provide an engineered plan, together with the application, that shall satisfy all of the following criteria and contain all of the following information:
- [1] The plan shall be based upon a ground survey.
 - [2] The plan shall be signed and stamped by a registered land surveyor and a registered professional engineer.
 - [3] The plan shall include a North point.
 - [4] The plan shall include a title block that lists the names and addresses of all owners of record of the residential lots to be served by the common driveway and the name, address and telephone number of the surveyor and engineer.
 - [5] The Assessing Map reference for the residential lots to be served by the common driveway.
 - [6] Existing and proposed boundary lines, dimensions and areas of the residential lots to be served by the common driveway, with all bounds

keyed into the Massachusetts grid system and at least two boundary points coordinated with the Massachusetts grid system shown on the plan, with at least one of the boundary points corresponding to a physical permanent monument placed on the ground.

- [7] Existing lines of streets, ways, driveways and easements on the subject property, with labels as to whether the ways are private or public and the purpose of the easements.
- [8] The zoning classification for the property and the location of any zoning district boundary that may lie within the locus.
- [9] The plan shall show the proposed location of the common driveway, the proposed locations of the private driveways off of the common driveway and the locations of the respective dwellings and all accessory structures that are to be afforded access via the common driveway.
- [10] The plan shall provide cross-section detail that shows the required gravel and paving specification.
- [11] The plan shall show the location of and provide details for the required signage.
- [12] The plan shall show the location, size and type of mailboxes, if any, that shall be used to serve the residential lots and they shall be sited together on the left-hand side of the common driveway, upon entering from the adjacent way, to avoid interfering with turns into the driveway and shall in all respects conform to the requirements of the United States Postal Department, which shall control in the event of a conflict with the bylaw.
- [13] The plan shall show the location of any pole, wall, fence, significant tree or obstruction.
- [14] The plan shall show the location of any existing structure or building located on the residential lots to be served and the side, rear and front yard setback dimensions, including building envelopes, for each.
- [15] The plan shall include a certification by the designing engineer that all structures and buildings conform to applicable zoning requirements.
- [16] The plan shall show the location of any structure, or building, including driveways, walls, and poles within 100 feet on each side of the layout of the common driveway, at the point at which it intersects with the public way.
- [17] The plan shall include a certification by the designing engineer that the location of the common driveway provides for adequate sight distances, using the most recent standards published by the American Association of State Highway and Transportation Officials, both for stopping distance and the applicable intersection.

- (i) Required documentation. The applicant(s) also shall provide the following documentation, together with the application:
 - [1] Easements. Proper draft easements shall be delivered with the application which provide a permanent right of access to, from and over the common driveway for all of the owners of the residential lots to be served by the common driveway. All owners of record and mortgagees of record shall assent to each such easement and the easements shall be recorded before any building permit or certificate of occupancy issues.
 - [2] Homeowners' association trust requirement. A homeowners' association trust draft document shall be delivered with the application that provides for:
 - [a] Mandatory membership by all owners of the residential lots to be served by the common driveway;
 - [b] Operation and maintenance of the common portion of the common driveway, including snow and ice removal, regular and extraordinary maintenance and repairs, and maintenance and replacement of signage and maintenance of the shoulders and sight distances;
 - [c] Jointly and several liability for all owners for the cost of the required maintenance and repairs; and
 - [d] A mechanism for dispute resolution.
 - [3] Restrictive covenant running to the Town. A restrictive covenant, running in favor of the Town of Norwell, shall be recorded against all lots to be served by the common driveway, providing that:
 - [a] Access to and use of the common driveway shall be limited to the specific residential lots shown on the plan;
 - [b] The common driveway shall not be offered for acceptance as a public way;
 - [c] Further division prohibited (the lots served by the common driveway shall not be further divided so as to create any additional building lots).
- (j) Building permit requirements. No building permit for a dwelling to be served by a common driveway shall issue until:
 - [1] Common driveway plan approved. The required common driveway plan has been approved by the Building Inspector/Zoning Enforcement Officer and, in the case of a special permit driveway, until after the Planning Board has approved the plan and until after the applicable appeal period has expired without an appeal having been taken or, in the case of an appeal, until after the appeal has been terminated in the applicant's favor;

- [2] Easements recorded. The required easements have been properly executed by all owners and mortgagees of record and then duly recorded and that evidence of recording has been provided to the Building Inspector/Zoning Enforcement Officer and, in the case of a special permit driveway, to the Planning Board; and
- [3] Homeowners' association executed and recorded. The required homeowners' association trust document, duly executed by the necessary parties, including all owners and mortgagees of record, has been duly recorded and evidence of recording has been provided to the Building Inspector/Zoning Enforcement Officer and, in the case of a special permit driveway, to the Planning Board. The required proof that the necessary parties have executed the document shall include a letter from a licensed attorney, indicating the attorney has researched the title for the affected land and that identifies and certifies the identity of all owners and mortgages of record for the affected land that is to be served by the common driveway and that is to be burdened by the requirements set forth under the homeowners' association trust document and further certifies that all of said owners and mortgagees of record have duly assented to the homeowners' association trust document.
- [4] Adequate surety for a driveway that exceeds 100 feet. Adequate surety shall be posted by the applicant(s) to guarantee completion of the common portion of the driveway, for any driveway for which the common portion exceeds 100 feet.
- (k) Certificate of occupancy requirements. No certificate of occupancy for any dwelling to be served by the common driveway shall issue until the common driveway has been fully constructed in accordance with the engineered plan to the satisfaction of the Building Inspector/Zoning Enforcement Officer.
- (l) Drainage calculations required for a driveway that exceeds 100 feet. No plan for a driveway that has a common length that exceeds 100 feet shall be approved, unless engineered drainage calculations are provided to the Planning Board and unless the Planning Board is satisfied that the plan, based upon peer review, provides sufficient drainage control measures that will result in no increase in runoff onto property other than onto one of the lots to be served by the common driveway. The required surety shall ensure that the drainage plan be installed.
- (m) Snow storage required for a driveway that exceeds 100 feet. No plan for a driveway, which has a common length that exceeds 100 feet, shall be approved, unless the Planning Board determines that the plan provides for adequate storage areas for snow.
- (n) Turn-out areas required for a driveway that exceeds 100 feet. No plan for a driveway that has a common length that exceeds 100 feet shall be approved, unless the Planning Board, after consulting with the Fire Chief, determines that sufficient turn-out areas are provided for every 50 feet or a

greater number of feet to be determined by the Planning Board in its discretion, but not to exceed 75 feet, to allow an oversized pickup truck to pull off the driveway and allow an emergency vehicle to pass. Such turnout areas shall be paved and shall be kept clear of vegetation, snow, parked vehicles and other obstructions at all times and shall have signage approved by the Highway Surveyor that indicates: "No Parking" and "This area shall be kept free of snow, vehicles and all obstructions."

- (o) Turnaround area required for a driveway that exceeds 100 feet. No plan for a driveway that has a common length that exceeds 100 feet shall be approved unless the Planning Board, after consulting with the Fire Department, determines that a sufficient turnaround area is provided at the end of the common driveway to allow emergency vehicles to turn around. The turnaround shall be an integral part of the common driveway and constructed and paved accordingly.
 - (p) Adequate surety required for a driveway that exceeds 100 feet. The Planning Board shall require that adequate surety be posted to guarantee satisfactory completion of the common driveway, if the common portion of the driveway exceeds 100 feet, before the special permit issues.
 - (q) The common driveway shall have signage that sets forth the street numbers. A common driveway shall have a street sign at the intersection of the common driveway with the public way. The sign shall state the name of the public way and shall set forth the street numbers of the dwellings served by the common driveway. All of the dwellings served shall use the same public way as its legal address and conform to all 911 requirements. The signage shall be designed and erected in accordance with the requirements of the Highway Surveyor.
- (5) Procedures.
- (a) An application for a common driveway permit under Subsection F(3)(a) shall be filed with the Building Inspector/Zoning Enforcement Officer, together with 10 copies of the application and the proposed plan and the required filing fee, which shall be in the amount of \$100. A copy of the application and the plan shall be distributed to the Board of Health, Conservation Commission, Fire Chief, Highway Surveyor, Planning Board, Police Chief, and Water Department. The Building Inspector/Zoning Enforcement Officer shall act on the application within 30 days of determining that the application is complete. The Building Inspector/Zoning Enforcement Officer shall notify the applicants, in writing, if he determines that the application is not complete.
 - (b) An application for a common driveway special permit under Subsection F(3)(b) shall be filed with the Planning Board together with 12 copies of the application and the proposed plan, the required filing fee of \$500 and the required review fee established by the Planning Board. A copy of the application shall be distributed to the Board of Health, Building Inspector/Zoning Enforcement Officer, Conservation Commission, Fire Chief, Highway Surveyor, Police Chief, and Water Department. The Planning

Board shall notice and hold a public hearing and render its decision in accordance with the requirements set forth under MGL c. 40A, §§ 9 and 11. The Planning Board shall notify the applicants in writing if the application is incomplete and, if the application is determined to still be incomplete 30 days after it is filed, it shall be denied without prejudice.

§ 201-8.2. Business District A. [5-6-2013 ATM¹¹]

The following section classifies uses within the Business District A; "gsf" is gross square feet (including all office and storage areas). Mixed-use buildings that contain both nonresidential and residential uses are allowed as indicated in this section. For businesses that contain two or more of the uses listed below the more restrictive permit requirement applies. Uses not identified within this section are prohibited.

A. Residential uses. Use indicates the maximum number of dwellings allowed on a lot.

(1) Allowed by right:

- (a) One-family dwelling with associated outbuildings.
- (b) One-family dwelling (above nonresidential).
- (c) Two-family dwelling (above nonresidential).

(2) Allowed by special permit:

- (a) Multifamily (three dwellings maximum or one dwelling per 15,000 square feet of lot area to a maximum of six units, whichever is greater, above nonresidential). The SPGA may impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose of this bylaw, including but not limited to the maximum number of occupants, maximum number of rooms, modification of driveway or parking spaces to provide adequate off-street parking, etc.
- (b) Assisted living/nursing home.

(3) Not allowed:

- (a) Two-family dwelling.
- (b) Multifamily.

B. Commercial uses.

(1) Allowed by right:

- (a) Convenience stores, zero to 5,000 gsf.
- (b) Cafes.
- (c) Art galleries.

11. Editor's Note: Amendment pending. See also Business District A Use Table included as an attachment to this chapter.

- (d) Banks, zero to 5,000 gsf.
- (e) Private club, provided that the club is managed and controlled by the membership and whose chief activity is not a service customarily carried on as a business. Customary functions of bona fide country clubs, sportsman clubs, amateur dramatic clubs, social or educational clubs and the like shall not be prohibited.
- (f) Business or professional offices.
- (g) Retail sales and services, zero to 5,000 gsf.
- (2) Allowed by special permit:
 - (a) Pharmacies, zero to 5,000 gsf.
 - (b) Grocery stores.
 - (c) Retail sales and services, 5,001 to 12,000 gsf.
 - (d) Personal services, zero to 5,000 gsf.
 - (e) Restaurants (drive-thru service prohibited; see Subsection E, General provisions).
 - (f) Outdoor seating associated with restaurants or cafes subject to applicable licensing requirements.
 - (g) Movie house (maximum of two screens).
 - (h) Liquor stores, zero to 5,000 gsf.
 - (i) Outdoor markets subject to applicable licensing requirements.
 - (j) Indoor recreational facilities.
 - (k) Hotel/inn (10 rooms maximum).
- (3) Not allowed:
 - (a) Convenience stores over 5,000 gsf.
 - (b) Pharmacies over 5,000 gsf.
 - (c) Banks over 5,000 gsf.
 - (d) Personal services over 5,000 gsf.
 - (e) Liquor stores over 5,000 gsf.
 - (f) Body art establishment.
 - (g) Motel.
 - (h) Gasoline and service stations.
 - (i) Automobile sales and repair.

C. Community service uses.

(1) Allowed by right:

- (a) Municipal buildings.
- (b) Cemetery.
- (c) Protected uses under MGL c. 40A, § 3.
- (d) Other institutional, educational, recreational, philanthropic or religious use, provided that such building or use:
 - [1] Is not a business undertaking;
 - [2] Is not one where the chief activity is to service delinquent, criminal, or mentally ill persons; or
 - [3] Is not customarily carried on as a business.

(2) Allowed by special permit:

- (a) Public utility buildings.

(3) Not allowed:

- (a) Medical marijuana treatment center or similar facility.

D. Accessory uses/home occupations. Provided the use is conducted by a person residing at the premises and the use is not injurious or offensive to the neighborhood because of the emission of odors, fumes, dust, noise, smoke, vibrations or other causes.

(1) Allowed by right:

- (a) Insurance services.
- (b) Real estate.
- (c) Artist/craft manufacturing.
- (d) Hair dressing.
- (e) Mail order.
- (f) Service business. The business shall be conducted principally away from the premises.
- (g) Bed-and-breakfast inn (four lodgers maximum).

(2) Allowed by special permit:

- (a) Other.

E. General provisions.

(1) Allowed by special permit:

- (a) Operation of a business between the hours of 2:00 a.m. and 5:00 a.m.

- (2) Not allowed:
 - (a) Drive-thru windows associated with any use.
 - (b) Drive-up ATMs associated with any use.
 - (c) Outdoor storage (excludes short-term retail display).

§ 201-8.3. Business District B.

- A. Permitted residential uses. Conversion of a dwelling existing on March 14, 1963, to a two- or three-family dwelling, provided that such conversion does not substantially change the character or size of the structure, and provided further that the lot appurtenant to said dwelling has an area per family unit of at least half that required for a single-family unit.
- B. Permitted community service uses. Educational, religious, agricultural, horticultural and floricultural uses exempt from zoning prohibition by MGL c. 40A, § 3.
- C. Permitted business uses.
 - (1) Retail stores, salesrooms or service establishments, the principal activity of which shall be the offering of goods or services at retail within an enclosed building structure, and including but not limited to personal service shops of a barber, hairdresser, manicurist, or shoe shiner; shops for custom work by a dressmaker, furrier, interior decorator, milliner or tailor; and shops for custom work by a cabinet maker, job printer, repairer of household appliances or furnishings, shoemaker, or upholsterer. However, gasoline service stations and automobile sales and repair establishments are prohibited.
 - (2) Business or professional offices or agencies.
 - (3) Banks or other financial institutions.
 - (4) Restaurants or other eating places serving food only to persons seated at tables, or counters, if no mechanical or live entertainment is regularly furnished unless a permit for such entertainment is granted yearly by the Board of Selectmen.
- D. Uses allowed by special permit from the Board of Appeals.
 - (1) Light manufacturing.
 - (2) Research laboratories.
 - (3) Wholesale sales and light storage facilities.
 - (4) Such similar uses as the Board of Appeals may approve.
 - (5) Conversion to add one accessory dwelling unit to a single-family dwelling which has been in existence for and not substantially altered within 24 months or longer at the time of application.
 - (a) Such special permit shall be granted only if:

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- [1] The accessory unit will be a part of the main dwelling and the habitable floor area of the accessory dwelling unit will not be more than 1/3 that of the main dwelling;
 - [2] There will be no more than a five-percent increase in the habitable floor area of the main dwelling;
 - [3] The owner of the premises will occupy one of the units except for temporary absences and the other unit will be occupied by one or more persons directly related to the owner by blood or marriage or 60 years of age or more;
 - [4] Exterior alterations will not change the appearance of the main dwelling as a single-family residence; and
 - [5] The Board of Health documents to the Board of Appeals that sewage disposal will be satisfactorily provided for, and that there is an appropriate reserve area on the site meeting requirements of the Board of Health rules and regulations and Title 5 of the State Environmental Code, and having soils suitable for replacement on-site disposal system.
- (b) In addition to any applicable conditions specified in this subsection, the Board of Appeals may impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose of this bylaw, including but not limited to the following:
- [1] Maximum number of occupants.
 - [2] Maximum number of rooms.
 - [3] Modification of driveway or parking spaces to provide adequate off-street parking.
- (c) For purposes of this subsection, an accessory dwelling unit shall mean one or more rooms with kitchen and bathroom facilities not shared with any other dwelling unit and located in a main dwelling originally designated and constructed as a single-family dwelling.
- (6) Operation of a business between the hours of 2:00 a.m. and 5:00 a.m.
- (7) Body art establishments (see § 201-1.2, Definitions), provided that no body art establishment shall be located within 300 feet of a place of worship, school or day-care center. [**5-15-2001 ATM**]
- E. Prohibited uses in Business District B. [**5-6-2013 ATM**]
- (1) Medical marijuana treatment center or similar facility.

§ 201-8.4. Business District C.

- A. Uses allowed by special permit from the Board of Appeals.

- (1) Research laboratories with incidental assembly or test manufacture.
- (2) Light manufacturing enterprises.
- (3) Building materials salesrooms, utility structures, storage warehouses and buildings, and wholesale distribution plants.
- (4) Printing or publishing establishments, photographic studios, and medical or dental laboratories.
- (5) Business or professional offices or banks, and attorneys' offices over 5,000 gross square feet.
- (6) Restaurants or other places for serving food or alcoholic beverages, provided all food service is confined within the structure.
- (7) Motels.
- (8) Theaters contained within a permanent structure, but not outdoor amusement uses, such as golf driving ranges, go-cart tracks, miniature golf courses, drive-in theaters, etc.
- (9) Salesrooms for automobiles, bicycles, boats, farm implements and similar equipment, but not automobile junkyards.
- (10) Gasoline service stations, garages and repair shops provided that:
 - (a) Repairs shall be limited to minor repairs and adjustments unless conducted in a building.
 - (b) There shall be no storage of motor vehicles, appliances and equipment on the premises other than those in process of repair or awaiting delivery.
- (11) Retail store, nursing home or service establishment, the principal activity of which shall be the offering of goods or services at retail within the building, but not mobile home parks or campsites.
- (12) Cafeterias for employees, parking areas or garages for use of employees, customers, or visitors, and other normal accessory uses.
- (13) Operation of a business between the hours of 2:00 a.m. and 5:00 a.m.
- (14) Medical marijuana treatment center or similar facility. [**5-6-2013 ATM**]
 - (a) Prohibited in Business District C-3.
 - (b) Any medical marijuana treatment center shall not be located within 500 feet of any lot with a residence, school or day-care facility.
 - (c) Hours of operation shall be set by the Board of Appeals.
 - (d) Special permits shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.

- (e) Special permit shall be valid for a period of three years from the date of the decision. It shall be renewed for successive three-year periods provided that a written request for renewal is made to the Board of Appeals not less than three months prior to the expiration of the then-existing three-year period.
 - [1] Publication of notice of said request shall be made in the same manner as would be required for an original application for a special permit. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then-existing permit, a written objection to the renewal, stating reasons, is received by the Board of Appeals. In the event of such an objection, a hearing on the renewal shall be held and shall proceed in a manner identical to the course of proceedings in connection with an original permit application.
 - [2] The special permit shall remain in effect until the conclusion of the public hearing and decision of the Board of Appeals either granting or denying the special permit renewal. In granting the renewal, the Board of Appeals may impose additional conditions, including, without limiting the foregoing, time limits to correct violations, hours of operation and additional screening, upon which a specific lapse of time without correction or compliance shall result in a revocation of the permit.

B. Permitted uses.

- (1) Educational or religious uses exempt from zoning prohibition by MGL c. 40A, § 3.
- (2) Agricultural, horticultural and floricultural uses.
- (3) Attorneys' offices less than, or equal to, 5,000 gross square feet. [**5-13-2002 ATM**]

ARTICLE 9

Intensity of Use Regulations

§ 201-9.1. Applicability.

- A. Building. All buildings in any district shall meet the minimum requirements set forth in this article unless otherwise expressly provided by this bylaw or by MGL c. 40A, § 6.
- B. Lot change. No lot shall be created nor shall an existing lot be changed in size or shape except through a public taking, or except where otherwise permitted herein, so as to result in violation of the requirements set forth in these intensity of use regulations.

§ 201-9.2. Lot area.

- A. The minimum size for lots in all districts shall be one acre.

- B. No part or portion of any lot which is determined by the Conservation Commission to be a coastal or freshwater wetland, as defined by the Wetlands Protection Act (MGL c. 131, § 40) and the regulations promulgated thereunder (310 CMR 10.00), shall be used in determining minimum lot size as required herein, except that this subsection shall not apply to any lot lawfully laid out by plan or deed duly recorded, as defined in MGL c. 41, § 81L, prior to the effective date of this subsection, to any lot shown on a plan endorsed, prior to the effective date of this subsection, with the words, "Approval under the Subdivision Control Law not required" or words of similar import, pursuant to MGL c. 41, § 81P, or to any lot shown on a definitive plan endorsed with the words "Approved under the Subdivision Control Law" or words of similar import, pursuant to MGL c. 41, § 81U, which complied at the time of such recording or endorsement, whichever is earlier, with all of the minimum area requirements set forth in the Zoning Bylaw, except for this subsection; provided, however, that this subsection shall apply to any subdivision under the Subdivision Control Law, aforesaid, submitted to the Planning Board on or after the effective date of this subsection.
- C. Stormwater management system. No part or portion of any lot which contains any element of a stormwater management system, as defined under § 201-1.2 of this Zoning Bylaw, shall be used toward calculating the minimum lot area required under Subsection A. This subsection shall not apply to any of the following: [**5-13-2002 ATM; amended 5-14-2007 ATM, Art. 17**]
- (1) A building lot lawfully laid out by plan or deed and duly recorded prior to the adoption of the Town's Zoning Bylaw;
 - (2) A building lot for single- or two-family residential use that is eligible for protection from zoning changes that increase lot area requirements under MGL c. 40A, § 6, on the effective date of this subsection, provided that the lot complied with all applicable lot area requirements at the time of its creation;
 - (3) A building lot that is shown on a plan that was duly endorsed as "Approval Not Required" under MGL c. 41, §§ 81L and 81P, prior to the effective date of this subsection, in which case the predecessor requirements of this subsection shall apply; or
 - (4) A building lot shown on a definitive subdivision plan duly endorsed by the Planning Board with the words "Approved under the Subdivision Control Law," or words of similar import, pursuant to MGL c. 41, § 81U, prior to the effective date of this subsection and in which case the applicable predecessor requirements of this subsection shall apply.

§ 201-9.3. Lot frontage and width.

- A. The minimum frontage measured at the street line shall be 80 feet for lots in all districts. Street frontage shall be continuous and uninterrupted.
- B. The minimum lot width measured at the required setback line shall be 150 feet in all districts except Business Districts A and B where the minimum shall be 125 feet.

- C. No two points on lot lines shall be less than 80 feet apart, measured in a straight line, except where the shortest distance between such points, measured along the perimeter of the lot, is less than or equal to three times the aforesaid straight line distance.

§ 201-9.4. Required yards.

A. Front yard.

- (1) No building and/or structure shall be erected, placed or added to so as to extend within the following required front yards:

	Measured from Front Property Line	Measured from Way Center Line
Residential A	50 feet	75 feet
Residential B	35 feet	60 feet
Business A	15 feet ¹	N/A
Business B-1 to B-8, C-1 to C-3	50 feet	75 feet

¹ Parking areas are prohibited within the front yard setbacks. [**5-10-2011 ATM**]

- (2) However, no required yard shall exceed the average yards provided on lots abutting on either side, a vacant lot to be considered as if occupied by a building and/or structure at the minimum yard setback.
- (3) The front yard setback in each district shall apply to any boundaries of lots which abut and run with a street or way.

B. Side and rear yards.

- (1) In Residential Districts A and B, no building and/or structure, swimming pool or tennis court shall be erected or placed within 20 feet of a side or rear line except that with respect to a building and/or structure existing on July 7, 1955, additions thereto may be erected or placed within 20 feet, but not within 10 feet, of a side line. Excepted from this provision is Residential District B specifically where abutting Business District B-5 at the westerly boundary (measuring 950.80 feet) or added to unless such building and/or structure is set back a distance of 25 feet.¹²
- (2) In business districts, no building and/or structure shall be erected, placed or added to within 10 feet of the side line or 20 feet of the rear line of any lot. In any business district contiguous to a residential district, no building and/or structure shall be erected, placed or added to unless such building and/or structure as erected, placed or added to is set back from the boundary line delineating said

¹² Editor's Note: Amendment pending.

business district a distance equal to not less than 20% of the distance of the said boundary line from the way line of the public way from which the depth of such business district is measured; provided, however, that such setback shall not be required to be more than 100 feet. For purposes of this subsection, Business Districts A and B shall not be considered contiguous to any residential district if the business district and the residential district are separated by a public way.¹³

- (3) Excepted from this provision is Business District B-5 only. No building and/or structure in this district shall be erected, placed or added to unless such building and/or structure is set back from the easterly boundary line (measuring 950.80 feet) a distance of 25 feet.

§ 201-9.5. Lot shape.

- A. No building lot may be created in Residential District A or Residential District B unless:
 - (1) The lot has a width of at least 150 feet at the required setback line, which required setback line will be 50 feet measured from the front property line in Residential District A, and 35 feet measured from the front property line in Residential District B; or 75 feet measured from the way center line in Residential District A and 60 feet measured from the way center line in Residential District B;
 - (2) The lot shall contain at least 5,000 square feet of land between the required setback line and the way; and
 - (3) The area of the lot between the said required setback line and a line drawn parallel to the said required setback line a distance of 100 feet beyond the required setback line shall be not less than 11,500 square feet.
- B. No dwelling may be erected or placed unless within a circle 150 feet in diameter inscribed within the lot lines.

§ 201-9.6. Height restrictions.

- A. No building and/or structure shall be erected or altered to exceed 2 1/2 stories in height, or 34 feet, in any residential district and Business Districts A and B or three stories, or 40 feet, in Business District C, nor shall any dwelling unit in a business district exceed 2 1/2 stories, or 34 feet, in height. Chimneys, elevators, poles, spires, tanks, towers and other projections not used for human occupancy may extend above the building and/or structure height limits by a maximum of 10 feet.
- B. Poles, tanks, towers and other projections not attached to a building and/or structure shall not exceed the maximum allowed building and/or structure height unless approved by a special permit.

13. Editor's Note: Amendment pending.

ARTICLE 10

Business Districts A, B and C Restrictions**§ 201-10.1. Building coverage.**

Buildings and/or structures shall not be erected, added to, or changed to bank or restaurant use so as to exceed the following percentage of lot area* (or in the case of mixed uses, the pro rata portion of lot area*) to be covered by buildings and/or structures:

Banks and restaurants	12%
Other uses	
Business District C-2 [as defined in § 201-6.2E(2)]	24.5%
All other business districts	18%

- * Exclusive of land in a Residential or a Floodplain, Watershed and Wetlands Protection District.

§ 201-10.2. Open space area.

Not less than 1/3 of the lot area shall be free of structures, paving, storage areas, or other elements which preclude vegetation.

ARTICLE 11

District Lines, Boundaries and Setbacks**§ 201-11.1. Business setback.**

All structures for business uses in the Business C District shall be at least 300 feet distance from residences located in a residential district, and shall be adequately screened therefrom by trees and shrubs.

§ 201-11.2. Route 3 buffer zone. [5-15-2000 ATM]

In all districts, all natural vegetation will remain undisturbed within 100 feet of the way line of the State Highway (Route 3) from the Third Herring Brook to the North River.

§ 201-11.3. Setback of street paving from lot lines. [5-17-2010 ATM, Art. 36]

Street setback requires that the edge of pavement for subdivision streets or other egress for new developments shall be set back a minimum of 10 feet from abutting lot lines. Curb, berm, sidewalk and other supporting roadway features shall be allowed within said setback distance.

Part 3
General Regulations

ARTICLE 12
Off-Street Parking
[Amended 5-14-2007 ATM, Art. 18]

§ 201-12.1. Purpose.

The objectives of this article are as follows:

- A. Promote traffic safety by assuring adequate places for storing motor vehicles off the street and for their orderly access and egress to and from the public streets.
- B. Increase the traffic carrying capacity of streets and highway in the Town.
- C. Reduce the hazards to pedestrians on public sidewalks.
- D. Protect adjoining lots and the general public from nuisances and hazards such as:
 - (1) Noise, glare of headlights, dust and fumes resulting from the operation of motor vehicles;
 - (2) Glare and heat from parking lots;
 - (3) A lack of visual relief from expanses of paving; and
 - (4) Accelerated runoff of surface water from land covered by impervious materials.

§ 201-12.2. Performance requirement.

Off-street parking must be provided in all zoning districts for new construction, change of use, conversion, expansion, redevelopment or increase in use for any structure.

§ 201-12.3. Number of spaces.

The standards below must be met for the additional parking demand created by new construction, change of use, conversion, expansion, redevelopment or increase in use for any structure unless reduced on special permit from the Board of Appeals, upon the Board's determination that special circumstances render a lesser provision adequate for all parking needs, or as defined in § 201-12.10. In the case of mixed uses, the minimum parking shall be the sum of the requirements of the individual uses computed separately. Parking facilities for one use shall not be considered as providing the required parking for another use, unless it can be clearly demonstrated that the need for parking occurs at different times.

§ 201-12.4. Size of spaces.

A parking space shall not be less than nine feet in width by 20 feet in length together with an aisle of at least 24 feet. Where parallel parking is utilized, parallel spaces shall not be less than eight feet in width and 22 feet in length.

§ 201-12.5. Parking for persons with disabilities.

Parking for persons with disabilities shall be provided in designated spaces as outlined in the State Building Code and the requirements of the Architectural Access Board, latest edition. Accessible parking spaces serving a particular building, facility or temporary event shall be located on the shortest accessible route of travel from adjacent parking to an accessible entrance.

§ 201-12.6. Table of Minimum Requirements.

Residential	
Dwelling unit having 2 or more bedrooms	2 spaces
Dwelling unit having fewer than 2 bedrooms	1 space
Nonresidential	
Retail sales, services	1 space per 250 square feet gross floor area, but not fewer than 5 spaces per separate enterprise
Retail, auto dealership	1 space per 400 square feet gross floor area
Business or professional office per 300 square feet	Business District C: 1 space per 300 square feet gross floor area
	All other districts: 1 space per 200 square feet gross floor area
Bank	1 space per 200 square feet gross floor area
Restaurant	1 space per 150 square feet gross floor area
Medical or dental offices	6 spaces per doctor or dentist
Industrial, wholesale	1 space per employee; parking per employee to be measured by largest employee shift, as the requirements are to be calculated per the total workers present at any one time, not total employees
Place of public assembly	1 space per 3 persons capacity based on State Building Code
Hotel or motel guest unit	1 1/10 spaces per unit
Guesthouse, lodging house, other group accommodation	1 space per 2 persons accommodated
Nursing home	1 space per 3 beds

All other uses	1 space per 150 square feet or such smaller number of spaces as the Board of Appeals may, on special permit, determine adequate to accommodate all normal demand
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§ 201-12.7. Parking area design and location.

- A. Location. Required parking shall be either on the same premises as the activity it serves or on a separate parcel if located within 300 feet of the building entrance, and if not separated by a state-numbered highway, and if in a zoning district allowing the activity it serves.
- B. Setback. No more than five parking spaces shall be located within a required front yard, unless set back from the street line by more than 10% of the lesser of lot or district depth. It is the intent of this requirement that substantially all parking areas shall be located to the sides and rear of a building or buildings, and that the front yard setback shall be used primarily for walkways, landscaping, driveways, and the required buffer.
- C. Surface. All required parking areas, entrances and driveways, except those serving single-family residences, shall be paved, unless exempted on special permit from the Board of Appeals for cases such as seasonal or periodic use where an alternative surface will prevent dust, erosion, water accumulation or unsightly conditions.
- D. Backing. Parking areas with five or more spaces or reached from a state-numbered highway shall be designed and located so that their use does not involve vehicles backing onto a public way. Each parking area shall be designed to provide a circulation system within the lot so that all vehicles may exit from and enter into the adjacent street or way by being driven in a forward direction and no vehicle shall be required to enter or leave the parking area by traveling in reverse.
- E. Egress and access. For business districts only, driveway openings on the same side of the street shall be separated by at least 100 feet if on the same premises or by at least 50 feet if on separate premises, measured center line to center line at the street line. The maximum number of driveways permitting entrance and exit from a lot shall be limited to two per street line. At intersections, no driveway side line shall be located within 50 feet of the intersection of street way lines. The minimum width of a driveway servicing one-way traffic shall be 14 feet. The minimum width of a driveway used for two-way traffic shall be 24 feet and no driveway openings shall exceed 24 feet in width at the street line. All driveways serving five or more parking spaces shall be constructed with a minimum edge radius of five feet on both sides. Access and egress from all parking areas shall be only via driveways which meet the design standards of this section. Each required off-street parking space and loading area shall be designed so that any motor vehicle may proceed to and from said parking space or loading space without requiring the moving of any other vehicle or passing over of any other parking space or loading area. Lot division which would preclude meeting the above requirements shall provide access easements or other means of satisfying those requirements on each lot. Driveways shall be located so as to minimize conflict with traffic on public streets and where visibility and sight distances are available to observe approaching pedestrian and vehicular traffic. All driveways serving a business must

comply with the corner clearance requirements of this section. Parking plans shall include the delineation of the clear sight triangle. Clear sight distance at the intersection of a driveway serving a business and an existing way shall be defined by a clear sight triangle at the intersection per ITE and AASHTO standards. Measurements of clear sight distance shall be based on a line of sight at a level 3.5 feet above road surface at each end of the clear sight distance. Inside the clear sight triangle, no vision obstructing object or landscaping shall be permitted between a height of 3.5 feet and eight feet above the plane identified by the adjacent curb grades.

- F. **Parking lot plantings.** Parking lots containing 10 or more parking spaces shall have at least one tree per eight parking spaces, such trees to be located either within the lot or within five feet of it. Such trees shall be at least two inches trunk diameter with not less than 60 square feet of unpaved soil or other permeable surface area per tree. At least 5% of the interior of any parking lot having 25 or more spaces shall be maintained with landscaping, including trees, in plots of at least eight feet in width. Trees and soil plots shall be so located as to provide visual relief and sun and wind interruption within the parking area, and to assure safe patterns of internal circulation.
- G. **Bicycle racks.** For parking areas of 10 or more spaces, bicycle racks facilitating locking shall be provided to accommodate one bicycle per 20 parking spaces required or fraction thereof. No more than two bicycle racks shall be required to be supplied regardless of parking lot size.
- H. **Design standards.** Parking areas, access and egress must be constructed as follows:
 - (1) Twelve-inch gravel base course with 95% compaction.
 - (2) The gravel base course shall be primed at a rate of 1/2 gallon per square yard of MC-70 (or the equivalent) cut back asphalt (tack coat).
 - (3) Parking lot pavement shall be a minimum of three inches in thickness set in two courses as follows:
 - (a) Binder: two inches (minimum).
 - (b) Top course: one inch (minimum).
 - (c) Pavement shall comply with MassDOT standards and shall be compacted to a minimum of 95% laboratory density.¹⁴
 - (4) Parking lot perimeter curbs. Suitable curbing as approved by the Board shall be installed along the exterior perimeters of the parking lot.
 - (5) Interior parking lot islands. Interior parking lot islands shall be installed with either Cape Cod berms, vertical or sloped granite curbing or portland cement type concrete as approved by the Board.
 - (6) All illumination of parking, loading and service areas must be designed so as to not create glare on abutting properties. Light intensity at the property line shall be zero footcandle or less to comply with this bylaw.

14. Editor's Note: Amendment pending.

- (7) The design of each parking area shall provide adequate amenities to pedestrian safety, including but not limited to placement of crosswalks situated within and to the lot itself.

I. Grading and drainage.

- (1) Storm sewer systems shall be designed for the twenty-five-year twenty-four-hour storm at a minimum.
- (2) Drainage systems shall be designed to accommodate the two-, ten-, twenty-five- and one-hundred-year frequency storms, so that the peak rate of runoff under the post-construction conditions shall not exceed the peak rate of runoff under existing conditions. Drainage systems shall also be designed so there will be no increase in off-site flooding for the two-, ten-, twenty-five- and one-hundred-year twenty-four-hour frequency storms. Rainfall depths shall be based on the Northeast Regional Climate Center's "Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada," Publication No. RR 93-5 [(Cornell University, Ithaca, NY: September 1983 (The Cornell Standard))].
- (3) Roof drainage must be designed to connect to the drainage system or otherwise be infiltrated on site in dry wells to accommodate the twenty-five-year frequency storm. The Board may, at its discretion, require subsurface disposal of roof drainage.
- (4) Spot elevations must be included along with proposed and existing contours. Minimum slope of any parking lot and access and egress road shall not be less than 1%.
- (5) Parking and loading areas shall be designed and constructed to manage all stormwater runoff on the premises. In the event that stormwater cannot be controlled on the premises, stormwater may be permitted to run off site through drainage easements from all property owners upon whose property drainage will pass or end. The drainage system must be designed and constructed to include the following:¹⁵
 - (a) Oil and grease traps;
 - (b) Best management practices in accordance with industry standards and Massachusetts Department of Environmental Protection Stormwater Management Policy and the associated Guidelines for Stormwater Management, as revised; and
 - (c) All structures within parking and loading areas shall be designed for H-20 loading capacity.
- (6) The following information must be submitted for review of the drainage design:
 - (a) Location and types of inlets.
 - (b) Drainage watershed limits, flow paths, acreage of areas tributary to drainage structures and water detention areas.

15. Editor's Note: Amendment pending.

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- (c) The location, type, size, length, invert elevations and slope of all drainage pipes and culverts.
- (d) Construction details of proposed drainage structures including inlets, outlets, manholes, pipes, headwalls and other proposed drainage structures.
- (e) The location of wetlands and water bodies within 100 feet of the site; the boundaries of the wetland areas must be approved by the Norwell Conservation Commission.
- (f) Drainage calculations prepared by a registered professional engineer, licensed in the Commonwealth of Massachusetts.
- (7) Consideration must be given to the location of snow piles and where meltwater will travel; this must be accounted for in the drainage design.
- (8) All drainage systems must be constructed to adequately dispose of surface water generated on that property and to low maintenance.

§ 201-12.8. Erosion control.

During and after construction, all soils, mulch, wood chips, etc., shall be confined to the property. The Planning Board or its agent shall have the authority to require the applicant to provide specific erosion controls and placement thereof on site as needed during construction.

§ 201-12.9. Loading area.

- A. An adequate number of off-street loading areas shall be provided for any use serviced by delivery vehicles.
- B. Loading area must be located in the side or rear yards only.
- C. Each loading area shall be separately located from employee and customer parking and shall be designed to protect pedestrian safety and avoid traffic conflicts within, entering, and leaving the lot where the loading area is located.
- D. No area may be utilized and counted as both required parking space and required loading area unless the applicant can prove that loading activities will not conflict in any way with parking demand in that location during the times in which loading will take place.
- E. Each loading area shall consist of a bay measuring 30 feet long by 12 feet wide, and 14 feet high if covered, and a maneuvering space equal to the length of the bay.
- F. Under no circumstances is the idling of any truck or vehicle engine allowed in the loading or parking area for more than five minutes of continuous time.

§ 201-12.10. Shared parking.

Lesser parking requirements than those specified in § 201-12.6 may also be authorized by the Board of Appeals via a "shared parking plan." Shared parking will be defined as the ability of

entities to share parking spaces if the demand times generated in the area in question are largely mutually exclusive for each of the parties involved. Shared parking means that parking spaces are shared by more than one user, which allows parking facilities to be used more efficiently. Shared parking takes advantage of the fact that most parking spaces are only used part time by a particular motorist or group, and many parking facilities have a significant portion of unused spaces, with utilization patterns that follow predictable daily, weekly and annual cycles. The applicant must demonstrate during the site plan review process that lower parking requirements are warranted based on the utilization of shared parking. Shared parking shall be either on the same premises as the activity it serves or on a separate parcel if located within 300 feet of the building entrance, and not separated by a state-numbered highway, and if in a zoning district allowing the activity it serves.

- A. Any request to utilize shared parking must be accompanied by:
- (1) The current and proposed hours of operation;
 - (2) The anticipated parking demand generated for the proposed use(s);
 - (3) A description of the character of the land use and the parking patterns of adjacent uses;
 - (4) An estimate of the anticipated turnover in parking space use over a twenty-four-hour period of time;
 - (5) A site plan showing what the off-street parking provision would be if built to the specification of § 201-12.6, without the proposed reduction;
 - (6) A site plan showing the shared use spaces in the lot, walking distance to the uses sharing the lot and pedestrian amenities within and to all shared areas. Uses sharing the parking facility do not need to be contained within the same lot, but shall be a maximum of 500 feet from the closest parking space; and
 - (7) A reciprocal agreement executed by all parties concerned that ensures the long-term joint use of such shared parking, and that a copy has been submitted and found acceptable during the site plan review process. Such agreement must be recorded at the Registry of Deeds.
- B. In rendering a decision regarding a reduced parking scheme, the Board of Appeals should consider the following criteria:
- (1) The hours of operation and peak demand of the uses involved;
 - (2) The number of spaces required for each individual use pursuant to § 201-12.6;
 - (3) The applicant's sufficient demonstration that actual parking needs will be satisfied under the reduced required minimum and shared parking plan; and
 - (4) That the proposal not only satisfies the drainage requirements of § 201-12.7I for the proposed parking via a shared plan, but that the drainage system is designed to accommodate parking need, based on the minimum requirements set forth under § 201-12.6 for the cumulative uses proposed.
- C. In the event that the conditions for shared parking change, or if shared parking arrangement is discontinued, the applicant shall notify the Board of Appeals within 10

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days. The Board shall then require the applicant to meet the applicable parking requirements found in § 201-12.6 of this article, as the affected sites will be considered in violation of this bylaw upon the expiration of the shared parking agreement.

§ 201-12.11. Restrictions.

Parking area must be used for registered motor vehicle parking only, with no sales, dead storage, repair work, or servicing of any kind. The required parking areas must be permanently available for use by patrons and employees of establishments for which such space was provided.

§ 201-12.12. Maintenance.

Parking areas, loading spaces and landscaping shall be continuously maintained. Whenever necessary, surfacing, lighting, parking space markings and plantings shall be replaced or repaired, and drainage structures maintained. Failure to adequately maintain parking facilities shall be considered a violation of the bylaw.

ARTICLE 13

Landscaping and Screening

§ 201-13.1. District boundary buffers.

- A. A buffer is required on any premises in a business district if abutting or extending into a residential district when through new construction, addition, or occupancy change the premises is put to use not allowed in a residential district. Said buffer shall be located entirely within the business district along the full length of the district boundary, and shall have a depth of the lesser of 50 feet or 10% of the distance between the district boundary and the street line of the lot, except that at locations where the distance from the district boundary to the nearest structure in the residential district is not less than 150 feet, the Board of Appeals may grant a special permit to allow location of part or all of the buffer outside of the business district.
- B. No structure, parking area, or aboveground facility of any nature shall be erected, placed or added to within the buffer strip except that access roads or driveways through said buffer strip to property located in the residential district may be allowed on special permit by the Board of Appeals.
- C. The full length of the screened area shall be planted at least 2 1/2 feet high, have earth berms, differences in grade or equivalent visual interruption by retained natural growth. Fencing approved by the Town's Fence Viewer may be used up to a maximum of six feet in height in conjunction with such screening, but not in place of it. **[Amended 5-3-1994 ATM]**
- D. High screening shall also be provided through a staggered row of trees, either planted or retained, having at least a two-inch trunk diameter and being of size, species and spacing such that tree crowns will approximately meet each other and the lower level screening at maturity, except where egress visibility suggests clearance between 2 1/2

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and eight feet above grade. At least 60% of all trees used shall be of evergreen species, and all shall be of species common to the area and which reach an ultimate height of not less than 30 feet.

§ 201-13.2. Street and side line planting.

- A. Street and side line planting is required on any premises in a business district for each side line (other than those covered by § 201-13.1) which meets a state-numbered highway and for the full frontage on a state-numbered highway. Such planting is required when any new building, addition or change of use requires a parking increase of five or more spaces.
- B. The side line planting area shall be at least five feet wide free of any paving (except for access drives connecting abutting premises) and shall contain high screening as described in § 201-13.1D, except that evergreens are not required. The screening shall extend from the street line to the deepest point on the premises having buildings or parking. Screening shall be located or trimmed to avoid blocking egress visibility.
- C. The street planting shall consist of a staggered row of trees within 20 feet of the street lines, either planted or retained, having at least two-inch trunk diameter and being of size, species and spacing such that tree crowns will approximately meet at maturity. Species shall be ones common to the area and which reach an ultimate height of not less than 30 feet.
- D. Any site plan submitted for review under § 201-3.4 shall indicate any existing trees of four-inch trunk diameter or greater if within 25 feet of the street side line or five feet of a side lot line. No such tree shall be removed unless, following referral to the Director of Lands and Natural Resources, such removal is approved by the Board of Appeals on grounds that poor tree health or access and public safety so dictate.

§ 201-13.3. Materials and maintenance.

- A. A list of plant materials recommended (but not required) for these purposes is available from the Director of Lands and Natural Resources or from the Planning Board.
- B. All plant materials required by this bylaw shall be maintained in a healthful condition and dead materials replaced at the earliest appropriate season.

ARTICLE 14

Signs

§ 201-14.1. Enforcement.

- A. Building Inspector/Zoning Enforcement Officer. The Building Inspector/Zoning Enforcement Officer, and their duly authorized agents may, at reasonable times and upon presentation of credentials, issue a written order of repair or removal of any sign and its supporting structure which is erected contrary to this bylaw. In the event the owner of the sign fails to comply with the order, the Building Inspector/Zoning

Enforcement Officer and his duly authorized agents may issue a complaint and fine pursuant to § 201-2.3 and/or take enforcement action in accordance with MGL c. 40A, § 7. All expenses incurred by the Building Inspector/Zoning Enforcement Officer relating to the enforcement of this bylaw may be assessable against any person who failed to obey such order and shall be recoverable in court of competent jurisdiction. The Building Inspector/Zoning Enforcement Officer is further authorized to remove and dispose of signs placed in violation of the Town bylaws on public property and public ways. **[Amended 5-8-2017 ATM, Art. 35]**

B. Permits and fees.

- (1) Except for signs permitted in a residential area, and temporary signs to be placed in a window, no sign shall be erected, enlarged, reworded, redesigned or structurally altered without a sign permit issued by the Building Inspector/Zoning Enforcement Officer.
- (2) The Building Inspector/Zoning Enforcement Officer is authorized to grant a permit for a sign in compliance with this bylaw. After reviewing a sign application, the Building Inspector/Zoning Enforcement Officer may deny such application if he determines that the erection of the sign will be injurious or offensive to the area because of lighting, noise, or obstruction of vision or hazardous to the public good because of color or the creation of visual confusion in the area.
- (3) If the Building Inspector/Zoning Enforcement Officer does deny an application, the applicant may appeal the decision to the Board of Appeals. The Building Inspector/Zoning Enforcement Officer shall make his determination to approve or disapprove an application for a sign permit within 15 days of receiving it.
- (4) A schedule of fees for the permits for authorized signs may be determined from time to time by the Board of Selectmen.

§ 201-14.2. Permitted signs.

A. All residential districts.

- (1) One sign displaying the street number and/or name of the occupant of the premises not to exceed three square feet in area. Such sign may include identification of an accessory or professional office or other accessory use permitted in a residential district.
- (2) Signs pertaining to the lease, sale or use of a lot or buildings provided that such signs do not exceed a total of six square feet. These signs must be taken down immediately after the sale or lease of the property.
- (3) One bulletin or announcement board, identification sign or entrance marker for designating historical, conservation or similar public uses or for each public entrance to the premises upon which a church, synagogue or other institution is located, not to exceed 10 square feet in area, provided that there shall be no more than three such signs for each institution.

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- (4) One contractor's sign, not to exceed 10 square feet in area (except as otherwise required by law), maintained on the premises while construction is in progress and containing information relevant to the project. Such sign shall be removed within seven days after the certificate of occupancy is issued.
- (5) One sign identifying each public entrance to a subdivision providing such sign does not exceed 10 square feet.

B. All business districts.

- (1) All signs permitted in Subsection A shall be permitted in all business districts.
- (2) One freestanding sign per lot not to exceed 25 square feet in area or eight feet on any one side.
 - (a) Regarding buildings with only one tenant, this sign shall identify that tenant by name. In buildings having multiple tenants, or on lots having more than one building, additional signs may be attached in a ladder fashion to the bottom of the freestanding sign.
 - (b) In such cases, the main sign would identify the major tenant or the name of the site as appropriate. The additional signs are to be for the sole purpose of identifying the location of a business to passersby and shall not exceed three square feet in area. In no case, regardless of the number of tenants, shall the total area of the freestanding sign exceed 40 square feet.
- (3) One wall sign per building not to exceed 15 square feet. Any such sign shall be flat against the wall of the building and shall not extend beyond the face of the building.
- (4) Window signs either painted on or attached to the inside of a window provided such signs do not cover more than 25% of the window glass. Signs placed in a window to advertise sales or promotions may cover no more than 50% of the window glass and may not be posted for longer than 30 days. No window signs shall be illuminated or lighted.

C. Other permitted signs (all districts).

- (1) Signs expressing support for candidates for political office or in support of or opposition to a public issue provided these signs are temporary and are erected for a period of less than 60 days.
 - (a) Signs shall be placed on privately owned property only.
 - (b) All political signs shall be removed within three days after the election has taken place.
 - (c) In no event may these signs be posted on utility poles.
- (2) Temporary signs shall be permitted in accordance with this section for purposes of promoting any business, or any charitable, civic or municipal event. No temporary sign shall be erected until application has been made to and a permit has been issued by the Building Inspector/Zoning Enforcement Officer. [**5-7-1998 ATM, Art. 28**]

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- (a) The Building Inspector/Zoning Enforcement Officer may deny an application, and may require the removal of a temporary sign after permit, if he determines that the sign will be or is a threat to public safety or offensive to the area because of color, material or construction.
- (b) The Building Inspector/Zoning Enforcement Officer shall approve or deny an application within seven days of receipt. The denial or approval may be appealed by the applicant or by an aggrieved party to the Board of Appeals.
- (c) A sign authorized by this section shall be erected at ground level and shall be stationary. The sign shall be freestanding, meaning that it shall not be attached to or supported by any natural or man-made object, nor shall any vehicle, trailer, balloon, kite, flag or other contrivance be used as a means of exhibiting a sign.
- (d) No more than one temporary sign shall be permitted on any one lot at one time.
- (e) A temporary sign shall not exceed four feet in either width or height nor a total of 10 square feet, except that a sign in a residential district promoting other than charitable, civic or municipal events shall conform to the residential requirements as set forth in Subsection A. If a two-sided sign, the dimensions may apply to each side separately.
- (f) No temporary sign shall be permitted for more than 30 consecutive days. No applicant shall be permitted to maintain a temporary sign for more than 45 days in a single calendar year regardless of the number of permits obtained.

§ 201-14.3. Other provisions.**A. Prohibitions.**

- (1) Illumination except by the following means:
 - (a) Exterior white steady stationary lights of reasonable intensity shielded and directed solely at the sign.
 - (b) Interior non-exposed white lights of reasonable intensity.
- (2) Lighting between the hours of 1:00 a.m. and 5:00 a.m., unless the establishment is open for business during that time.
- (3) Exposed gaseous tubes.
- (4) Billboards (off-premises signs).
- (5) Roof signs and V-shaped signs.
- (6) Movement except those signs which are sole indicators of time and/or temperature.

§ 201-14.4. General provisions.

- A. Setback. All freestanding signs shall be set back a minimum of 10 feet from the edge of the way line on which the building fronts, and at least 20 feet from all other property lines.
- B. Color. No sign shall contain more than three colors.
- C. Height. No part of a freestanding sign or its supporting structure shall exceed 20 feet in height.
- D. Maintenance. All signs in all districts shall be maintained in a safe and neat condition to the satisfaction of the Building Inspector/Zoning Enforcement Officer and in accordance with the State Building Code. Structural damage, missing letters or other deterioration obscuring content shall be remedied or the sign removed within 60 days.

§ 201-14.5. Nonconformance of accessory signs.

Accessory signs legally erected before the adoption of the bylaw which do not conform to the provisions of this bylaw may continue to be maintained without a permit; provided, however, that no such sign shall be permitted if, after the adoption of this bylaw, it is enlarged, reworded (other than in the case of theater or cinema signs or signs with automatically changing messages), redesigned or altered in any substantial way, except to conform to the requirements of this bylaw; and provided further that any such sign which has deteriorated to such an extent that the cost of restoration would exceed 50% of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of the bylaw. Any exemption provided in this section shall terminate with respect to such sign which:

- A. Shall have been abandoned; or
- B. Advertises or calls attention to any products, businesses, or activities which are no longer sold or carried on, whether generally or at the particular premises; or
- C. Shall not have been repaired or properly maintained within 30 days after notice to that effect has been given by the Building Inspector/Zoning Enforcement Officer.

ARTICLE 15

Building Demolition
[5-24-1999 ATM]

§ 201-15.1. Intent and purpose.

This bylaw is adopted for the purpose of identifying and protecting the historic and aesthetic qualities of the Town by preserving, rehabilitating or restoring, whenever possible, buildings, structures or properties which constitute or reflect distinctive features of the architectural, aesthetic or historic resources of the Town, thereby promoting the public welfare and preserving the cultural heritage of the Town.

§ 201-15.2. Definitions.

For the purpose of this article, the following words and phrases have the following meanings:

COMMISSION — The Norwell Historical Commission.

DEMOLITION PERMIT — The permit issued by the Inspector as required by the State Building Code for the demolition, partial demolition or removal of a building or structure.

HISTORICALLY SIGNIFICANT BUILDING, STRUCTURE OR PROPERTY — Any building, structure or property which is:

- A. Importantly associated with one or more historic persons or events, or with the architectural, cultural, political, economic or social history of the Town, the Commonwealth of Massachusetts or the United States of America; or
- B. Historically or architecturally important by reason of period, style, method of building construction or association with a particular architect or builder, either by itself or in the context of a group of buildings or structures; or
- C. A vista, bridge, stone wall, tree, road marker or sign, or any other property identified as of aesthetic, architectural, cultural, political or historical significance, by the Commission.

INSPECTOR — The Norwell Building Inspector/Zoning Enforcement Officer.

§ 201-15.3. Regulated buildings, structures and properties.

- A. The provisions of this Article 15 shall apply only to the following buildings, structures or properties:
 - (1) A building, structure or property listed on the National Register of Historic Places or the State Register of Historic Places, or the subject of a pending application for listing on either of said Registers; or
 - (2) A building, structure or property located within 200 feet of the boundary line of any federal, state or local historic district; or
 - (3) A building, structure or property included in the Inventory of the Historic and Prehistoric Assets of the Commonwealth, or designated by the Commission for inclusion in said Inventory.
- B. Notwithstanding the preceding subsection, the provisions of this article shall not apply to any building, structure or property located in a local historic district and subject to regulation under the provisions of MGL c. 40C.

§ 201-15.4. Procedure.

- A. The Inspector shall forward a copy of each demolition permit application for a building, structure or property identified in § 201-15.3 of this article to the Commission within seven business days after the filing of such application. [5-5-2014 ATM]

- B. Within 30 days after its receipt of such application, the Commission shall determine whether the building, structure or property is historically significant. The applicant for the permit shall be entitled to make a presentation to the Commission if he or she makes a timely request in writing to the Commission. There shall be required a separate demolition permit application for each building, structure or historically significant feature on the parcel. [**5-5-2014 ATM**]
- C. If the Commission determines that the building, structure or property is not historically significant, it shall so notify the Inspector and the applicant in writing and the Inspector may issue a demolition permit. If the Commission determines that the building, structure or property is historically significant, it shall notify the Inspector and the applicant in writing that a demolition plan review must be made prior to the issuance of a demolition permit. If the Commission fails to notify the Inspector and the applicant of its determination within 30 days after its receipt of the application, then the building, structure or property shall be deemed not historically significant and the Inspector may issue a demolition permit.
- D. Within 60 days after the applicant is notified that the Commission has determined that a building, structure or property is historically significant, the applicant for the permit shall submit to the Commission 10 copies of a demolition plan which shall include the following information:
 - (1) A map showing the location of the building, structure or property to be demolished with reference to lot lines and to neighboring buildings and structures;
 - (2) Photographs of all street facade elevations;
 - (3) A description of the building, structure or property, or part thereof, to be demolished;
 - (4) The reason for the proposed demolition and data supporting said reason, including, where applicable, data sufficient to establish any economic justification for demolition; and
 - (5) A brief description of the proposed reuse of the parcel on which the building, structure or property to be demolished is located.
- E. The Commission shall hold a public hearing with respect to the application for a demolition permit and shall give public notice of the time, place and purposes thereof at least 14 days before said hearing in such a manner as it may determine, and by mailing, postage prepaid, a copy of said notice to the applicant, to the owners of all adjoining property and other property deemed by the Commission to be materially affected thereby as they appear on the most recent real estate tax list of the Board of Assessors, to the Planning Board, to any person filing written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.
 - (1) Within 60 days after its receipt of the demolition plan, the Commission shall file a written report with the Inspector on the demolition plan which shall include the following:

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- (a) A description of the age, architectural style, historic association and importance of the building or structure to be demolished.
 - (b) A determination as to whether or not the building, structure or property should preferably be preserved.
- (2) The Commission shall determine that a building, structure or property should preferably be preserved only if it finds that the building, structure or property is a historically significant building, structure or property which, because of the important contribution made by such building, structure or property to the Town's historical and/or architectural resources, it is in the public interest to preserve, rehabilitate or restore.
- F. If, following the demolition plan review, the Commission does not determine that the building, structure or property should preferably be preserved, or if the Commission fails to file a report with the Inspector within the time limit set out in Subsection E next above, then the Inspector may issue a demolition permit.
- G. If, following the demolition plan review, the Commission determines that the building, structure or property should preferably be preserved, then the Inspector shall not issue a demolition permit for a period of one year from the date of the filing of the Commission's report unless the Commission informs the Inspector prior to the expiration of such one-year period that it is satisfied that the applicant for the demolition permit has made a bona fide, reasonable and unsuccessful effort to locate a purchaser for the building, structure or property who is willing to preserve, rehabilitate or restore the building, structure or property, or has agreed to accept a demolition permit on specified conditions approved by the Commission. **[Amended 5-13-2008 ATM]**
- H. The Inspector shall not issue any permit, including permits for foundation and septic systems, with respect to any parcel wherein a demolition permit has been applied for, unless and until the terms of such permit have been fully complied with or otherwise waived by the Commission. **[5-5-2014 ATM]**
- I. Anything to the contrary notwithstanding, any demolition permit application which has not been completed in accord with the provisions of this bylaw within 90 days of its filing shall expire, unless an extension is granted by the Commission. **[5-5-2014 ATM]**

§ 201-15.5. Emergency demolition.

If the condition of a building, structure or property poses a serious and imminent threat to public health or safety due to its deteriorated condition, the owner of such building, structure or property may request the issuance of an emergency demolition permit from the Inspector. As soon as practicable after the receipt of such a request, the Inspector shall arrange to have the property inspected by a board consisting of the Inspector, the Chair of the Commission and the Board of Health, and the Chief of the Fire Department, or their respective designees. After inspection of the building, structure or property and consultation with this board, the Inspector shall determine whether the condition of the building, structure or property represents a serious and imminent threat to public health or safety and whether there is any reasonable alternative to the immediate demolition of the building, structure, or property

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which would protect the public health or safety. If the Inspector finds that the condition of the building, structure or property poses a serious and imminent threat to public health or safety, and that there is no reasonable alternative to the immediate demolition permit under the provisions of this section, the Inspector shall prepare a written report describing the condition of the building, structure or property and the basis for the decision to issue an emergency demolition permit with the Commission. Nothing in this section shall be inconsistent with the procedures for the demolition and/or securing of the building and structures established by MGL c. 143, §§ 6 to 10. In the event that a Board of Survey is convened under the provisions of MGL c. 143, § 8, with regard to any building, structure or property identified in § 201-15.3 of this article, the Inspector shall request the Chair of the Commission or the Chair's designee to accompany the Board of Survey during its inspection. A copy of the written report prepared as a result of such inspection shall be filed with the Commission.

§ 201-15.6. Violations and penalties.

- A. Anyone who demolishes a building, structure or property identified in § 201-15.3 of this article without first obtaining and complying fully with the provisions of a demolition permit shall be subject to a fine of not less than \$1,000 nor more than \$25,000 and the Inspector shall not issue a building permit pertaining to any parcel on which a building, structure or property identified in § 201-15.3 of this section has been demolished for a period three years after the date of demolition.
- B. The Commission shall have the authorization to waive or modify the three-year restriction on the issuance of a building permit. [5-5-2014 ATM]

§ 201-15.7. Appeals to Superior Court.

Any person aggrieved by a determination of the Commission may, within 20 days after the filing of the notice of such determination with the Inspector, appeal to the Superior Court for Plymouth County. The Court shall hear all pertinent evidence and shall annul the determination of the Commission if it finds the decision of the Commission to be unsupported by the evidence or to exceed the authority of the Commission or may remand the case for further action by the Commission or make such other decree as justice and equity shall require.

§ 201-15.8. Severability.

In case any section, paragraph or part of this bylaw is declared invalid or unconstitutional by any court of competent jurisdiction, every other section, paragraph and part of this bylaw shall continue in full force and effect.

§ 201-15.9. Annual report.

The Commission shall be required to present a written annual report by January 1 of each calendar year to the Inspector, the Planning Board and the Highway Department.

- A. This report shall include but is not limited to the following:

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- (1) An inventory of any and all buildings, structures and properties that have been designated and registered as being covered by this bylaw.
 - (2) A list of any and all buildings, structures and properties covered by this bylaw that are under consideration and study by the Commission or the Massachusetts Historical Commission.
- B. A copy of this report shall be made available to the Selectmen, Town Public Library and the Massachusetts Historical Commission.

ARTICLE 16

Stormwater Management**§ 201-16.1. Findings and objectives. [5-7-2012 ATM]**

Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town of Norwell's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater.

- A. The harmful impacts of soil erosion and sedimentation are:
- (1) Impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater;
 - (2) Contamination of drinking water supplies;
 - (3) Alteration or destruction of aquatic and wildlife habitat;
 - (4) Flooding; and
 - (5) Overloading or clogging of municipal catch basins and storm drainage systems.
- B. The objectives of this article are:
- (1) To require practices to control the flow of stormwater from new and redeveloped sites into the Town of Norwell's storm drainage system in order to prevent flooding and erosion;
 - (2) To protect groundwater and surface water from degradation;
 - (3) To promote groundwater recharge;
 - (4) To prevent pollutants from entering the Town of Norwell's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
 - (5) To ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed;

- (6) To comply with state and federal statutes and regulations relating to stormwater discharges; and
- (7) To establish the Town of Norwell's legal authority to ensure compliance with the provisions of this article through inspection, monitoring and enforcement.

§ 201-16.2. Definitions.

ABUTTER — The owner(s) of land abutting the activity.

AGRICULTURE — The normal maintenance or improvement of land in agricultural or aquacultural use, as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.¹⁶

ALTERATION OF DRAINAGE CHARACTERISTICS — Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

APPLICANT — Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department or political subdivision of the Commonwealth or the federal government to the extent permitted by law requesting a soil erosion and sediment control permit for proposed construction activity.

AUTHORIZED ENFORCEMENT AGENCY — The Planning Board (hereafter the Board), its employees or agents designated to enforce this article.¹⁷

BEST MANAGEMENT PRACTICE (BMP) — An activity, procedure, restraint or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

CLEARING — Any activity that removes/structurally alters preexisting pervious or impervious surfaces at a site.

CONSTRUCTION ACTIVITY — Any activity that causes a change in the position or location of soil, sand, rock, gravel or similar earth material.

CONSTRUCTION AND WASTE MATERIALS — Excess or discarded building or site materials, including but not limited to concrete truck washout, chemicals, litter and sanitary waste at a construction site that may adversely impact water quality.

CONSTRUCTION SITE — The plot of land located within the Town on which the construction activity will occur.

DEVELOPMENT — The modification of land to accommodate a new use or expansion of use, usually involving construction.

DISTURBANCE — Construction activity including clearing, grubbing or grading.

16. Editor's Note: See MGL c. 131, § 40, and 310 CMR 10.00.

17. Editor's Note: Amendment pending.

EROSION — The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity or vehicle traffic and the subsequent detachment and transportation of soil particles.

EROSION AND SEDIMENTATION CONTROL PLAN — A document containing narrative drawings and details developed by a qualified professional engineer (PE), which includes best management practices, or equivalent measures designed to control surface runoff, erosion and sedimentation during pre-construction and construction-related activities.

ESTIMATED HABITAT OF RARE WILDLIFE and CERTIFIED VERNAL POOLS — Habitats delineated for state-protected rare wildlife and certified vernal pools for use with the Wetlands Protection Act regulations (310 CMR 10.00) and the Forest Cutting Practices Act regulations (304 CMR 11.00).

GRADING — Changing the level or shape of the ground surface.

GRUBBING — The act of clearing land surface by digging up roots and stumps.

IMPERVIOUS SURFACE — Any material or structure on or above the ground that prevents water infiltrating the underlying soil. "Impervious surface" includes without limitation roads, paved parking lots, sidewalks and rooftops.

MASSACHUSETTS ENDANGERED SPECIES ACT — Massachusetts General Laws Chapter 131A and its implementing regulations at 321 CMR 10.00 which prohibit the "taking" of any rare plant or animal species listed as endangered, threatened or of special concern.

MASSACHUSETTS STORMWATER MANAGEMENT POLICY — The policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and Massachusetts Clean Waters Act, MGL c. 21, §§ 23 to 56. The policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MASSACHUSETTS STORMWATER MANAGEMENT STANDARDS — The standards issued by the Massachusetts Department of Environmental Protection (DEP), codified in regulations at 310 CMR 10.05(6)(k) to (q) and further defined and specified in the Massachusetts Stormwater Handbook issued by the DEP. The standards address stormwater impacts through implementation of performance standards that reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) or MUNICIPAL STORM DRAIN SYSTEM — The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Norwell.

NPDES — National Pollutant Discharge Elimination System construction general permit issued by the Environmental Protection Agency to the applicant.¹⁸

18. Editor's Note: Amendment pending.

OPERATOR — The party associated with the construction activity that meets either of the following two criteria:

- A. The party who has operational control over construction plans and specifications including the ability to make modifications to those plans and specifications; or
- B. The party who has day-to-day operational control of those activities at a project which are necessary to ensure compliance with a stormwater pollution prevention plan for the site or other permit conditions.

OUTFALL — The point at which stormwater flows out from a point source (a discernible, confined and discrete conveyance) into waters of the Commonwealth.¹⁹

OUTSTANDING RESOURCE WATERS (ORWS) — Waters designated by the Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. Outstanding resource waters (ORWs) include vernal pools certified by the Natural Heritage Program of the Massachusetts Division of Fisheries and Wildlife and Environmental Police, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.²⁰

OWNER — A person with a legal or equitable interest in property.

PERSON — An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee or agent of such person.

POINT SOURCE — Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure or container, from which pollutants are or may be discharged.

POLLUTANTS — Include without limitation the following: dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rocks, sand, animal or agricultural waste, oil, grease, gasoline or diesel fuel.

PRE-CONSTRUCTION — All activity in preparation for construction.

PRIORITY HABITAT OF RARE SPECIES — Habitats delineated for rare plant and animal populations protected pursuant to the Massachusetts Endangered Species Act and its regulations.

REDEVELOPMENT — Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

RUNOFF — Rainfall, snowmelt or irrigation water flowing over the ground surface.

19. Editor's Note: Amendment pending.

20. Editor's Note: Amendment pending.

SEDIMENT — Mineral or organic soil material that is transported by wind or water from its origin to another location; the product of erosion processes.

SEDIMENTATION — The process or act of deposition of sediment.

SITE — Any lot or parcel of land or area of property where land disturbing activities are, were or will be performed.²¹

SLOPE — The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.

SOIL — Any earth, sand, rock, gravel or similar material.

STABILIZATION — The use, singly or in combination, of mechanical, structural or vegetative methods to prevent or retard erosion.

STORMWATER — Stormwater runoff, snowmelt runoff and surface water runoff and drainage.

STORMWATER DISCHARGES — Stormwater that runs off from the construction site into the MS4 or otherwise into waters of the United States.

STORMWATER MANAGEMENT MEASURES — Infrastructure improvements that are constructed or installed during construction activity to prevent pollutants from entering stormwater discharges or to reduce the quantity of stormwater discharges that will occur after construction activity has been completed. Examples include but are not limited to on-site filtration, flow attenuation by vegetation or natural depressions, outfall velocity dissipation devices, retention structures and artificial wetlands, and water quality detention structures.

STORMWATER PERMIT — The permit issued by the awarding authority to the applicant which allows construction activity to occur as outlined by the applicant in its application and stormwater pollution prevention plan.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — That plan required of all applicants in which they outline the erosion and sedimentation BMPs they will use, the BMPs they will use to control wastes generated on the construction site, the stormwater management measures they will construct and their plan for long-term maintenance of these measures.

STRIP — Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing and storage or removal of topsoil.

TSS — Total suspended solids.²²

VERNAL POOLS — Temporary bodies of freshwater which provide critical habitat for a number of vertebrate and invertebrate wildlife species.

WATERCOURSE — A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.

WATERS OF THE UNITED STATES — These include:

21. Editor's Note: Amendment pending.

22. Editor's Note: Amendment pending.

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- A. All waters that are currently used, were used in the past or may be susceptible to use in interstate or foreign commerce, including all waters that are subject to the ebb and flow of the tide;
- B. All interstate waters including interstate wetlands;
- C. All other waters such as interstate lakes, rivers, streams (including intermittent streams), mud flats, sand flats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes or natural ponds, the use, degradation or destruction of which would affect or could affect interstate or foreign commerce, including any such waters:
 - (1) That are or could be used by interstate or foreign travelers for recreational or other purposes;
 - (2) From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - (3) That are used or could be used for industrial purposes by industries in interstate commerce;
- D. All impoundments of waters otherwise defined as waters of the United States under this definition;
- E. Tributaries of waters identified in Subsections A through D of this definition;
- F. The territorial sea; and
- G. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in Subsections A through F of this definition.

WETLANDS — Tidal and non-tidal areas characterized by saturated or nearly saturated soils most of the year that are located between terrestrial (land-based) and aquatic (water-based) environments, including freshwater marshes around ponds and channels (rivers and streams) and brackish and salt marshes; common names include marshes, swamps and bogs.

§ 201-16.3. Authority.

This article is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the home rule statutes and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

§ 201-16.4. Applicability.

- A. This article shall apply to all activities that result in disturbance of one or more acres of land, where all or a portion of that land drains stormwater to the municipal separate storm sewer system. Except as authorized by the Board in a stormwater permit or as otherwise provided in this article, no person shall perform any activity that results in disturbance of an acre or more of land.
- B. Normal maintenance and improvement of land in agricultural or aquacultural use, as defined by the Wetlands Protection Act regulations, 310 CMR 10.04, are exempt. In addition, construction activities are exempt from needing a stormwater permit if

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stormwater discharge resulting from the project demonstrates compliance with the Massachusetts Stormwater Management Standards, either through a properly issued order of conditions, site plan review, special permit/variance or subdivision plan approval. In order to receive this exemption, the order of conditions, site plan review, special permit/variance or subdivision plan approval must be related to the entire footprint of the project.

- C. The stormwater permit does not exclude the requirement of filing a construction general permit with the Environmental Protection Agency.

§ 201-16.5. Administration.

- A. The Board shall administer, implement and enforce this article. Any powers granted to or duties imposed upon the Board may be delegated in writing by the Board to its employees or agents.
- B. Waiver. The Board may waive strict compliance with any requirement of this article or the rules and regulations promulgated hereunder, where:
- (1) Such action is allowed by federal, state and local statutes and/or regulations;
 - (2) The project is in the public interest; and²³
 - (3) The project is not inconsistent with the purpose and intent of this article.
- C. Rules and regulations. The Board may adopt, and periodically amend, rules and regulations to effectuate the purposes of this article. Failure by the Board to promulgate such rules and regulations shall not have the effect of suspending or invalidating this article.

§ 201-16.6. Stormwater permit procedure.

- A. Application procedure. Applicant must sign and file an application for a stormwater permit on a form provided by the Town. The application should be submitted to the Board and to be deemed complete must be accompanied by:
- (1) A stormwater permit application fee;
 - (2) Identification of the construction site by book, page and plot number in the records of the Assessor's office;
 - (3) A narrative description of the construction activity intended, the proposed use of any improvements to be constructed and the construction timetable;
 - (4) A site plan required by § 201-16.7;
 - (5) A list of abutters certified by the Assessor's office including addresses; and
 - (6) A stormwater pollution prevention plan required by § 201-16.8.

23. Editor's Note: Amendment pending.

- B. Entry. Filing an application for a permit grants the Board or its agent permission to enter the site to verify the information in the application and to inspect for compliance with permit conditions.
- C. Other boards. The Board shall notify the Town Clerk of receipt of the application and shall give one copy of the application package to the Building Department, Conservation Commission and Highway Department for review and comment.
- D. Public hearing. The Board shall hold a public hearing within 21 days of the receipt of a complete application and shall take final action within 21 days from the time of the close of the hearing unless such time is extended by agreement between the applicant and the Board. Notice of the public hearing shall be given by publication and posting and by first-class mailings to abutters at least 14 days prior to the hearing. The Board shall make the application available for inspection by the public during business hours at the Town of Norwell's Planning Department office.
- E. Information requests. The applicant shall submit all additional information requested by the Board to issue a decision on the application.
- F. Action by the Board.
 - (1) The Board may:
 - (a) Approve the stormwater permit application and issue a permit if it finds that the proposed plan will protect water resources and meets the objectives and requirements of this article;
 - (b) Approve the stormwater permit application and issue a permit with conditions, modifications or restrictions that the Board determines are required to ensure that the project will protect water resources and meets the objectives and requirements of this article; or
 - (c) Disapprove the stormwater permit application and deny the permit if it finds that the proposed plan will not protect water resources or fails to meet the objectives and requirements of this article.
 - (2) Prior to approval of a stormwater permit application, the Board will ensure that the applicant is incorporating low-impact design and green infrastructure (e.g., rain gardens, bioretention areas, water quality swales, etc.) to the maximum extent practicable. This should include elements that avoid clear-cutting and minimize the amount of proposed impervious surfaces.
- G. Failure of the Board to take final action. Failure of the Board to take final action upon an application within the time specified above shall be deemed to be approval of said application. Upon certification by the Town Clerk that the allowed time has passed without the Board's action, the stormwater permit shall be issued by the Board.
- H. Fee structure. Each application must be accompanied by the appropriate application fee as established by the Board pursuant to rules and regulations to be adopted by the Board. Applicants shall pay review fees as determined by the Board sufficient to cover any expenses connected with the public hearing and review of the stormwater permit application before the review process commences. The Board is authorized to retain a

registered professional engineer or other professional consultant to advise the Board on any or all aspects of the application.

- I. Project changes. The permittee, or his/her agent, must notify the Board in writing of any change or alteration of a land disturbing activity authorized in a stormwater permit before any change or alteration occurs. If the Board determines that the change or alteration is significant, based on the design requirements listed in § 201-16.7 and accepted construction practices, the Board may require that an amended stormwater permit application be filed and a public hearing held. If any change or alteration from the stormwater permit occurs during any land disturbing activities, the Board may require the installation of interim erosion and sedimentation control measures before approving the change or alteration.

§ 201-16.7. Site plan.

The site plan that is submitted must be stamped by a professional civil engineer (PE) registered in Massachusetts and contain at least the following information:

- A. Names, addresses and telephone numbers of the person(s) or firm(s) preparing the plan.
- B. Title, date, North arrow, scale, legend and locus map.
- C. Zoning, district boundaries and current land use on the construction site.
- D. Location and description of natural features including watercourses and water bodies, wetland resource areas and all floodplain information including the one-hundred-year flood elevation based upon the most recent Flood Insurance Rate Map (or as calculated by a professional engineer for areas not assessed on those maps) located on or adjacent to the construction site.
- E. A description and delineation of existing stormwater conveyances and impoundments located on the construction site with their point of discharge noted.
- F. Location and description of existing soils and vegetation including tree lines, shrub layer, ground cover and herbaceous vegetation with runoff coefficient of each and identification of trees with a caliper 12 inches or larger.
- G. Habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species located on or adjacent to the construction site.
- H. Lines of existing abutting streets showing drainage, driveway locations and curb cuts on and abutting the construction site.
- I. Surveyed property lines of the construction site showing distances and monument locations, all existing easements, rights-of-way and other encumbrances, the area of the entire area that is to be disturbed. The plan shall specify the land area and area of upland and wetlands on the site and easements required for construction/post-construction operation and maintenance (O&M). As a condition of the issuance of the certificate of completion by the Board, all easements required for construction/post-construction O&M should be filed at the Plymouth County Registry of Deeds.

- J. All proposed site improvements including location of buildings or other structures and impervious surfaces (such as parking lots).
- K. Topographical features including existing and proposed contours at intervals of no greater than two feet with spot elevations provided when needed.
- L. The existing and proposed site hydrology including drainage patterns and finish grades after construction.
- M. Location of the municipal separate stormwater sewer system with relation to the construction site.
- N. Identification of outfalls which are located on the construction site.
- O. Stormwater discharge calculations prepared and certified by a registered professional civil engineer in the Commonwealth of Massachusetts describing the volume and rate of stormwater that presently discharges from the construction site and the estimated volume and rate of post-development conditions.
- P. Identification of any existing stormwater discharges emanating from the construction site and discharging into the municipal separate stormwater sewer system and receiving waters.
- Q. Soil logs at all proposed detention/retention basins demonstrating infiltration rates necessary for best management practice implementation.

§ 201-16.8. Stormwater pollution prevention plan.

The applicant must submit a stormwater pollution prevention plan (SWPPP) with its application for a stormwater permit. The SWPPP must be stamped by a professional civil engineer registered in Massachusetts and include the following: a plan to control wastes generated by the construction activity on the construction site, an erosion and sedimentation control plan, a plan to construct stormwater management measures, and a plan for operation and maintenance of stormwater management measures after construction has been completed.

- A. Plan to control wastes. Applicant must list the construction and waste materials expected to be generated or stored on the construction site. These wastes include but are not limited to discarded building materials, concrete truck washout, chemicals, litter, sanitary waste and material stockpiles. Applicant must also describe in narrative form the best management practices it will utilize to reduce pollutants from these materials including storage practices to minimize exposure of the materials to stormwater and spill prevention and response plans. If any structural BMPs are proposed, they must be identified and located on the site plan. At a minimum, the applicant's plan should provide for the following:
 - (1) Areas designated and controlled for equipment storage, maintenance and repair.
 - (2) Convenient locations for waste receptacles and a schedule for regular removal.
 - (3) Wash-down areas for vehicles selected to prevent contamination of stormwater.
 - (4) Covered storage areas for chemicals, paints, solvents, fertilizers and other toxic materials.

(5) Adequately maintained sanitary facilities.

B. Erosion and sedimentation control plan. Applicant must describe its plan for properly stabilizing the site before construction begins and the BMPs that it will use during construction to minimize erosion of the soil and sedimentation of the stormwater. These BMPs should include both stabilization practices (such as seeding, mulching, preserving trees and vegetative buffer strips, and contouring) and structural practices (such as earth dikes, silt fences, drainage swales, sediment traps, check dams and subsurface or pipe slope drains). Applicant must locate structural BMPs on the site plan. Applicant must also provide details of construction including the timing, scheduling and sequencing of development including clearing, stripping, rough grading, construction, final grading and final site stabilization. The design requirements of the erosion and sedimentation control plan are:

- (1) Minimize total area of disturbance;
- (2) Sequence activities to minimize simultaneous areas of disturbance;
- (3) Minimize peak rate of runoff in accordance with the Massachusetts Stormwater Policy;
- (4) Minimize soil erosion and control sedimentation during construction, provided that prevention of erosion is preferred over sedimentation control;
- (5) Divert uncontaminated water around disturbed areas;
- (6) Maximize groundwater recharge;
- (7) Install and maintain all erosion and sediment control measures in accordance with the manufacturer's specifications and good engineering practices;
- (8) Prevent off-site transport of sediment;
- (9) Protect and manage on- and off-site material storage areas (overburden and stockpiles of dirt, borrow areas or other areas used solely by the permitted project are considered a part of the project);
- (10) Comply with all applicable federal, state and local laws and regulations including waste disposal, sanitary sewer or septic system regulations, and air quality requirements, including dust control;
- (11) Prevent significant alteration of habitats mapped by the Massachusetts Natural Heritage and Endangered Species Program as endangered, threatened or of special concern, estimated habitats of rare wildlife and certified vernal pools, and priority habitats of rare species from the proposed activities;
- (12) Institute interim and permanent stabilization measures, which shall be applied on a disturbed area as soon as practicable but no more than 14 days after construction activity has temporarily or permanently ceased on that portion of the site; and
- (13) Prevent off-site vehicle tracking of sediments by placing stone at all points of ingress and egress to the site and installing wash-down areas for vehicles as necessary to ensure no off-site vehicle tracking of sediments.

C. Plan to construct stormwater management measures. The application for a stormwater permit shall include submittal of a plan to construct stormwater management measures to the Board. This plan shall contain sufficient information for the Board to evaluate the environmental impact, effectiveness and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The plan shall be designed to meet the Massachusetts Stormwater Management Standards and DEP Stormwater Management Handbook Volumes I and II, as revised. The plan shall fully describe the project in drawings and narrative.

(1) It shall include:

- (a) The existing site hydrology with supporting data.
- (b) A description and delineation of existing stormwater conveyances, impoundments and wetlands on or adjacent to the site or into which stormwater flows.
- (c) Estimated seasonal high groundwater elevation (November to April) and soil logs for areas to be used for stormwater retention, detention or infiltration.
- (d) The existing and proposed vegetation and ground surfaces with runoff coefficients for each.
- (e) Identification of water bodies that will receive stormwater discharges from the construction site with the location of drains/outfalls noted on the site plan. A brief description of known water quality impacts and whether the water bodies receiving such stormwater discharges have:
 - [1] Been assessed and reported in reports submitted by the Massachusetts Department of Environmental Protection (DEP) to EPA pursuant to Section 305(b) of the Clean Water Act (CWA).
 - [2] Been listed as a Category 5 water [waters requiring a total maximum daily load (TMDL)] by DEP under Section 303(d) of the CWA.
- (f) A drainage area map showing pre- and post-construction watershed boundaries, drainage area and stormwater flow paths.
- (g) A description and drawings of all components of the proposed drainage system including:
 - [1] Locations, cross sections and profiles of all brooks, streams, drainage swales and their method of stabilization;
 - [2] All measures for the detention, retention or infiltration of water;
 - [3] All measures for the protection of water quality;
 - [4] The structural details for all components of the proposed drainage systems and stormwater management facilities; and
 - [5] Notes on drawings specifying materials to be used and construction specifications.

- (h) Proposed improvements including location of buildings or other structures, impervious surfaces, utilities and drainage facilities, if applicable.
 - (i) Timing, schedules and sequence of development including clearing, stripping, rough grading, construction, final grading and vegetative stabilization.
 - (j) A maintenance schedule for the period of construction.
 - (k) Any other information requested by the Board.
 - (2) The plan shall also meet the 10 standards of the DEP Massachusetts Stormwater Management Policy. When one or more of the standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.
- D. Operation and maintenance plan. An operation and maintenance plan (O&M plan) is required at the time of application for all projects. The O&M plan shall be designed to ensure compliance with this article and that the Massachusetts Surface Water Quality Standards, 314 CMR 4.00, are met in all seasons and throughout the life of the system. The Board shall make the final decision of what maintenance option is appropriate in a given situation. The Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The O&M plan shall remain on file with the Board and shall be an ongoing requirement. The O&M plan shall include:
- (1) The name(s) of the owner(s) for all components of the system.
 - (2) Maintenance agreements that specify:
 - (a) The names and addresses of the person(s) responsible for operation and maintenance;
 - (b) The person(s) responsible for financing maintenance and emergency repairs;
 - (c) A maintenance schedule for all drainage structures, including swales and ponds;
 - (d) A list of easements with the purpose and location of each; and
 - (e) The signature(s) of the owner(s).
 - (3) Stormwater management easement(s).
 - (a) Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - [1] Access for facility inspections and maintenance;
 - [2] Preservation of stormwater runoff conveyance, infiltration and detention areas and facilities, including flood routes for the one-hundred-year storm event; and

- [3] Direct maintenance access by heavy equipment to structures requiring regular cleanout.
- (b) The purpose of each easement shall be specified in the maintenance agreement signed by the property owner.
- (c) Stormwater management easements are required for all areas used for off-site stormwater control, unless a waiver is granted by the Board.
- (d) Easements shall be recorded with the Plymouth County Registry of Deeds prior to issuance of a certificate of completion by the Board.
- (4) Changes to operation and maintenance plans.
 - (a) The owner(s) of the stormwater management system must notify the Board of changes in ownership or assignment of financial responsibility.
 - (b) The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this article by mutual agreement of the Board and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility and persons with operational responsibility.

§ 201-16.9. Permit term.

The stormwater permit shall be effective upon the date of issuance and remain in effect until the earlier to occur of:

- A. A certificate of completion is issued by the awarding authority indicating that all construction activity has ceased and final site stabilization construction, inspection and approval by a representative of the awarding authority has occurred; or
- B. The date three years from the date of issuance of the stormwater permit has occurred without applicant starting construction activity on the construction site.

§ 201-16.10. Inspection and site supervision.

- A. Pre-construction meeting. Prior to starting clearing, excavation, construction or land disturbing activity, the applicant, the applicant's technical representative, the general contractor or any other person with authority to make changes to the project shall meet with the Board to review the permitted plans and their implementation.
- B. Board inspection. The Board or its designated agent shall make inspections as hereinafter required and shall either approve that portion of the work completed or shall notify the permittee wherein the work fails to comply with the stormwater permit as approved. The permit and associated plans for grading, stripping, excavating and filling work, bearing the signature of approval of the Board, shall be maintained at the site during the progress of the work. In order to obtain inspections, the permittee shall notify the Board at least two working days before each of the following events:
 - (1) Erosion and sediment control measures are in place and stabilized;

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- (2) Site clearing has been substantially completed;
 - (3) Rough grading has been substantially completed;
 - (4) Final grading has been substantially completed;
 - (5) Close of the construction season; and
 - (6) Final landscaping (permanent stabilization) and project final completion.
- C. Permittee inspections. The permittee or his/her agent shall conduct and document inspections of all control measures no less than weekly or as specified in the permit, and prior to and following anticipated storm events. The purpose of such inspections will be to determine the overall effectiveness of the control plan, and the need for maintenance or additional control measures. The permittee or his/her agent shall submit monthly reports to the Board or designated agent in a format approved by the Board.
- D. Access permission. To the extent permitted by state law, or if authorized by the owner or other party in control of the property, the Board, its agents, officers and employees may enter upon privately owned property for the purpose of performing their duties under this section and may make or cause to be made such examinations, surveys or sampling as the Board deems reasonably necessary to determine compliance with the permit.

§ 201-16.11. Surety.

The Board may require the permittee to post, before the start of construction activity, a surety bond, irrevocable letter of credit, cash or other acceptable security. The form of the bond shall be approved by Town Counsel, and be in an amount deemed sufficient by the Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Board may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Board has received the final report as required by § 201-16.12 and issued a certificate of completion.

§ 201-16.12. Final report.²⁴

Upon completion of the work, the permittee shall submit a report (including certified as-built construction plans) from a professional engineer (PE) or registered land surveyor (RLS), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved stormwater permit. Any discrepancies should be noted in the cover letter.

§ 201-16.13. Enforcement.

- A. The Board or an authorized agent of the Board shall enforce this article, regulations, orders, violation notices and enforcement orders, and may pursue all civil and criminal remedies for such violations.

²⁴. Editor's Note: Amendment pending.

B. Orders.

- (1) The Board or an authorized agent of the Board may issue a written order to enforce the provisions of this article or the regulations thereunder, which may include:
 - (a) A requirement to cease and desist from the construction activity until there is compliance with the provisions of the land disturbance permit;
 - (b) Maintenance, installation or performance of additional erosion and sediment control measures;
 - (c) Monitoring, analyses and reporting; and
 - (d) Remediation of erosion and sedimentation resulting directly or indirectly from the land disturbing activity.
- (2) If the enforcing person determines that abatement or remediation of erosion and sedimentation is required, the order shall set forth a deadline by which such abatement or remediation must be completed. Said order shall further advise that, should the violator or property owner fail to abate or perform remediation within the specified deadline, the Town of Norwell may, at its option, undertake such work, and the property owner shall reimburse the Town of Norwell's expenses.
- (3) Within 30 days after completing all measures necessary to abate the violation or to perform remediation, the violator and the property owner shall be notified of the costs incurred by the Town of Norwell, including administrative costs. The violator or property owner may file a written protest objecting to the amount or basis of costs with the Board within 30 days of receipt of the notification of the costs incurred. If the amount due is not received by the expiration of the time in which to file a protest or within 30 days following a decision of the Board affirming or reducing the costs, or from a final decision of a court of competent jurisdiction, the costs shall become a special assessment against the property owner and shall constitute a lien on the owner's property for the amount of said costs. Interest shall begin to accrue on any unpaid costs at the statutory rate, as provided in MGL c. 59, § 57, after the 31st day following the day on which the costs were due.

C. Violations and penalties.

- (1) Any person that violates any provision of this article may be punished:
 - (a) Under MGL c. 40, § 21D, as a noncriminal offense, by fines of:
 - [1] First offense: \$100;
 - [2] Second offense: \$200; and
 - [3] Additional offenses: \$300; or
 - (b) Under MGL c. 40, § 21, by criminal complaint at the appropriate venue.²⁵

25. Editor's Note: Amendment pending.

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- (2) Each day or portion thereof during which a violation continues shall constitute a separate offense
- D. Appeals. The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.
- E. Remedies not exclusive. The remedies listed in this section are not exclusive of any other remedies available under any applicable federal, state or local law.

§ 201-16.14. Certificate of completion.

The Board will issue a letter certifying completion upon receipt and approval of the final reports and/or upon otherwise determining that all work of the permit has been satisfactorily completed in conformance with this article.

§ 201-16.15. Severability.

If any provision, paragraph, sentence or clause of this article shall be held invalid for any reason, all other provisions shall continue in full force and effect.

**Part 4
Special Regulations**

ARTICLE 17

Saltmarsh Conservation District

§ 201-17.1. Designation of district.

The Saltmarsh Conservation District shall be the area along the North River from the river itself to the upland edge of the marsh as defined and shown on the 1915 Plan of the North River Authorized by Chapter 112, Resolves of 1914, William F. Williams, Chief Engineer, a copy of which is on file in the office of the Town Clerk and is made a part hereof.

§ 201-17.2. Permitted uses.

In the Saltmarsh Conservation District, no structure shall be erected except noncommercial docks, catwalks, piers, wharfs or floats, nor may any area within said zone be filled, drained, dredged or excavated, except by special permit.

- A. The owner of any land located in this district, or his agent, may apply to the Board of Appeals for a special permit for the construction of any structure which would have been permitted on said land prior to the adoption of this article, or for filling, drainage, dredging or excavation.
- B. No permit shall be granted which will adversely affect the natural character of the area in which the land referred to in the application is located.

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- C. No such permit shall be granted except after notice and hearing as is provided by law for the granting of variances. In addition, notice shall be given by registered mail to the Chair of the Conservation Commission or his designated representative.
- D. The Conservation Commission shall file a report setting forth the opinion of the Conservation Commission as to whether or not the granting of a permit will be consistent with the natural character of the area and the aims and purposes of the Conservation Commission. If the Conservation Commission shall fail to file its report on or before the date set for the hearing on the permit, the Board of Appeals shall assume that the Conservation Commission has no objection to the granting of the permit, and the Conservation Commission shall have no standing to appear to be heard in any further proceedings relative to such permit.

ARTICLE 18

Floodplain, Watershed and Wetlands Protection District
[Amended 5-5-1994 ATM; 5-7-2012 ATM]

§ 201-18.1. Designation of district.

- A. Floodplain, Watershed and Wetlands Protection District shall include all land designated as such and shown and delineated on a set of maps of the Town of Norwell entitled "Town of Norwell, Wetlands Maps," dated April 5, 1974, by Moore Survey & Mapping Corporation, Shrewsbury, Massachusetts, with amendment adopted March 9, 1981, as shown on a plan entitled "Plan of 1981 Amendment to Town of Norwell Wetlands Maps," dated January 5, 1981, by Bradford Saivetz & Associates, Inc., Braintree, Massachusetts. The district includes all special flood hazard areas within the Town of Norwell designated as Zone A and AE on the Plymouth County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Plymouth County FIRM that are wholly or partially within the Town of Norwell are panel numbers 25023C0092J, 25023C0094J, 25023C0103J, 25023C0104J, 25023C0111J, 25023C0112J, 25023C0113J, 25023C0114J, 25023C0116J, 25023C0118J, 25023C0206J and 25023C0207J dated July 17, 2012, and panel numbers 25023C0108K, 25023C0117K and 25023C0119K dated November 4, 2016. The exact boundaries of the district may be defined by the one-hundred-year base flood elevations shown on the FIRM and further defined by the Plymouth County Flood Insurance Study (FIS) report dated November 4, 2016. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk. In case of a conflict, the more restrictive interpretation shall apply. **[Amended 5-8-2017 ATM, Art. 30]**
- B. Floodplain, Watershed and Wetlands Protection District (the "district") shall be considered to be superimposed over any other district established by this Zoning Bylaw. All land in the district is subject to the regulations set forth in this article. In unnumbered A Zones of the Flood Insurance Rate Maps, the Building Inspector/Zoning Enforcement Officer shall require the applicant to provide the best available one-hundred-year flood elevation data available from federal, state, local or other source for requiring new structures and substantial improvements to existing structures to meet the elevation and floodproofing standards of the Massachusetts State Building Code.

§ 201-18.2. Compliance with state and federal regulations.

- A. All development in the district including structural and nonstructural activities whether permitted by right or by special permit must be in compliance with the following:
 - (1) Section of the Massachusetts State Building Code (780 CMR) which addresses floodplain and coastal high-hazard areas.
 - (2) 310 CMR 10.00, Wetlands Protection, Department of Environmental Protection.
 - (3) 310 CMR 13.00, Inlands Wetlands Restriction, DEP.
 - (4) Title 5, minimum requirements for the subsurface disposal of sanitary sewage, Department of Environmental Protection.
- B. All property within the floodplain as delineated on Norwell's Flood Insurance Rate Maps (FIRM) is subject to the provisions of the National Flood Insurance Program (NFIP).

§ 201-18.3. Purpose.

The purposes of this article, in addition to the purposes enumerated in § 201-1.1 of the Zoning Bylaw, are:

- A. To provide the lands in the Town subject to seasonal and/or periodic flooding shall not be used for residential or other purposes in such a manner as to endanger the public health, safety and general welfare of inhabitants thereof.
- B. To protect, preserve and maintain the water table and water recharge areas within the Town, so as to preserve the present and potential water supplies for the public health and safety of the inhabitants of the Town of Norwell.
- C. To assure the continuation of the natural flow pattern of the watercourses within the Town in order to provide adequate and safe floodwater storage capacity to protect persons and provide against the hazards of floodwater inundation.

§ 201-18.4. Permitted uses.

The following uses are permitted as a matter of right in the districts subject to the provisions of this Zoning Bylaw applicable to the underlying zoning districts in which said district is located and provided such uses do not permanently and significantly derogate from the purpose of this article:

- A. Proper operation and maintenance of dams and other water control devices for drainage or flood control.
- B. Temporary alteration of water level for emergency or maintenance.
- C. Appropriate governmental use, including water and sewerage works, pumping stations and river and stream clearance.
- D. Conservation of soil and plants and wildlife management.

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- E. Outdoor recreation including play areas, nature study, boating, foot, bicycle and horse paths and bridges, fishing and hunting where otherwise legally permitted but excluding buildings and structures therefor.²⁶
- F. Uses and interior improvements of buildings or structures lawfully existing prior to adoption of this article or for which a building permit has been issued prior to adoption of this article.
- G. Forestry, grazing, farming, nurseries and truck gardening.
- H. Accessory uses to any of the above permitted uses.

§ 201-18.5. Special permits.

- A. Schedule of special permit uses. Where otherwise legally permitted by the provisions of this Zoning Bylaw applicable to the underlying districts in which the district is located, and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purpose of this article, the following uses are permitted by special permit granted by the Board of Appeals in accordance with the provisions of Subsection B:
 - (1) Foot bridges, plank walks, duck walks and private boat landings.
 - (2) Golf courses.
 - (3) Temporary storage of materials or equipment.
 - (4) Dams, excavation or changes in watercourses to create ponds or pools for swimming, fishing or other recreational or agricultural use, scenic features or for improvements consistent with the purposes of this article.
 - (5) Appropriate driveways and roads when alternative means of access are impractical.
 - (6) Repair, rebuilding, modification, enlargement or exterior alteration of existing structures, which will be subject to the substantial improvement provisions of the Massachusetts State Building Code.
- B. Considerations. In hearing an application for a special permit hereunder, the Board of Appeals shall consider, in addition to any other factors said Board deems pertinent, the following factors:
 - (1) Geographic location of proposed structures and security of access thereto during flooding.
 - (2) Foundation elevations and security of foundations during flooding.
 - (3) Disposal and containment of sewage during flooding.
 - (4) In Zone AE, along watercourses within the Town of Norwell that have a regulatory floodway designated on the Plymouth County FIRM, encroachments

²⁶ Editor's Note: Amendment pending.

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.

- (5) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or five acres, whichever is the lesser, within unnumbered A Zones in order 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.
 - (6) In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available federal, state, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- C. Criteria for approval. Whenever the Board of Appeals is authorized to issue a special permit for a use under this article, said Board shall assure that such use shall be consistent with the purposes of this article and will:
- (1) Not produce unsuitable development in marshes, bogs and ponds or along watercourses or in areas subject to flooding;
 - (2) Protect and preserve the inland marshes, bogs, ponds and watercourses and their adjoining wetlands in order to safeguard the purity of inland and tidal waters for the propagation and protection of marine life and for recreational purposes;
 - (3) Conserve the value of lands and existing buildings;
 - (4) Facilitate the adequate protection of provision of a water supply through preservation and maintenance of the groundwater table; and
 - (5) Encourage the most appropriate use of the land.

§ 201-18.6. Prohibited uses.

- A. Except as provided in § 201-18.4, no building, wall, dam or other structure shall be created, constructed, altered, enlarged or otherwise created or moved in the district for any purpose.
- B. No dumping, filling, excavating or transferring of any material which will reduce or impair natural water storage or recharge capacity of any land within the district or interfere with the natural flow patterns of any watercourse within the district shall be permitted.

§ 201-18.7. Notification of watercourse alteration.²⁷

The Building Inspector/Zoning Enforcement Officer shall notify, in a riverine situation, the following of any alteration or relocation of a watercourse:

- A. Adjacent communities.
- B. Bordering stations (optional).
- C. NFIP State Coordinator.

Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104

- D. NFIP Program Specialist.

Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

§ 201-18.8. Administration.

- A. Whenever an application is made for a building which the Building Inspector/Zoning Enforcement Officer believes may involve the use of land in the district, he shall determine, by any means at his disposal, whether the parcel identified in the application lies within the district.
- B. In order to expedite this determination, the Building Inspector/Zoning Enforcement Officer shall at his request be provided by the applicant a complete topographic plan of the area proposed for use prepared by a registered professional engineer or registered land surveyor showing elevations of the land, contours at one-foot intervals to the same base and scale as that on the Floodplain, Watershed and Wetlands Protection District maps of the Town, and showing all pertinent information including existing brooks, streams, river and areas of ponding, the extent and depth of proposed excavation and/or filling and limits of other proposed construction and/or appurtenant work.
- C. In case of a building permit for an interior improvement to a building or structure, the foregoing overall topographic plan shall not be required.²⁸

²⁷. Editor's Note: Amendment pending.

²⁸. Editor's Note: Amendment pending.

ARTICLE 19

Aquifer Protection District
[Amended 5-8-2006 ATM, Art. 14]

§ 201-19.1. Designation of district.

The Aquifer Protection District shall include all land designated as such and shown and delineated on a map entitled "Watershed/Aquifer Protection District, Town of Norwell, 2006." The Aquifer Protection District shall be considered to be superimposed over any other district established by this Zoning Bylaw. All land in this district is subject to the regulations set forth in this article and such regulations shall be in addition to, rather than in place of, the requirements for the underlying district.

§ 201-19.2. Purpose.

The purposes of this article, in addition to the purposes enumerated in § 201-1.1 of this Zoning Bylaw, are:

- A. To preserve and maintain the quality of the surface and ground water within the Town of Norwell, so as to preserve the present and potential water supplies for the public health and safety of the inhabitants of the Town.
- B. To protect such groundwater from the danger of accidental spills and discharge of petroleum products and other toxic and hazardous materials, and from sewage discharge, all of which pose potential public health and safety hazards and threaten economic losses to the Town.
- C. To enhance groundwater recharge in aquifer recharge areas.

§ 201-19.3. Definitions.

GROUNDWATER RECHARGE — As defined in the Massachusetts Department of Environmental Protection (MA DEP) and Massachusetts Office of Coastal Zone Management (MA CZM) Stormwater Management Technical Handbook of March 1997.

NON-SANITARY TREATMENT OR DISPOSAL WORKS — Wastewater discharge from industrial and commercial facilities containing wastes from any activity other than the collection of sanitary sewage, including, but not limited to, activities specified in the Standard Industrial Classification Codes set forth in 310 CMR 15.004(5).²⁹

REDEVELOPMENT — Shall be defined as any proposal that triggers the requirements of § 201-3.4, Site plan review.

TOXIC OR HAZARDOUS MATERIAL — Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this Town. Toxic or hazardous materials include, without limitation, organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids

²⁹. Editor's Note: Amendment pending.

and alkalis, and include products such as pesticides, herbicides, solvents and thinners. Wastes generated by the following activities, without limitation, are presumed to be toxic or hazardous unless and except to the extent that anyone engaging in such an activity can demonstrate the contrary to the satisfaction of the Board of Health:

- A. Cabinet making.
- B. Electronic circuit assembly.
- C. Motor and machinery service and assembly.
- D. Painting, wood preserving and furniture stripping.
- E. Pesticide and herbicide application.

§ 201-19.4. Administration.

Whenever an application is made for a building or use permit which the Building Inspector/Zoning Enforcement Officer believes may involve the use of land in the district, he shall determine, by any means at his disposal, whether the parcel identified in the application lies within the Aquifer Protection District.

§ 201-19.5. Permitted uses.

Uses not requiring a special permit under § 201-19.6 or prohibited under § 201-19.7 are permitted in the Aquifer Protection District, subject to the applicable provisions of this bylaw, other provisions of the Zoning Bylaw applicable to the underlying zoning districts in which said Aquifer Protection District is located and to any other applicable overlay district regulations.

§ 201-19.6. Special permits.

- A. Schedule of special permit uses. Where otherwise legally permitted by the provisions of this Zoning Bylaw applicable to the underlying districts in which the Aquifer Protection District is located, and subject to such special conditions and safeguards as the Board of Appeals deems necessary to fulfill the purpose of this article, the following uses are permitted by special permit granted by the Board of Appeals in accordance with the provisions of Subsections B through E:
 - (1) Any use involving secondary usage or storage of toxic or hazardous materials in quantities greater than normally associated with usual household use.
- B. For any use for which a special permit is required under the provisions of this bylaw the applicant shall submit, in addition to any other information required to be submitted, the following:
 - (1) A complete list of all chemicals, commercial fertilizers, pesticides, fuel and other potentially 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 proposed to protect all storage containers/facilities from vandalism, corrosion and leakage and to provide for control of spills.

- (2) A description of potentially toxic or hazardous materials to be generated, indicating storage and disposal methods.
 - (3) Evidence of approval by the Massachusetts Department of Environmental Protection (MA DEP) of any sanitary wastewater treatment system required to meet current MA DEP effluent discharge standards or capacity exceeding 10,000 gallons per day.
 - (4) Projections of downgradient concentrations of nitrogen and other relevant chemicals at property boundaries and other locations deemed pertinent by the Board of Appeals. Projections shall be based upon appropriate groundwater models and the following information/standards:
 - (a) Nitrogen loading calculations.
 - [1] Wastewater per person: six pounds nitrogen per year.
 - [2] Persons per bedroom: two.
 - [3] Lawn fertilizers: two pounds nitrogen per 1,000 square feet of lawn per year.
 - [4] Road runoff: 0.10 pound nitrogen per curb mile per day.
 - [5] Background nitrogen concentration: actual field measurements.
 - (b) Groundwater flow and impacts to drinking water supply wells.
 - [1] Identify probable impacted water supply well(s) by constructing flow lines downgradient of the proposed site on the 1988 Norwell Water Table Map.
 - [2] Areal recharge rate: 18.5 inches per year for sand and gravel; seven inches per year for till.
 - [3] Hydraulic conductivity: site-specific measurements.
 - [4] Saturated thickness: 1988 Norwell Saturated Thickness Map to be supplemented by site-specific borings.
 - [5] Groundwater gradient: 1988 Norwell Water Table Map to be supplemented with site-specific measurements.
- C. Referral. Upon receipt of the special permit application, the Board of Appeals shall transmit one copy to the Board of Water Commissioners and any other relevant Town agency, board or department for their written recommendations. The necessary number of copies of the application shall be furnished by the applicant. Failure by an agency to respond in writing within 35 days shall indicate approval or no desire to comment by said agency.

- D. Considerations. In hearing an application for a special permit hereunder, the Board of Appeals shall consider, in addition to any other factors said Board deems pertinent, the following factors:
- (1) The simplicity, reliability and feasibility of the proposed measures for containment of toxic or hazardous materials and control of spills;
 - (2) The degree of threat of water quality which would result if the control measures failed; and
 - (3) The recommendations of other Town agencies regarding the application, if any.
- E. Criteria for approval.
- (1) Special permits under this section shall be granted only if the Board of Appeals determines that:
 - (a) The intent of this bylaw as well as its specific criteria are met; and
 - (b) Groundwater quality resulting from on-site waste disposal and other on-site operations will not fall below federal or state standards for drinking water at the downgradient property boundary (10 ppm concentration nitrate-nitrogen).
 - (2) The Board of Appeals shall explain any departures from the recommendations of other Town agencies in its decision.

§ 201-19.7. Prohibited uses.

The following uses are specifically prohibited in the Aquifer Protection District:

- A. Sanitary landfills, landfills receiving only wastewater residuals and/or septic residuals or other disposal of solid waste.
- B. Motor vehicle salvage operations and junkyards.
- C. Municipal sewage treatment facilities with on-site disposal of primary or secondary treated effluent.
- D. Car or truck washes.
- E. Road salt or other de-icing chemical stockpiles.
- F. Dumping of snow from outside the district.
- G. Self-service laundries, unless connected to public sewerage.
- H. Dry-cleaning establishments.
- I. Airplane, boat and motor vehicle service and repair, including auto body shops.
- J. Metal plating, finishing or polishing.
- K. Chemical and bacteriological laboratories.

- L. Storage and/or sale of petroleum or other refined petroleum products, except within the building it will be used to heat.
- M. Commercial photographic processing, with discharge to the ground.
- N. Commercial printing, other than xerographic reproduction.
- O. The rendering impervious of more than 15% of any lot or 2,500 square feet of any lot, whichever is greater, unless a system of groundwater recharge of precipitation is provided that will not result in degradation of groundwater.
 - (1) Any such system of groundwater recharge, for vacant land, shall, at a minimum, recharge 85% of any resulting post-development increase in the volume of stormwater, for up to a one-hundred-year storm event.
 - (2) Any such system of groundwater recharge, for land with existing impervious surface conditions of 15% or 2,500 square feet or more, shall recharge 100% of the volume of stormwater, for up to a one-hundred-year storm event, for any increase in impervious surface conditions beyond said 15% or 2,500 square feet of the land, whichever is greater.
 - (3) Under no circumstances shall any land in the Aquifer Protection District be used to create conditions resulting in more than 50% impervious surface coverage of the land.
 - (4) No redevelopment of land, which already exceeds 50% impervious surface coverage, due to lawfully preexisting conditions, shall be allowed if the proposed development would increase the existing impervious surface coverage of the land. Furthermore, no such redevelopment shall be allowed, even if there is no such increase, unless the redevelopment provides a system of recharge that shall control 100% of all existing and proposed roof runoff generated on the land.
 - (5) Pervious pavers shall not be used in the Aquifer Protection District for any portion of land that would be used for either vehicular traffic or parking, but they may be used for other purposes, including sidewalks and terraces and similar uses that are not subject to traffic or spills of gasoline and oil and other contaminants, and, when used for such other purposes, they shall not be considered impervious surfaces.
 - (6) Pre-development and post-development drainage calculations shall be provided and undergo peer engineering review, at the applicant's expense, before any relief is granted hereunder.
- P. Hotel or motel, unless connected to public sewerage.
- Q. Any commercial/industrial facility or use which involves as a principal or secondary activity the manufacture, storage, use, transportation or disposal of toxic or hazardous materials, wastes or animal manure except as allowed by special permit in § 201-19.6.
- R. Non-sanitary treatment or disposal works that are subject to 314 CMR 4.00 and 5.00 except the following:

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- (1) The replacement or repair of an existing system that will not result in a design capacity greater than the design capacity of the existing system; and
 - (2) Treatment works approved by the MA DEP designed for the treatment of contaminated groundwater.
- S. The removal of soil, loam, sand and gravel within four feet of the historic high groundwater elevation, with the following exceptions: removal of soil for road excavations, building foundations and utility works.

§ 201-19.8. Design and operation guidelines.

The following design and operation guidelines shall be observed within the Aquifer Protection District:

- A. Safeguards. Provision shall be made to protect against toxic or hazardous materials discharge or loss resulting from corrosion, accidental damage, spillage or vandalism through measures such as: prohibition of underground fuel storage tanks; spill control provisions in the vicinity of chemical or fuel delivery points; secured storage areas for toxic or hazardous materials; and indoor storage provisions for corrodible or dissolvable materials. Storage of toxic or hazardous materials must meet the requirements of 310 CMR 22.21(2)(b)5. For operations which allow the evaporation of toxic or hazardous materials into the interior of any structures, a closed vapor recovery system shall be provided for each such structure to prevent discharge of contaminated condensate into the groundwater.
- B. Location. Where the premises are partially outside of the Aquifer Protection District, potential pollution sources such as on-site waste disposal systems shall be located outside the district to the extent feasible.
- C. For any toxic or hazardous materials to be produced in quantities greater than those associated with normal household use, the applicant must demonstrate the availability and feasibility of disposal methods which are in conformance with MGL c. 21C.
- D. Drainage. All runoff from impervious surfaces shall be recharged on the site and recharge from pervious surfaces to the extent possible. Dry wells shall be used only where other methods are not feasible, and shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants. If dry wells are utilized, the property owner shall be required to have oil, grease and sediment traps cleaned annually and to provide the Building Inspector/Zoning Enforcement Officer, on an annual basis, with proof of such cleaning.

§ 201-19.9. Notice of violation.

Written notice of any violation of this bylaw shall be provided by the Building Inspector/Zoning Enforcement Officer to the owner of the premises, specifying the nature of the violations and a schedule of compliance, including cleanup of any spilled materials. This compliance schedule must be reasonable in relation to the public health hazard involved and the difficulty of compliance. In no event shall more than 30 days be allowed for either compliance or finalization of a plan for longer-term compliance.

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ARTICLE 20

Accessory Uses**§ 201-20.1. Accessory scientific uses.³⁰**

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

ARTICLE 21

Trailers**§ 201-21.1. Automotive-type trailers.**

No automotive type of trailer, whether mobile or immobile, put in place upon any land within the Town shall be occupied for living purposes or business purposes within the Town, except that trailers may be placed upon a construction site for use as engineering or construction office only. Permits for such use shall be granted by the Building Inspector/Zoning Enforcement Officer for a period not exceeding one year, subject to annual renewal, which shall terminate within 30 days of completion of the project.

ARTICLE 22

Solar Photovoltaic Overlay District (SPOD)**[5-5-2015 ATM, Art. 31]****§ 201-22.1. Purpose.**

The purpose of this bylaw is to authorize in accordance with this article and provide standards for the placement, design, construction, operation, monitoring, modification and removal of large-scale ground-mounted solar photovoltaic installations that address public safety and minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of all such installations.

§ 201-22.2. Applicability.

The SPOD shall be construed as an overlay district. All requirements of the underlying district(s) shall remain in full force and effect, except where the requirements of the SPOD are more restrictive or provide for uses or structures not otherwise available in the underlying district.

30. Editor's Note: Amendment pending.

§ 201-22.3. Use regulation.

Large-scale ground-mounted solar photovoltaic installations as a principal or accessory use shall be allowed by right within the SPOD subject to the requirements of this bylaw.

§ 201-22.4. General requirements.

The following requirements shall apply to all ground-mounted solar photovoltaic installations to be sited under this article unless specifically exempted:

- A. Compliance with laws, ordinances and regulations. All ground-mounted solar photovoltaic installations shall be constructed and operated in compliance with all local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the current Massachusetts State Building Code.
- B. Building permit and building inspection. All ground-mounted solar photovoltaic installations shall obtain all necessary construction permits prior to construction, installation or modification.
- C. Site plan review.
 - (1) All ground-mounted solar photovoltaic installations shall obtain site plan review approval under § 201-3.4 prior to construction, installation or modification as provided in this article.
 - (2) The Board of Appeals may waive documentary requirements as it deems appropriate.
 - (3) Required documents. Pursuant to the site plan review process, the project proponent shall provide the following documents:
 - (a) A site plan showing:
 - [1] Property lines and physical features, including roads, for the project site;
 - [2] Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
 - [3] Drawings of the solar photovoltaic installation signed by a registered professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures;
 - [4] Electrical line diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;

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- [5] Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- [6] Name, address, and contact information for proposed system installer;
- [7] Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any; and
- [8] The name, contact information and signature of any agents representing the project proponent;
- (b) Documentation of actual or prospective access and control of the project site;
- (c) An operation and maintenance plan (see also Subsection D);
- (d) Proof of liability insurance;
- (e) Description of financial surety that satisfies § 201-22.8C; and
- (f) Any other information requested by the Planning Board and/or Board of Appeals during the review process.
- D. Operation and maintenance plan. All ground-mounted solar photovoltaic installation proponents shall submit a plan for the operation and maintenance of the solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- E. Utility notification. All ground-mounted solar photovoltaic installation proponents shall provide evidence that the utility company that operates the electrical grid where the installation is to be located has been informed of the solar photovoltaic installation owner's or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
- F. Payment in lieu of taxes (PILOT). All ground-mounted solar photovoltaic installation proponents shall execute a PILOT agreement with the Board of Selectmen prior to construction of the installation.

§ 201-22.5. Dimensional requirements.

The following dimensional requirements for ground-mounted solar photovoltaic installations and their accessory structures supersede the dimensional requirements in the Zoning Bylaw. Requirements not superseded in this section still apply.

- A. Setbacks. There shall be no construction or installations within the following required property boundary setbacks:

	Residence A and B	Business B¹	Business C¹
Front yard	150 feet	50 feet	50 feet
Side yard	150 feet	25 feet	25 feet

	Residence A and B	Business B¹	Business C¹
Rear yard	150 feet	25 feet	25 feet

- ¹ Where a property within the Business District B or C abuts a residential property, a setback of 150 feet from the residential property line shall be required.

B. Vegetation buffers and screening.

- (1) Clearing of natural vegetation shall be limited to what is necessary for the proper construction, operation and maintenance of the facility. Use of previously disturbed land is encouraged in siting of all such installations.
- (2) In residential districts, land within the required setback areas shall not be disturbed other than for what is necessary to access the facility and for any installed vegetation for screening purposes.
- (3) All installations shall be screened from all public ways and any surrounding residences with existing natural vegetation, or, in the case where such natural vegetation is not satisfactory for screening the installation, a dense vegetated buffer shall be installed and maintained.

C. Height.

- (1) No ground-mounted solar photovoltaic installation or accessory structures shall exceed 15 feet in height as measured from the ground directly to the highest point of the installation.
- (2) Existing grade shall not be affected anywhere on the site by more than five feet through excavation or with fill materials.
- (3) The Board of Appeals may waive these requirements if the applicant demonstrates a necessity to exceed 15 feet in height, but under no circumstances shall heights exceed 25 feet.

D. Exemptions. Ground-mounted solar photovoltaic installations are not subject to § 201-9.2, Lot area, § 201-9.5, Lot shape, § 201-9.3, Lot frontage and width, and § 201-10.1, Building coverage, bylaw requirements.

§ 201-22.6. Design standards.

A. Lighting. Lighting of ground-mounted solar photovoltaic installations shall be the minimum required to provide security, safety and operations of the facility. Lighting of the installation shall be directed downward, away from surrounding properties, and incorporate full cut-off fixtures to reduce light pollution.

B. Signage.

- (1) A sign consistent with Article 14, Signs, shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number.

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- (2) No portion of the installation or property shall be used for displaying any advertising except for reasonable identification of the operator of the facility.
- C. Utility connections. Best efforts shall be made to locate all utility connections from the facility underground. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
- D. Emergency services.
 - (1) Prior to approval from the Board of Appeals, the operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief and, if requested, assist in the development of an emergency response plan.
 - (2) The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.
 - (3) All means of shutting down the ground-mounted solar photovoltaic installation shall be clearly marked.
- E. Fencing. The installation shall be securely fenced around the entire perimeter of the installation with a fencing type satisfactory to the Board of Appeals.
- F. Accessory structures. Structures accessory to the installation shall be confined to inverters, transformers and equipment boxes necessary for the operation of the facility and buildings which enclose that equipment. Other structures proposed shall conform to district regulations, Part 2, of the underlying zoning district.

§ 201-22.7. Modifications.

All changes or modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Board of Appeals.

§ 201-22.8. Abandonment or decommissioning.

- A. Removal requirements. Any ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned consistent with Subsection B shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Board of Appeals by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - (1) Physical removal of all ground-mounted solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - (3) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Board of Appeals may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

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- B. Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the ground-mounted solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Board of Appeals. If the owner or operator fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the Town shall have the right, but not the obligation, through easement or license to enter the property and physically remove the installation.
- C. Financial surety. Proponents of a ground-mounted solar photovoltaic project shall provide a form of surety, either through escrow account, bond or otherwise, in a form acceptable to the Town of Norwell acting by its Board of Appeals, to cover the cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Board of Appeals. Such surety may not be required for municipally or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer and reviewed by the Town engineering consultant. The amount shall include a 50% contingency for increased removal costs due to inflation.

ARTICLE 23

Personal Wireless Service Facilities**[12-8-1997 STM; amended 12-1-2003 STM, Art. 3]****§ 201-23.1. Purpose and scope.**

- A. Purpose and intent. It is the express purpose of this bylaw to minimize the visual and environmental impacts of personal wireless service facilities, consistent with the provisions of Sections 253 and 704 of the Federal Telecommunications Act of 1996. The bylaw enables the review and approval of personal wireless service facilities by the Town's Board of Appeals in keeping with existing bylaws and historic development patterns. It sets standards which are intended to preserve the safety, character, appearance, property values, natural resources and historic sites of the Town; mitigate any adverse visual effects through proper design, location and screening of structures; and to encourage co-location of antennas where feasible in order to minimize the total number of sites required.
- B. Scope. This article shall apply to all wireless telecommunications antennas and towers and related equipment, fixtures and enclosures, including any modifications to any of the preceding, but shall not apply to fire, police, ambulance and other safety communications antennas, amateur (ham) radio or citizens band radio antennas, or to non-transmitting television antennas.

§ 201-23.2. Use regulations; location; dimensional requirements.

- A. Use regulations. A personal wireless service facility shall require a building permit in all cases, and may be permitted as follows:

- (1) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Subsection C(2) below. Such installations shall not require a special permit but shall require site plan approval by the Board of Appeals.
 - (2) A personal wireless service facility involving construction of one or more ground or building (roof or side) mounts shall require a special permit. Such facilities may locate by special permit in all zoning districts within the Town, provided that the proposed use complies with the height and setback requirements of Subsection C and all of the special permit regulations set forth in § 201-23.3 of this bylaw.
 - (3) A personal wireless service facility that exceeds the height restrictions of Subsection C(1) through (3) may be permitted by special permit in a designated Wireless Service Overlay District provided that the proposed facility complies with the height restrictions of Subsection C(4) and with all of the setback and special permit regulations set forth in Subsection C and § 201-23.3 of this bylaw.
- B. Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:
- (1) If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities. The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate.
 - (2) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed so as to be camouflaged to the greatest extent possible, including but not limited to use of compatible building materials and colors, screening, landscaping and placement within trees to create an effective year-round visual buffer.
 - (3) The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of application for a building and/or special permit.
- C. Dimensional requirements. Personal wireless facilities shall comply with the following requirements:
- (1) Height, general. The height of a personal wireless service facility shall not exceed by more than 10 feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged or concealed such as within a steeple, chimney or similar structure. Personal wireless service facilities may locate on a building that is legally nonconforming with respect to height, provided that the facilities do not project above the existing building height.

- (2) Height, existing structures. New antennas located on any of the following structures existing on the effective date of this bylaw shall be exempt from the height restrictions of this bylaw: water towers, guyed towers, lattice towers, fire towers and monopoles, provided that:
 - (a) Location on existing water towers will be subject to approval of the proposed attachment methods and maintenance procedures by the Water Department and Board of Health; and
 - (b) There is no increase in height of the existing structure as a result of the installation of a personal wireless service facility.
- (3) Height, existing structure (utility). New antennas located on any of the following existing structures shall be exempt from the height restrictions of this bylaw provided that there is no more than a twenty-foot increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This exemption shall not apply in historic districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic viewsheds.
- (4) Height, Wireless Facility Overlay District. Within the Wireless Facility Overlay District (as designated on the Town Zoning Map), personal wireless service facilities of up to 150 feet are permitted by special permit. These taller structures shall be of non-guyed design and shall comply with all setback and special permit regulations as set forth in this bylaw.
- (5) Setbacks.
 - (a) All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:
 - [1] The minimum distance from the base of any ground-mounted personal wireless service facility to any property line, public way, or habitable dwelling shall be three times the height of the facility/mount, including any antennas or other appurtenances.
 - [2] In the event that an existing structure is proposed as a mount for a personal wireless service facility, the setback provisions of the underlying zoning district shall apply. In the case of preexisting nonconforming structures, personal wireless service facilities and their equipment shelters shall not increase any nonconformities, except as provided in Subsection C(5)(b) below.
 - (b) Flexibility. In reviewing a special permit application for a personal wireless service facility, the Board of Appeals may reduce the setback by as much as 2/3 of the required distance, if it finds that a substantially better design will result from such reduction. In making such a finding, the Board of Appeals shall consider both the visual and safety impacts of the proposed use.

§ 201-23.3. Performance standards.

All personal wireless service facilities shall comply with the performance standards set forth in this section.

A. Design standards.

- (1) Visibility/camouflage. Personal wireless service facilities shall be camouflaged as follows:
 - (a) Camouflage by existing buildings or structures.
 - [1] When a personal wireless service facility extends above the roof height of a building on which it is mounted, every reasonable effort shall be made to conceal the facility within or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.
 - [2] Personal wireless service facilities which are side mounted shall blend with the existing building's architecture and, if over five square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.
 - (b) Color.
 - [1] Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.
 - [2] To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding them, they shall be painted in a light gray or light blue hue that blends with sky and clouds.
- (2) Equipment shelters. Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:
 - (a) Equipment shelters shall be located in underground vaults; or
 - (b) Equipment shelters shall be designed to be consistent with the architectural styles, materials and roof design typical of the district in which the facility is located; or
 - (c) Equipment shelters shall be camouflaged behind an effective year-round landscape buffer and/or wooden fence, equal to the height of the proposed building. The Board of Appeals shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.
- (3) Lighting and signs.
 - (a) Personal wireless facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall

be total cutoff of all light at the property lines of the property to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandle when measured at grade.

- (b) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All such signs shall comply with the requirements of Article 14 of these bylaws.
- (4) Historic buildings and districts.
 - (a) Any personal wireless service facilities located on or within a historic structure shall not alter the character-defining features, distinctive construction methods or original historic materials of the building.
 - (b) Any alteration made to a historic structure to accommodate a personal wireless service facility shall be fully reversible.
 - (c) Personal wireless service facilities within a historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.
- (5) Scenic landscapes and vistas.
 - (a) Equipment shelters shall not be located within open areas that are visible from public roads or residential development. As required in Subsection A(2), all ground-mounted equipment shelters which are not camouflaged by existing buildings or structures shall be surrounded by a buffer of dense tree growth.
 - (b) Any personal wireless service facility that is located within 300 feet of a scenic vista, scenic landscape or scenic road as designated by the Town shall not exceed the height of vegetation at the proposed location. If the facility is located farther than 300 feet from the scenic vista, scenic landscape or scenic road, the height regulations described elsewhere in this bylaw will apply.

B. Environmental standards.

- (1) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.
- (2) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- (3) Stormwater runoff shall be contained on site.
- (4) Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at the property line.

- (5) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 db at ground level at the base of the building closest to the antenna.

C. Safety standards.

- (1) Radiofrequency radiation (RFR) standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation.
- (2) All ground-mounted personal wireless service facilities shall be surrounded by a security barrier.

§ 201-23.4. Application procedures.

- A. Special permit granting authority. The special permit granting authority for personal wireless service facilities shall be the Board of Appeals.
- B. Site plan approval. Applications require approval of a site plan consistent with § 201-3.4, except that such approval is required in all districts.
- C. Application filing requirements. The following shall be included with an application for a special permit for all personal wireless service facilities:
 - (1) General filing requirements.
 - (a) Name, address and telephone number of applicants and any co-applicants, as well as any agents for the applicants or co-applicants. Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility. A licensed carrier shall either be an applicant or a co-applicant.
 - (b) Original signatures for the applicant and all co-applicants applying for the special permit are required. If the applicant or co-applicant will be represented by an agent, original signature authorizing the agent to represent the applicant and/or co-applicant is required. Photo reproductions of signatures will not be accepted.
 - (2) Location filing requirements.
 - (a) Identify the subject property by including the Town as well as the name of the locality, name of nearest road or roads and street address, if any.
 - (b) Tax Map and parcel number of subject property.
 - (c) Zoning district designation for the subject parcel. (Submit copy of Town Zoning Map with parcel identified.)
 - (d) A line map to scale showing the lot lines of the subject property and the location of all buildings, including accessory structures, on all properties shown within 300 feet of the proposed wireless facility.

- (e) The proposed locations of all existing and future personal wireless service facilities in the Town on a Town-wide map for this carrier.
- (3) Siting filing requirements.
 - (a) A one inch equals 40 feet vicinity plan showing the following:
 - [1] Property lines for the subject property;
 - [2] Property lines of all properties adjacent to the subject property within 300 feet of the property line;
 - [3] Tree cover on the subject property and adjacent properties within 300 feet of the proposed wireless facility, by dominant species and average height, as measured by or available from a verifiable source;
 - [4] Outline of all existing buildings, including purpose (e.g. residential buildings, garages, accessory structures, etc.), on subject property and all adjacent properties within 300 feet of the proposed wireless facility;
 - [5] Proposed location of antenna, mount and equipment shelter(s);
 - [6] Proposed security barrier, indicating type and extent as well as point of controlled entry;
 - [7] Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet of the proposed wireless facility, including driveways proposed to serve the personal wireless service facility;
 - [8] Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan;
 - [9] Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet of the property line;
 - [10] All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways;
 - [11] Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility; and
 - [12] Lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed from "sight lines" subsection below).
 - (b) Sight lines and photographs as described below:
 - [1] Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (viewpoint) within 300 feet, to the highest point

(visible point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles shall show all intervening trees and buildings. In the event there is only one residential building within 300 feet, there shall be at least two sight lines from the closest habitable structures or public roads, if any.

- [2] Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch color photograph of what can currently be seen from any public road within 300 feet of the proposed wireless facility.
 - [3] Proposed (after condition) photographs. Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.
- (c) Siting elevations, or views at grade from the north, south, east and west for a fifty-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either 1/4 inch equals one foot or 1/8 inch equals one foot scale and show the following:³¹
- [1] Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.
 - [2] Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.
 - [3] Any and all structures on the subject property.
 - [4] Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
 - [5] Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.
- (4) Design filing requirements.
- (a) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as runs and security barrier, if any.
 - (b) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs and security barrier, if any.

31. Editor's Note: Amendment pending.

- (c) Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs and security barrier, if any.
 - (d) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier, if any.
 - (e) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables, as well as cable runs and security barrier, if any, for the total height, width and breadth.
 - (f) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at installation and species.
 - (g) Within 30 days of the pre-application conference, or within 21 days of filing an application for a special permit, the applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days, prior to the test.
 - (h) If lighting of the site is proposed, the applicant shall submit a manufacturer's computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaire proposed.
- (5) Noise filing requirements.
- (a) The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibel Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following:
 - [1] Existing or ambient: the measurements of existing noise.
 - [2] Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment.
 - (b) Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the noise standards of this bylaw.
- (6) Radiofrequency radiation (RFR) filing requirements.
- (a) The applicant shall provide a statement listing the existing and maximum future projected measurements of RFR from the proposed personal wireless service facility, for the following situations:

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- [1] Existing or ambient: the measurements of existing RFR.
- [2] Existing plus proposed personal wireless service facilities: estimate of the maximum of RFR from the proposed personal wireless service facility plus the existing RFR environment.
- (b) Certification signed by an RF engineer stating that RFR measurements are accurate and meet FCC guidelines as specified in § 201-23.3C(1).
- (7) Federal environmental filing requirements.
 - (a) The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:
 - [1] Wilderness area.
 - [2] Wildlife preserves.
 - [3] Endangered species habitat.
 - [4] Historical site.
 - [5] Indian religious site.
 - [6] Floodplain.
 - [7] Wetlands.
 - [8] High-intensity white lights in residential neighborhoods.
 - [9] Excessive radiofrequency radiation exposure.
 - (b) At the time of application filing, an EA that meets FCC requirements shall be submitted to the Town for each personal wireless service facility site that requires such an EA to be submitted to the FCC.
 - (c) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.
- D. The Board of Appeals may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

§ 201-23.5. Co-location.

- A. Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a special permit for a personal wireless

service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

- (1) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
 - (2) Contact with all the other licensed carriers for commercial mobile radio services operating in the Town; and
 - (3) Providing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.
- B. In the event that co-location is found to be not feasible, a written statement of the reasons for the unfeasibility shall be submitted to the Town. The Town may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The Town may deny a special permit to an applicant that has not demonstrated a good faith effort to provide for co-location.
- C. If the applicant does not intend to co-locate or to permit co-location, the Town shall request drawings and studies which show the ultimate appearance and operation of the personal wireless service facility at full build-out.
- D. If the Board of Appeals approves co-location for a personal wireless service facility site, the special permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the special permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved special permit shall require a new special permit.
- E. Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

§ 201-23.6. Modifications.

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and require a special permit when the following events apply:

- A. The applicant and/or co-applicant wants to alter the terms of the special permit by changing the personal wireless service facility in one or more of the following ways:
 - (1) Change in the number of facilities permitted on the site.
 - (2) Change in technology used for the personal wireless service facility.
 - (3) Additional equipment shelter.
- B. The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

§ 201-23.7. Monitoring and maintenance.

- A. Within 90 days of the beginning of operations, and annually thereafter, the applicant shall submit measurements of RFR from the personal wireless service facility. Such measurements shall be signed and certified by a RF engineer, stating that RFR measurements are accurate and meet FCC guidelines as specified in § 201-23.3C(1).
- B. The applicant and co-applicants shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier and maintenance of the buffer area and landscaping.

§ 201-23.8. Abandonment or discontinuance of use.

- A. At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the Town by certified United States mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- B. Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:
 - (1) Removal of antennas, mounts and equipment shelters and security barriers from the subject property.
 - (2) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 - (3) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- C. If a carrier fails to remove a personal wireless service facility in accordance with this section of this bylaw, the Town shall have the authority to enter the subject property and physically remove the facility. The Board of Appeals may require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless facility in the event the Town must remove the facility.

§ 201-23.9. Reconstruction or replacement of existing towers and monopoles.

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this bylaw may be reconstructed, altered, extended or replaced on the same site by special permit, provided that the Board of Appeals finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such a determination, the Board of Appeals shall consider whether the proposed reconstruction, alteration,

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extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety and/or reduction in visual and environmental impacts. No reconstruction, alteration, extension or replacement shall exceed the height of the existing facility by more than 20 feet.

§ 201-23.10. Term of special permit.

A special permit issued for any personal wireless service facility over 50 feet in height shall be valid for 20 years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new special permit shall be required.

For definitions pertinent to personal wireless service facilities see § 201-1.2.

ARTICLE 24

**Village Overlay District
[5-25-1999 ATM]**

§ 201-24.1. Purpose.

The purpose of the Village Overlay District (VOD) is to:

- A. Provide dwelling units for occupancy by individuals 55 years of age or older; and
- B. Provide for mixed and diverse varieties of housing, including affordable housing; and
- C. Provide for residential development in a manner that conserves environmental features, woodlands, wet areas, open space, areas of scenic beauty, views and vistas.

§ 201-24.2. Applicability.

The VOD shall be construed as an overlay district. All requirements of the underlying zoning district(s) shall remain in full force and effect, except where the requirements of the VOD are more restrictive or provide for uses or structures not otherwise available in the underlying district; in such cases, the requirements of the VOD may supersede the underlying zoning regulations upon the issuance of a special permit from the Planning Board.

§ 201-24.3. Land included.

The VOD shall include all land designated by a two-thirds vote of Town Meeting as within the district, all pursuant to MGL c. 40A, § 5.

§ 201-24.4. Definitions.

APPLICANT — The person or persons, including a corporation or other legal entity, who apply for issuance of a special permit for construction of a Village Residential Development (VRD) hereunder. The applicant must own, or be the beneficial owner of, all the land included in the proposed VRD, or have authority from the owner(s) to act for him 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.

BEDROOM — A separate room in a dwelling unit intended for, or which customarily could be used for, sleeping.

BUFFER — An area within a VRD adjacent to its boundaries, streams and ponds, which may not be cleared, cut, developed or otherwise disturbed except as provided herein.

DEVELOPMENT SCHEDULE — A schedule showing the order and timing of construction and the sequence of the improvements to be built or furnished in the VRD site, separated into stages where applicable.

REGULATIONS — The rules and regulations of the Planning Board.

UPLAND — All land not defined as wet areas.

VILLAGE RESIDENTIAL DEVELOPMENT (VRD) — A combination of single-family dwellings and permissible accessory uses authorized by special permit from the Planning Board as set forth herein.³²

WET AREAS — All land, other than wetland buffer zones, subject to the provisions of the Massachusetts Wetland Protection Act, MGL c. 131, §§ 40 and 40A, and the Town of Norwell Wetlands Bylaw.³³

§ 201-24.5. Use restrictions.

A VRD, consisting of the uses set forth below, individually or in combination, may be authorized by a special permit issued by the Planning Board pursuant to this article and in compliance with the standards set forth herein:

- A. Attached or detached dwelling units owned and occupied by persons aged 55 and over; provided, however, that one spouse may be under 55.
- B. Structures and uses accessory to the use set forth above, including community buildings serving the residents of the VRD; recreational facilities; underground utilities located on a lot not serving the dwelling units; and roadways.

§ 201-24.6. Application for special permit.

An application for a special permit for construction of a VRD within the VOD shall be submitted to the Planning Board on forms furnished by the Planning Board, accompanied by the filing fee determined in accordance with the Planning Board's rules and regulations, the following information and data, and a development plan as described below:

- A. All of the information required for site plan approval pursuant to § 201-3.4B herein.
- B. The name(s) and address(es) of the applicant and all legal and beneficial owners of the site; copies of all instruments, options, contracts or encumbrances affecting ownership

32. Editor's Note: Amendment pending.

33. Editor's Note: See Ch. 61, Art. I, Wetlands Protection.

of the development site; and an instrument executed by all persons owning property within the site consenting to the development of the subject property, as applied for.

- C. 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.
- D. A narrative report prepared by qualified professionals, detailing the impact of the development on the Town's capacity to furnish services, including, but not limited to, roads, water and sanitation.
- E. Information regarding the number and kind of dwelling units and other structures proposed, their design, their location, the number of bedrooms planned, the sale prices and fees anticipated and population projections pertaining thereto.
- F. Areas to be set aside for building structures, parking areas and conservation and recreation easements.
- G. Information pertaining to any organization which the applicant proposes to form where the development is to be a condominium development.
- H. Copies of all proposed deed restrictions to assure resale at affordable prices and the right of first refusal in favor of the Town for dwelling units to be sold at affordable prices, if applicable.
- I. 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 article.

§ 201-24.7. Standards.

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

- A. Qualifying area. The VRD site shall be located within the VOD and shall contain at least 40 contiguous upland acres, including at least one acre of upland for each dwelling unit proposed.
- B. Open space requirement. At least 50% of all upland contained within the VRD site shall be open space, which shall be left in its natural vegetated state.
- C. Buffer. A buffer area of 175 feet shall be provided at the perimeter of the VRD site where it abuts residentially zoned or occupied properties sufficient to substantially limit the visibility of the VRD from outside its perimeter; provided, however, the buffer may be reduced to not less than 50 feet upon a finding by the Planning Board that suitable screening can be provided. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance, and provided, however, that structures or buildings may be located within the buffer area upon approval of the Planning Board with the issuance of a special permit. Underground planting may be added.

- D. Roadways and paths. Where intended for dedication and acceptance by the Town of Norwell, the principal roadway(s) serving the site shall be designed to conform with the standards of the Planning Board's Subdivision Regulations³⁴ and any other standards of the Town of Norwell. Private ways shall be adequate for intended vehicular and pedestrian traffic and shall be maintained by an association of unit owners or by the applicant. Paths for the use of residents shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, and access to the amenities and facilities on the site and to paths on adjacent sites.
- E. 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.
- F. Surface drainage. The surface drainage system shall be designed in accordance with the Subdivision Regulations of the Planning Board, the rules and regulations of the Permanent Drainage Study Committee and the DEP's Stormwater Management Policy and Design Guidelines as amended.³⁵
- G. Utilities. All electric, gas, telephone and water distribution lines shall be placed underground.
- H. Dwelling unit. The development of one or more dwelling units on a lot or lots shall be permitted in an application to construct a VRD. Dwelling units may be situated on any common or individual lot consistent with the overall design objectives of the VOD; provided, however, that such dwelling units shall comply with the provisions of the State Sanitary Code, 310 CMR 15.00, any other applicable state regulations and with the rules of the Norwell Board of Health.

§ 201-24.8. Review fees.

The Planning Board may engage, at the expense of the applicant, professional, technical and/or legal consultants to review an application for a special permit within the VOD and to evaluate compliance with the special permit.

§ 201-24.9. Affordable units.

The applicant is encouraged to provide dwelling units at prices affordable to persons or families of low or moderate income. Such affordable dwelling units shall be integrated into the overall development so as to prevent the physical segregation of such units and shall otherwise be indistinguishable in all respects, including but not limited to materials, size and design, from comparable market price units.

§ 201-24.10. Grant of special permit.

The Planning Board by affirmative vote of 4/5 of its members present and voting may grant a special permit for a VRD upon finding that the proposed VRD complies with the

34. Editor's Note: See Ch. 302, Planning Board, Part 1, Subdivision Rules and Regulations.

35. Editor's Note: See Ch. 302, Planning Board, Part 1, Subdivision Rules and Regulations, and Ch. 308, Permanent Drainage Committee.

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requirements of this article. The Planning Board shall not grant a special permit unless it determines that all criteria set forth in § 201-3.3B herein are satisfied. The special permit may be granted with such reasonable conditions, regulations or limitations as the Planning Board may deem necessary to serve the purpose of the bylaw.

§ 201-24.11. Expiration of special permit.

Special permits shall lapse in accordance with § 201-3.3E herein.

§ 201-24.12. Public hearing.

Special permits shall only be issued following public hearings held in accordance with § 201-3.3C herein.

§ 201-24.13. Modification.

No structure created within the VRD shall be externally enlarged by more than 200 square feet and no use changed or expanded in the ground except upon approval of the Planning Board and subject to the provisions of §§ 201-24.4 through 201-24.12.

ARTICLE 25

Open Space Residential Design

[5-21-2008 ATM, Art. 24; amended 5-9-2011 ATM, Art. 37; 5-5-2015 ATM, Art. 42]

§ 201-25.1. Purpose and intent.

- A. Primary purposes. The primary purposes for open space residential design (OSRD) are the following:
- (1) To allow for greater flexibility and creativity in the design of residential developments;
 - (2) To encourage the permanent preservation of public open space, agricultural land, forestry land, wildlife habitat and other natural resources including aquifers, water bodies and wetlands, and historical and archaeological resources in a manner that is consistent with Norwell's Master Plan and Open Space and Recreation Plan;³⁶
 - (3) To encourage a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
 - (4) To minimize the total amount of disturbance on the site;
 - (5) To further the goals and policies of Norwell's Master Plan and Open Space and Recreation Plan;³⁷

³⁶. Editor's Note: Amendment pending.

³⁷. Editor's Note: Amendment pending.

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- (6) To facilitate the construction and maintenance of housing, streets, utilities and public service in a more economic and efficient manner; and
- (7) To facilitate the construction and maintenance of public trails and associated amenities to enhance the pedestrian experience.

B. Secondary purposes. The secondary purposes for OSRD are the following:

- (1) To preserve and enhance the Town's character;
- (2) To protect and enhance the value of real property;
- (3) To protect the Town's water supplies;
- (4) To provide for a diversified housing stock; and
- (5) To protect agriculturally significant land.

§ 201-25.2. Special permit required.

All OSRD developments require special permit approval. The Planning Board, acting as the special permit granting authority (SPGA), may authorize an OSRD special permit for OSRD subdivisions pursuant to the requirements and procedures outlined in this bylaw.

§ 201-25.3. Eligibility for OSRD special permit approval.

- A. Applicability. Special permits for OSRD definitive subdivisions are allowed in all residential districts.
- B. Minimum size of subject property. To be eligible for consideration for an OSRD special permit, the subject property shall contain a minimum of five acres. The Planning Board may waive this requirement if the land offers opportunities for contiguous open space and the Planning Board deems that the design satisfies the purpose and intent of this bylaw.
- C. Contiguous parcel. The Planning Board may determine that two or more parcels separated by a road or other man-made feature are "contiguous" for purposes of this section if they satisfy the purpose and intent of this bylaw.

§ 201-25.4. Pre-application conference and site visit.

- A. Pre-application conference. The applicant is required to attend a pre-application conference, which may occur at one or more regular meetings of the Planning Board. The parties at the pre-application conference shall discuss the OSRD design process and criteria set forth in this bylaw. The Planning Board shall invite to the pre-application conference the Conservation Commission, Board of Health and any other Town officers or representatives whose input is deemed by the Planning Board to be necessary and in the Town's best interest. The purpose of a pre-application conference is to attempt to minimize the applicant's costs of engineering and other technical experts, and to discuss the proposal with the Planning Board at the earliest possible stage in the development.

- B. Timetable. At the pre-application conference, the applicant shall outline the proposed OSRD project and seek preliminary feedback from the Planning Board and/or its technical experts.
- C. Technical experts. The Planning Board shall discuss engaging technical experts at the expense of the applicant to review the submittals required for the OSRD special permit.
- D. Pre-application site visit. Prior to the pre-application conference, the Planning Board may require a site visit in order to better understand the site and facilitate pre-application review of the OSRD proposal.
- E. Pre-application conference submittals.
 - (1) Site context plan. This plan shall identify the subject parcel in connection to its surroundings. Based on existing data sources (including all state and local natural resource maps such as the Natural Heritage and Endangered Species Program Priority and Estimated Species maps), field inspections and the evaluation of the Norwell 2005 Master Plan maps (including the "Natural Resources with Priorities" map) or those of any succeeding master plan, the site context plan shall identify primary and secondary conservation areas, as described in § 201-25.6, within the proposed parcel and show all major natural resource areas or features, including those that cross parcel lines and those that are located on adjoining lands. All on-site local, state and federal regulatory resource boundaries and buffer zones shall be clearly identified. This plan will enable the Planning Board to understand the site in relation to adjacent properties.³⁸
 - (2) Order of resource area delineation (ORAD). The applicant shall submit a valid ORAD from the Conservation Commission and still be responsible for maintaining said ORAD throughout the subdivision approval process.
 - (3) Existing conditions/site analysis plan. This plan shall identify all easements and visible features on the property. Based upon existing ORAD, data sources and field inspections, this plan shall locate and describe noteworthy resources that could be protected through sensitive subdivision layouts. These resources shall include but are not limited to wetlands, vernal pools, wetland buffer zones, riverfront areas, floodplains, existing topography, slopes over 20%, mature non-degraded woodlands, trees over 12 inches in diameter, hedgerows, farmland, unique or special wildlife habitats, historical or cultural features (such as old structures or stone walls), geologic formations, solar orientation and scenic views into and out from the property, and any other significant natural features. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap or conflict.
 - (4) Enhanced Natural Resources Conservation Service (NRCS) soils map. This map will identify the suitability of the soils and soil types for the stormwater treatment areas and, if proposed, the location of any communal or off-lot septic systems. All previously completed percolation test results, depth to groundwater test holes and soil logs shall be shown on the map. The information depicted on site context

38. Editor's Note: Amendment pending.

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plan and the existing conditions/site analysis plan may be consolidated onto the enhanced NRCS soils map, if practical.

- (5) Photographs. Photographs of the site and significant resources shall accompany the pre-application conference submittals if the Planning Board requests them to garner a better understanding of the subject property.
- (6) Yield plans. Two yield plans per § 201-25.5B (see below) shall be submitted. **[Added 5-8-2017 ATM, Art. 37]**
- (7) Lotting plan. **[Added 5-8-2017 ATM, Art. 37]**
 - (a) A separate, stand-alone lotting plan shall be included in the required plan set that delineates all proposed house lots and identifies the streets and ways providing access to each unit. This plan shall not be consolidated with any other plans required in § 201-25.4E.
 - (b) A separate stand-alone lotting plan shall be included in the required plan set that delineates all proposed open space parcels and identifies the entrance(s), egress(es) and accessway(s) thereto. This plan shall not be consolidated with any other plans required in § 201-25.4E.
- (8) Preliminary technical review. The applicant shall remit a preliminary escrow in accordance with the Planning Board fee schedule, as it may be amended from time to time, prior to the pre-application conference for the purpose of engaging technical experts to provide an abbreviated, preliminary technical review of the applicant's proposal. The preliminary technical review may be used to facilitate discussion at the pre-application conference. This fee is in addition to the applicant's OSRD application for a special permit ("Form O") and the fees associated in connection thereof. **[Added 5-8-2017 ATM, Art. 37]**

§ 201-25.5. Application for OSRD special permit and submittals.

A. Application.

- (1) An application for an OSRD special permit shall be submitted on the Norwell Planning Board Form O. Seven total copies of the application and the yield plan shall be required. In addition, the applicant shall also submit seven copies of the site context plan, the existing conditions/site analysis plan and the enhanced NRCS soils map, showing any changes requested during the pre-application conference.
- (2) Whenever an application for an OSRD special permit is filed with the Planning Board, the applicant shall also file, within five working days of the filing of the completed application, copies of the application, accompanying development plan and other documentation with the Board of Health, Conservation Commission, Historical Commission, Building Inspector/Zoning Enforcement Officer, Highway Department, Police and Fire for their consideration, review and report. The applicant shall furnish the copies necessary to fulfill this requirement. Reports from other boards and officials shall be submitted to the Planning Board within 35 days of receipt by the reviewing party of all the required materials; failure of

the reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the thirty-five-day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that thirty-five-day period. The decision/findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

B. Yield plans. Two yield plans shall be submitted to the Planning Board:

- (1) Traditional subdivision yield plan. A plan showing the layout of the maximum allowable number of house lots under the Planning Board rules and regulations for a traditional subdivision. The plan shall include an area of upland satisfactory to the Planning Board as a drainage parcel.
- (2) Open space residential design (OSRD) yield plan. A plan showing the layout of the maximum allowable number of house lots in an OSRD definitive subdivision. The maximum number of lots shall be calculated using the following approach: determine total land area expressed in square feet, then subtract all wetland areas expressed in square feet, then multiply this subtotal by 0.9, then divide this subtotal by 43,560 (any non-integer number shall be rounded down the nearest integer). The equation for this calculation is: $(\text{Total land area}^* - \text{area of wetlands}^*) \times 0.9 / 43,560 = \text{allowable lots}$ *areas expressed in square feet.
- (3) In no event shall the number of house lots in an OSRD definitive subdivision exceed the maximum number of house lots available under a traditional subdivision that would comply with the current Planning Board rules and regulations [see Subsection B(1), Traditional subdivision yield plan]. **[Added 5-8-2017 ATM, Art. 36]**

C. Development plan. The development plan shall bear the seal and certification of a registered landscape architect, or a multidisciplinary team of which one member is a registered landscape architect. The plan shall show the existing conditions of the subject parcel, identify the proposed open space and developable areas, and adhere to plan design components defined by § 201-25.6 of this bylaw.

- (1) The landscape architect shall include a brief narrative on the plan that describes the characteristics of the planned open space and how the planned development preserves grades, vegetation and natural features in the development areas.
- (2) The development plan shall also contain the information required for a preliminary subdivision plan, as set forth in Article 5 of the Planning Board's most current Subdivision Rules and Regulations.³⁹
- (3) The Planning Board shall vote to formally acknowledge that the submitted development plan is substantially complete.

39. Editor's Note: See Ch. 302, Planning Board, Part 1, Subdivision Rules and Regulations.

§ 201-25.6. Development plan design.

- A. Design. Applicants shall demonstrate to the Planning Board that the following OSRD design process was followed in determining the layout of proposed open space, streets and house lots:
- (1) Conservation areas. First, primary conservation areas (such as wetlands, riverfront areas and floodplains regulated by local, state and federal law) and secondary conservation areas (including unprotected elements of the natural landscape such as steep slopes, mature woodlands, prime farmland, meadows, wildlife habitats and cultural features such as historic and archaeological sites and scenic views) shall be identified and delineated. Second, the potentially developable area will be identified and delineated. Land identified as potentially developable shall not be located in any primary conservation areas or, to the maximum extent feasible, in any identified secondary conservation areas.
 - (2) Locate house sites. Locate the approximate sites of individual houses within the potentially developable area and include the delineation of private yards and shared amenities, so as to reflect an integrated community. The shared amenities should be located so that the number of homes enjoying the amenities shall be maximized.
 - (3) Align the streets and trails. Align the streets to access the house lots. Additionally, new trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and trails on and abutting the subject parcel.
 - (4) Lot lines. Draw in the lot lines.
- B. Reduction of dimensional requirements. In an OSRD development, the Planning Board may authorize a reduction in any of the intensity of use and dimensional requirements in the Zoning Bylaw. The following standards shall apply:
- (1) Lot frontage shall not be less than 50 feet.
 - (2) Lot size shall not be less than 1/2 acre of upland. No area within the fifty-foot wetlands buffer strip may be included in determining compliance with this requirement.
 - (3) No building or structure shall be erected, placed or added so as to extend within 25 feet of the front property line, nor within 10 feet of the side or rear property line.
 - (4) No two points on lot lines shall be less than 50 feet apart except where the shortest distance between such points, measured along the perimeter of the lot, is less than or equal to 150 feet.
 - (5) Lot shall be exempt from §§ 201-9.3B and 201-9.5 of the Zoning Bylaw.
 - (6) Only lots on the street to be created by the OSRD subdivision special permit are to benefit from the reduced area, setback and frontage requirements. No reductions of frontage, setbacks and area shall be allowed on any lot that fronts on an existing way not created via OSRD special permit.

- (7) The applicant shall submit a document outlining proposed methods of reducing the visual scale and massing of structures to create a development that adheres to the rural character of the Town.
- C. Open space requirements. A minimum of 50% of the upland on the subject property shown on the approved development plan shall be permanently protected as open space. Any proposed open space, unless conveyed to Norwell's Conservation Commission, shall be subject to a recorded conservation restriction, providing that such land shall be perpetually kept in an open state and be preserved exclusively for the purposes set forth herein, and that it shall be maintained in a manner consistent with its intended purpose as open space.
- (1) The upland open space shall be contiguous. The Planning Board may waive the contiguous requirement for all or part of the required open space within the OSRD definitive subdivision where it is determined to the satisfaction of the Planning Board that allowing non-contiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.
 - (2) The open space shall be used for wildlife habitat and conservation and any of the following additional purposes: historic preservation, recreation, walking trails, bike paths, view vistas, parklands, agriculture, horticulture, forestry or a combination of these uses. Whatever use is proposed shall be served by suitable access for such purposes without impinging upon the rights of private property owners. The Planning Board may allow open space uses not specified in this section if the Planning Board considers the use consistent with the purpose and intent of this bylaw. [**Amended 5-8-2017 ATM, Art. 37**]
 - (3) Disturbed areas within open space. Not more than 1/2 of dedicated open space shall be disturbed or altered. A disturbed area is any land not left in its natural state. At the option of the Planning Board, other areas may be considered as contributing towards this requirement where the development plan includes the restoration of the area to a more natural condition, for example, where an abandoned gravel pit will be regraded and replanted with vegetation consistent with its surroundings.
 - (4) Open space shall not include land set aside for the road's right-of-way.
 - (5) Subject to the approval of the Board of Health, as otherwise required by law, the Planning Board may permit a portion of the dedicated open space to be used for components of sewage disposal systems serving the subdivision, when the Planning Board finds that such use will not be detrimental to the character or quality of the open space or wetlands. Decentralized cluster wastewater systems or communal sewage disposal systems shall not be allowed within the dedicated open spaces if they have mounding that does not comport with the surrounding grades.
 - (6) Engineered drainage systems, such as retention, detention and infiltration ponds, shall not be allowed within the open space except where specifically permitted by the Planning Board under Subsection E(6). Underground infiltration systems or other low-impact drainage systems (as defined by Subsection F) shall be allowed

within the open space subject to an agreement that the proposed road and drainage system will remain private in perpetuity.

- (7) Communal buildings and structures that are accessory to the open space shall not be allowed within the dedicated open space unless the Planning Board deems that their location therein satisfies the purpose and intent of this bylaw.
 - (8) Ownership of the open space. The open space shall, at the applicant's election and subject to the approval of the Planning Board, be conveyed to either the Town's Conservation Commission, or a nonprofit organization or land trust whose principal mission is the conservation and protection of open space, or to a corporation or trust owned jointly or in common by the owners of lots within the proposed OSRD definitive subdivision. If conveyed to a trust, maintenance of such open space and facilities shall be permanently guaranteed by such trust, which shall provide for mandatory assessments for maintenance expenses for each lot and unit.
 - (9) Maintenance easement. If the open space is not conveyed to the Town, the Town shall be granted an easement over such land sufficient to ensure its perpetual maintenance. Such easement shall provide that in the event the trust or other owner fails to maintain the open space in reasonable condition, the Town may, after notice to the lot owners and public hearing, enter upon such land to provide maintenance. The cost of such maintenance by the Town shall be assessed against the properties within the development and/or to the owner of the open space. The Town may file a lien against the lot or lots to ensure payment of such maintenance.
 - (10) The protected open space must be clearly delineated on the ground with permanent markers before any building permits are issued. The Planning Board may require the installation and maintenance of reasonable measures in order to delineate such areas and ensure that open space areas are not encroached upon by abutting lot owners.
- D. Roadway design and construction. Streets in OSRD definitive subdivisions shall adhere to the traditional subdivision requirements as set forth in the most recent Planning Board rules and regulations except as superseded by the following standards in Subsection D(1) to (5). The Planning Board reserves the right to waive strict compliance with any part of this section if the specific waivers comply with the purpose and intent of this bylaw and are in the public's interest.
- (1) Street design. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
 - (2) Dead-end roads. Streets shall not exceed a maximum length of up to 1,000 feet measured from the center line of the nearest intersecting through street to the end of the subdivision way (farthest extent of right-of-way).
 - (3) Dead-end road length and buffer. When OSRD dead-end roads exceed 550 feet in length, measured from the center line of the nearest intersecting through street to the end of the subdivision way, dedicated open space should be provided at a

depth of 100 feet, along the entire length of the existing street from which the subdivision derives its frontage. When OSRD dead-end roads do not exceed 550 feet in length, dedicated open space should be provided at a depth of 25 feet, along the length of the existing street from which the subdivision derives its frontage.

- (4) Cross section. Typical subdivision cross-section requirements as set forth in the most recent Planning Board rules and regulations shall apply with the exception that dead-end roads shall have a minimum twenty-four-foot width with a twelve-inch berm.
- (5) Pedestrian and bicycle circulation. Walkways and bicycle paths shall be provided to link residences with recreation facilities (including parkland and open space) and adjacent land uses where appropriate. The Planning Board will strongly encourage that such amenities be designed so as to link to like facilities adjacent to the subject parcel. If no such facilities exist and the property abuts land that may be further developed in the future, the Planning Board may require that a reserve access strip be created to facilitate connection to future developments.

E. Screening, landscaping and buffer areas. In addition to the stated requirements elsewhere in the Zoning Bylaw, the following shall be required for OSRD definitive subdivisions:

- (1) All surface stormwater management facilities shall be accompanied by landscape plan, signed and sealed by a registered landscape architect. The landscape plan shall screen surface stormwater management facilities from both dwelling and roadside views.
- (2) Roadside and adjacent property buffer areas. A vegetated buffer is required along the entire length of existing ways abutting the proposed subdivision as per Subsection D(3). The subdivision roadway may cross such buffer areas.
 - (a) A vegetated buffer of a depth of at least 75 feet is required along developed residential property adjacent to the subdivision.
 - (b) None of the existing vegetation in these buffer areas should be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project.
 - (c) The Planning Board may waive this buffer requirement when it determines that doing so is not inconsistent with the purpose and intent of this bylaw. The Planning Board may require additional plantings in a buffer area if the existing vegetation does not provide adequate screening.
- (3) Resource buffer areas. A natural vegetated buffer at least 100 feet deep shall be preserved along ponds, wetlands, vernal pools, streams and riverfront areas on or adjacent to the property. The Planning Board may waive this buffer requirement when it determines that doing so is not inconsistent with the purpose and intent of this bylaw.
- (4) The landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree cutting and the alteration of natural grades. The orientation of

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individual building sites shall be such as to maintain maximum natural topography and cover.

- (5) The removal, disturbance or disruption of historic or cultural structures or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties. If such elements exist, the applicant shall submit a narrative explaining how said interests are being preserved or how removal, disturbance or disruption is being minimized.
- (6) Subject to the approval of the Planning Board, wastewater and stormwater management systems may be located within buffer areas.

F. Stormwater management.

- (1) The Planning Board encourages the use of nonstructural stormwater management techniques such as swales, bioretention areas, rain gardens and other low-impact development drainage techniques that reduce impervious surface and promote groundwater recharge. Drainage requirements for OSRD definitive subdivisions shall meet the requirements of the Planning Board's rules and regulations and current DEP stormwater management requirements.
- (2) The approximate number and location of any stormwater management detention/retention basins shall be shown on the plan and accompanied by a conceptual landscaping plan. A narrative explanation prepared by a certified professional engineer proposing systems for stormwater drainage and its likely impacts on site and to any abutting parcels of land shall be submitted in the application.

G. Utilities.

- (1) Official soil percolation tests for the purpose of siting wastewater treatment options shall be required as determined by the Planning Board. A narrative explanation shall be prepared by a certified professional engineer detailing the proposed wastewater systems to be utilized by the development.
- (2) A narrative explanation prepared by a certified professional engineer shall detail the proposed drinking water supply system.

H. Site visit. Whether or not conducted during the pre-application stage, the Planning Board may conduct a site visit during the project review process. The applicant and/or its agents shall accompany the Planning Board and/or its agent if a site visit was not performed during the pre-application process.

I. Compliance with rules and regulations. Open space residential design (OSRD) definitive subdivision plans shall adhere to all of the Planning Board's current rules and regulations unless provisions of such regulations are specifically addressed within this bylaw.

§ 201-25.7. Action by Planning Board.

- A. Special permit approval. The Planning Board will hold a public hearing within 65 days of receiving an OSRD special permit and acknowledged development plan and approve, approve with conditions, or disapprove an OSRD special permit within 90 days of said

public hearing in accordance with MGL c. 40A, § 9. Upon the written mutual agreement of the applicant and the Planning Board, the ninety-day special permit decision period may be extended at any time. The OSRD special permit decision and the corresponding development plan shall be filed with the Town Clerk and the decision shall be provided to the applicant via regular mail. Upon receipt of the Planning Board's written decision regarding the development plan, the applicant may submit an OSRD definitive subdivision plan. Planning Board approval of an OSRD special permit requires that any OSRD definitive subdivision plan be substantially compliant with the special permit and corresponding development plan.

- B. Waivers. The Planning Board may vote on any or all waivers requested by the applicant that the Planning Board is given the authority to waive under this OSRD bylaw. Remaining waiver requests shall be addressed in the definitive subdivision decision.
- C. The Planning Board may approve the OSRD special permit if it finds that the proposed development has less detrimental impact on the subject property and the abutting neighborhood than a conventional definitive subdivision, after considering the following factors:
 - (1) The development plan achieves greater flexibility and creativity in the design of residential developments than a conventional subdivision.
 - (2) The development plan promotes permanent preservation of open space, agricultural land, forestry land, and other natural resources, including water bodies and wetlands, and historical and archaeological resources.
 - (3) The development plan promotes a less sprawling and more efficient form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision.
 - (4) The development plan reduces the total amount of land disturbance on the site.⁴⁰
 - (5) The development plan furthers the goals and policies of Norwell's Open Space and Recreation Plan and Master Plan.⁴¹
 - (6) The development plan facilitates the construction and maintenance of streets, utilities and public service in a more economical and efficient manner.
 - (7) The development plan facilitates the construction and maintenance of trails along with connections to existing or planned trails within the Town to enhance the pedestrian experience.
 - (8) The development plan complies with the purpose and intent and design standards in this bylaw.
 - (9) No waiver requests have been denied by the Planned Board.
- D. Any OSRD special permit approval must be followed by the submittal of an OSRD definitive subdivision plan in accordance with the Norwell Planning Board's rules and

40. Editor's Note: Amendment pending.

41. Editor's Note: Amendment pending.

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regulations. The OSRD definitive subdivision plan shall not be approved unless the plan is substantially consistent with the approved development plan. A determination of substantial inconsistency will be based on the following conditions:

- (1) An increase in the number of building lots.
 - (2) A material decrease in the open space acreage or lot layout.
 - (3) A material change in the general development pattern which adversely affects natural landscape features and open space preservation.
 - (4) Material changes to the stormwater or wastewater management facilities.
- E. The Planning Board may modify an existing OSRD special permit when the subsequent OSRD definitive subdivision plan, in the opinion of the Planning Board, more fully satisfies the purpose and intent of this bylaw. The Planning Board may also require that the development plan be modified so as to comply with the material changes identified by the Planning Board before the modified OSRD special permit is approved.

§ 201-25.8. Rules and regulations.

The Planning Board, in its discretion, shall have the authority to adopt rules and regulations consistent with this bylaw.

§ 201-25.9. Severability.

If any provision of this bylaw, in whole or part, shall prove to be invalid for any reason, such invalidity shall only affect the part of such provision found invalid. In all other aspects, all provisions of this bylaw will remain in full force.

ARTICLE 26

Adult Entertainment Overlay District [12-17-2001 STM, Arts. 1 and 2]

§ 201-26.1. Purpose.

- A. It is the purpose and intent of this bylaw to address and mitigate the secondary effects of the adult uses referenced herein, which include but are not limited to increased crime, adverse impacts on public health, safety and welfare, decreased property values and neighborhood blight, all of which have been relied upon in considering the enactment of the bylaw.
- B. The provisions of this bylaw have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials, including sexually oriented matter or materials, unless such matter is prohibited by state or federal law. Similarly, it is not the purpose or intent of this bylaw to restrict or deny access by adults to adult entertainment establishments or to sexually oriented matter or materials that are protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such

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matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the purpose or intent of this bylaw to legalize the sale, rental, distribution or exhibition of obscene or other illegal matter or materials.

§ 201-26.2. District established.

- A. There is hereby created an Adult Entertainment Overlay District (AEOD).
- B. Adult bookstores, adult motion-picture theaters, adult paraphernalia stores, adult video stores, and establishments which display live nudity, as those terms are defined in MGL c. 40A, § 9A, as amended, and sexually oriented businesses, hereinafter referred to as "adult entertainment establishments," are prohibited in all zoning districts except as allowed in the Adult Entertainment Overlay District (AEOD) upon the grant of a special permit by the Board of Appeals, in accordance with § 201-3.3, as modified by this article, following site plan review in accordance with § 201-3.4.

§ 201-26.3. Applicability.

The AEOD shall be construed as an overlay district. All requirements of the underlying district(s) shall remain in full force and effect, except where the requirements of the AEOD are more restrictive or provide for uses or structures not otherwise available in the underlying district. In such cases, the requirements of the AEOD shall supersede the underlying zoning regulations upon the issuance of a special permit from the Board of Appeals.

§ 201-26.4. Land included in district.

The AEOD shall include that portion of the land within Business District C-1, described in § 201-6.2E(1), which is situated between a line which runs 200 feet from, and parallel to, the southeasterly side of Pond Street and an easterly boundary line which runs 1,000 feet from, and parallel to, the boundary line between Residence B and Business C-1 aforesaid, shown as the AEOD Overlay District (as designated on the Town Zoning Map), and made a part thereof.

§ 201-26.5. Special permit requirements and conditions.

- A. Special permit. No adult entertainment establishment shall commence operations without first applying for and receiving a special permit from the Board of Appeals.
- B. Conditions. The following conditions shall be attached to any special permit for adult entertainment establishments:
 - (1) Special permits granted under this article shall remain exclusively with the applicant, who shall be the owner or lessee of the premises described in the application. The special permit shall terminate automatically on the date the applicant alienates that title or leasehold interest in the premises.
 - (2) Special permit issued under this article shall be for a period of three years from the date of the decision. It shall be renewed for successive three-year periods

provided that a written request for renewal is made to the Board of Appeals not less than three months prior to the expiration of the then-existing three-year period.

- (a) Publication of notice of said request shall be made in the same manner as would be required for an original application for a special permit. Said notice shall state that the renewal request will be granted unless, prior to the expiration of the then-existing permit, a written objection to the renewal, stating reasons, is received by the Board of Appeals. In the event of such an objection, a hearing on the renewal shall be held and shall proceed in a manner identical to the course of proceedings in connection with an original permit application.
 - (b) The special permit shall remain in effect until the conclusion of the public hearing and decision of the Board of Appeals either granting or denying the special permit renewal. In granting the renewal, the Board of Appeals may impose additional conditions, including, without limiting the foregoing, time limits to correct violations, hours of operation and additional screening, upon which a specific lapse of time without correction or compliance shall result in a revocation of the permit.
- (3) No adult entertainment establishment shall be located within 150 feet of a place of worship, school or day-care center.
 - (4) No adult entertainment establishment shall be located within 500 feet of another adult entertainment establishment.
 - (5) With the exception of an adult motion-picture theater, adult entertainment establishments may not exceed 3,000 square feet of usable floor area.
 - (6) Hours of operation for any adult entertainment establishment shall be established by the Board of Appeals.
 - (7) All exterior building openings, entries and windows shall be screened in such a manner as to prevent the public's view of the interior from any public or private right-of-way or abutting property.
 - (8) No adult entertainment establishment may have any flashing lights visible from the exterior of the premises.
 - (9) Appearance of buildings for adult uses shall be consistent with the appearance of buildings in similar (but not specifically "adult") use in Norwell, not employing unusual color or building design, which would attract attention to the premises.
 - (10) Exterior signs shall identify the name of the establishment but shall not contain any other advertisement or information.
 - (11) Special permits shall be granted only after a determination by the Board of Appeals that the location and design of the facility are in harmony with its surroundings, and that adequate safeguards exist through licensing or other means to assure on a continuing basis that activities therein will not be patently contrary to prevailing standards of adults in the community and will not, in any way, involve minors.

C. Procedural requirements for special permits.

- (1) Special permits shall only be issued following public hearings held within 65 days after filing of an application with the Board of Appeals, a copy of which shall forthwith be given to the Town Clerk by the applicant.
- (2) The Board of Appeals shall act within 90 days following a public hearing for which notice has been given by publication or posting and by mailing to all parties in interest. Failure by the Board of Appeals to take final action upon an application for a special permit within said 90 days following the date of public hearing shall be deemed to be a grant of the permit applied for.
- (3) A special permit granted under this section shall lapse within two years, including such time required to pursue or await the determination of an appeal as referred to in MGL c. 40A, § 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause, or in the case of a permit for construction, if such construction has not begun by such date except for good cause.
- (4) Any adult entertainment establishment special permit issued under this section shall require that the owner of such business shall supply on a continuing basis to the Building Inspector/Zoning Enforcement Officer any change in the name of the record owner or address or any change in the name of the current manager, and that failure to comply with this provision shall result in the immediate revocation of such special permit. If anyone so identified is or has been convicted of violating MGL c. 119, § 63, or MGL c. 272, § 28 or 31, or is listed on the sex offender registry, such special permit shall be immediately null and void.
- (5) Any existing adult entertainment establishment shall apply for such a special permit within 90 days following the adoption of this article.
- (6) No adult entertainment establishment special permit shall be issued under this section, become valid or in full force and effect until and unless the owner of the property containing such adult entertainment establishment shall supply to Board of Appeals a notarized statement agreeing to all terms and conditions of said adult entertainment establishment special permit.
- (7) No adult entertainment establishment special permit shall be effective until the expiration of any applicable appeal period under MGL c. 40A, § 17.

D. Statutory prohibition. No special permit under this article shall be issued to any person convicted of any violation under MGL c. 119, § 63, or MGL c. 272, § 28 or 31.

§ 201-26.6. Application information.⁴²

An application for a special permit under this article shall include the following:

A. Name and address of the legal owner of the establishment;

42. Editor's Note: Amendment pending.

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- B. Name and address of all persons having lawful equity or security interests in the establishment;
- C. Name and address of the manager;
- D. Number of employees;
- E. Proposed provisions for security within and without the establishment;
- F. The physical layout of the interior of the establishment;
- G. Design of proposed signs;
- H. Proposed design of building exterior;
- I. Plan of proposed parking and exterior lighting; and
- J. Plan of proposed screening.

§ 201-26.7. Severability.

The invalidity of any part, section or provision of this article shall not invalidate any other part, section or provision therein.

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201 Attachment 1

Town of Norwell

Business District A Use Table

The following table classifies uses within the Business District A. (Y) is allowed by right, (N) is not allowed, and (SP) indicates the use is allowed by special permit; (gsf) is gross square feet (including all office and storage areas). Mixed-use buildings that contain both nonresidential and residential uses are allowed as indicated in the use table. For businesses that contain two or more of the uses listed below the more restrictive permit requirement applies. Uses not identified within the table are prohibited.

Type	Use	Permitted
Residential¹		
	One-family dwelling with associated outbuildings	Y
	One-family dwelling (above nonresidential)	Y
	Two-family dwelling	N
	Two-family dwelling (above nonresidential)	Y
	Multifamily	N
	Multifamily (3 dwellings maximum or 1 dwelling per 15,000 square feet of lot area to a maximum of 6 units, whichever is greater, above nonresidential) ²	SP
	Assisted living/nursing home	SP
Commercial		
	Convenience stores	
	0 to 5,000 gsf	Y
	>5,000 gsf	N
	Pharmacies	
	0 to 5,000 gsf	SP
	>5,000 gsf	N
	Cafes	Y
	Art galleries	Y
	Banks	
	0 to 5,000 gsf	Y
	>5,000 gsf	N
	Grocery stores	SP
	Private club ³	Y
	Business or professional offices	Y
	Retail sales and services	Y
	0 to 5,000 gsf	Y
	5,001 to 12,000 gsf	SP
	Personal services	
	0 to 5,000 gsf	SP
	>5,000 gsf	N
	Restaurants (drive-thru service prohibited; see § 201-8.2E, General provisions)	SP

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Type	Use	Permitted
	Outdoor seating associated with restaurants or cafes subject to applicable licensing requirements	SP
	Movie house (maximum of 2 screens)	SP
	Liquor stores	
	0 to 5,000 gsf	SP
	>5,000 gsf	N
	Outdoor markets subject to applicable licensing requirements	SP
	Indoor recreational facilities	SP
	Body art establishment	N
	Hotel/inn (10 rooms maximum)	SP
	Motel	N
	Gasoline and service stations	N
	Automobile sales and repair	N
Community Service		
	Municipal buildings	Y
	Public utility buildings	SP
	Cemetery	Y
	Protected uses under MGL c. 40A, § 3	Y
	Other institutional, educational, recreational, philanthropic or religious use ⁴	Y
	Medical marijuana treatment center or similar facility	N
Accessory Uses/Home Occupations⁵		
	Insurance services	Y
	Real estate	Y
	Artist/craft manufacturing	Y
	Hair dressing	Y
	Mail order	Y
	Service business ⁶	Y
	Bed-and-breakfast inn (4 lodgers maximum)	Y
	Other	SP
General Provisions		
	Drive-thru windows associated with any use	N
	Drive-up ATMs associated with any use	N
	Outdoor storage (excludes short-term retail display)	N
	Operation of a business between the hours of 2:00 a.m. and 5:00 a.m.	SP

NOTES:

¹ Use indicates the maximum number of dwellings allowed on a lot.

² The SPGA may impose such additional conditions as it finds reasonably appropriate to safeguard the neighborhood or otherwise serve the purpose of this bylaw, including but not limited to the maximum number of occupants, maximum number of rooms, modification of driveway or parking spaces to provide adequate off-street parking, etc.

³ Provided that the club is managed and controlled by the membership and whose chief activity is not a service customarily carried on as a business. Customary functions of bona fide

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country clubs, sportsman clubs, amateur dramatic clubs, social or educational clubs and the like shall not be prohibited.

- ⁴ Provided that such building or use is not a business undertaking; is not one where the chief activity is to service delinquent, criminal, or mentally ill persons; or is not customarily carried on as a business.
- ⁵ Provided the use is conducted by a person residing at the premises and the use is not injurious or offensive to the neighborhood because of the emission of odors, fumes, dust, noise, smoke, vibrations or other causes.
- ⁶ The business shall be conducted principally away from the premises.

DIVISION 4

RULES AND REGULATIONS

Chapter 301

BOARD OF APPEALS

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- § 301-1.2. Board powers.**
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- § 301-2.2. Chair.**
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- § 301-10.10. Changes in application.
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ARTICLE 11

Severability**§ 301-11.1. Severability.**

[HISTORY: Adopted by the Board of Appeals of the Town of Norwell 7-22-2008; amended 4-30-2014, ratified 6-25-2014. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 201.

ARTICLE 1

General Provisions**§ 301-1.1. Purpose; filing; amendments; references.**

- A. The Board of Appeals of the Town of Norwell, Massachusetts, in the Commonwealth of Massachusetts, hereby adopts the following rules for the conduct of its business and for the purposes of MGL c. 40A and MGL c. 40B, §§ 21 to 23. A copy of these rules, and all amendments thereto, shall be filed with the Town Clerk of said Town and incorporated as Chapter 301 of the Town Code. The Board of Appeals, hereinafter referred to as the "Board," may amend these rules and regulations from time to time in the same manner as such rules may be adopted.
- B. References. All article, section and subsection headings and references within this document are solely for the convenience of the reader and shall not affect the requirements contained herein.

§ 301-1.2. Board powers.

The Board of Appeals has the following powers:

- A. To hear and decide appeals, in accordance with MGL c. 40A, § 8, and applicable sections of the Norwell Zoning Bylaw.
- B. To hear and decide applications for special permits, in accordance with MGL c. 40A, § 9, and applicable sections of the Norwell Zoning Bylaw.
- C. To hear and decide petitions for variances, as set forth in MGL c. 40A, § 10, and applicable sections of the Norwell Zoning Bylaw.
- D. To hear and decide applications for a project subject to site plan review, as set forth in the Norwell Zoning Bylaw, § 201-3.4, and applicable sections of the Norwell Zoning Bylaw.
- E. To hear and decide applications to build or permit low- or moderate-income housing, in accordance with MGL c. 40B, §§ 21 to 23, and applicable sections of the Norwell Zoning Bylaw.

- F. To hear and decide written requests for time extensions and modifications of its prior decisions.

§ 301-1.3. Types of appeals, applications and petitions.

Appeals, applications and petitions, all hereinafter generally referred to as "applications," may be filed by an appellant, applicant or petitioner, hereinafter referred to as the "applicant," with the Town Clerk for consideration by the Board of Appeals for any one or more of the following:

- A. Appeal. An appeal may be taken by:
- (1) Any person aggrieved by reason of his or her inability to obtain a permit or enforcement action from the Building Inspector/Zoning Enforcement Officer, or designee, or from any administrative officer under the provisions of MGL c. 40A, § 14;
 - (2) Any regional planning agency in whose area the Town is situated; or
 - (3) Any person, including an officer or board of the Town or of an abutting city or town, aggrieved by an order or decision of the Building Inspector/Zoning Enforcement Officer of said Norwell, a building inspector or other administrative official, in violation of any provisions of MGL c. 40A or the Norwell Zoning Bylaw. See MGL c. 40A, § 8.
- B. Special permit, including a Section 6 finding. An application for a special permit, including a Section 6 finding under MGL c. 40A, may be filed in cases where the property does not conform to current Zoning Bylaw requirements and/or when specific uses, increases in density or special or related zoning requirements are authorized in the Zoning Bylaw through the special permit process. Special permits may be issued only for uses which are in harmony with the general purpose and intent of the Zoning Bylaw and meet the specific requirements set forth in the Zoning Bylaw and MGL c. 40A, §§ 9 and 15.
- C. Variance. A petition for a variance may be filed when, owing to circumstances relating to soil conditions, shape or topography of specific land or structures and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Zoning Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and when desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning Bylaw. See MGL c. 40A, § 10.
- D. Site plan. An application for site plan review is required as set forth in § 201-3.4 of the Zoning Bylaw. Such applications may also require additional zoning relief by the Board. The Zoning Bylaw requires simultaneous filing with the Norwell Planning Board and maintenance of a technical review escrow account, managed by the Norwell Town Planner. See Article 8 herein.
- E. Comprehensive permit. An application for a comprehensive permit to build low- or moderate-income housing may be filed by any public agency or by a limited dividend

or nonprofit organization that owns or holds ownership or purchase rights in the subject property. See MGL c. 40B, §§ 21 to 23, and Article 10 herein.

- F. **Decision modification.** An application for modification of a previous decision of the Board, other than a decision approving a low- or moderate-income housing project under MGL c. 40B, §§ 21 to 23, shall require a new application on the Board's application form describing the proposed modification of the previous decision. An application to modify a decision of the Board rendered under MGL c. 40B, §§ 21 to 23, shall be made and processed by the Board in accordance with 760 CMR 56.05(11).
- G. **Time extension.** An application for a time extension may be filed with the Board in letter form, stating in detail the reason(s) for such a request and providing a new timeline (if applicable) for action by the applicant. No time extension may be granted unless the applicant files such an extension request with the Board of Appeals in writing prior to expiration of the zoning relief previously granted, as follows:
- (1) **Special permit.** The applicant shall exercise any special permit granted within two years from the date the decision is filed with the Town Clerk, or by extension, or it shall lapse. At its sole discretion, the Board of Appeals may authorize a one-time, one-year extension of a special permit without a new application required.
 - (2) **Variance.** The applicant shall exercise any variance granted within one year from the date the decision is filed with the Town Clerk, or by extension, or it shall lapse. The Board of Appeals may authorize only one six-month extension of a variance without a new application required.
 - (3) **Site plan.** Within one year of the date of site plan approval or in accordance with the time set forth in its decision, or by extension, whichever is later, the applicant shall have completed the work described on the approved plans and substantial use thereof shall have commenced. The Board may grant such additional time as it deems reasonable to complete the requirements of its previous approval. If, however, the applicant has not commenced construction for any reason within such time as set forth in its decision, or by extension, a new application may be required to be filed at the Board's sole discretion.
 - (4) **Comprehensive permit.** The applicant shall exercise the comprehensive permit approval within the time set forth in its decision, commencing as of the date filed with the Town Clerk, or by extension, or it shall lapse. The Board may grant at its sole discretion such additional time as it may deem reasonable to complete the requirements of its previous approval. If, however, the applicant has not commenced construction for any reason within such time as set forth in its decision, or by extension, a new application may be required to be filed at the Board's sole discretion.
 - (5) **Litigation or hardship.** In the event an applicant is unable to exercise approvals granted due to pending legal action in a court of competent jurisdiction, the Board shall extend such approvals for the length of time required to conclude such action. Further, due to other unusual circumstances or in cases of extreme hardship, the Board may at its sole discretion consider extension of previous permissions granted within the time frames allowed by law, subsequent to expiration thereof. All such requests shall be made in letter form addressed to the

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Board of Appeals, stating the reasons therefor and providing a new timeline for action.

H. Monitoring of conditions of approval.

- (1) The Board at its sole discretion shall reserve the right to monitor progress of all work being performed under its decisions. A construction monitor or other consultant may be engaged at the Board's discretion and work under the direction of the Board at the expense of the applicant, and as further provided in Articles 8, 9, and 10.
- (2) Violation of any of the conditions set forth in a decision of the Board of Appeals may result in the immediate issuance of a stop-work order or withholding of issuance of a building permit or certificate of occupancy by the Building Inspector/Zoning Enforcement Officer and/or be the subject of any or all such legal actions or remedies as may be available to enforce such conditions.

ARTICLE 2

Board Organization

§ 301-2.1. Elections.

At the first regularly scheduled meeting following the Annual Town Meeting, the Board of Appeals shall elect a Chair, Vice Chair, and Clerk. The Chair and Vice Chair of the Board shall be selected from its regular members, while an associate or alternate member may serve in the position of Clerk.

§ 301-2.2. Chair.

- A. The Chair shall preside over all hearings and meetings of the Board. Subject to the rules as stated herein, the Chair shall decide all points of order, unless overruled by a majority of the Board in session at the time.
- B. In addition to the powers granted by the General Laws of the Commonwealth and the Zoning Bylaw, and subject to these rules and further instructions of the Board, the Chair shall set the agenda, supervise the work of the Board, arrange for necessary help, and exercise general supervision over the Board's activities.

§ 301-2.3. Vice Chair.

The Vice Chair shall act as Chair in the event that the Chair is absent, disabled, does not participate in a particular matter or is otherwise unable to perform his or her duties. In the event that neither the Chair nor the Vice Chair is available for a hearing on a particular matter, the remaining regular member or an associate member and/or special alternate shall be elected as Chair for that hearing or particular matter.

§ 301-2.4. Clerk.

The Clerk shall monitor the preparation of minutes by the Board's administrative assistant to ensure timely approval and filing with the Town Clerk in accordance with the Open Meeting Law.¹ The Clerk is authorized to sign all approved minutes of the Board.

§ 301-2.5. Panel members and hearing chair.

In order to equitably distribute the caseload among members, the Board's Chair may appoint any regular, associate, or special alternate member to sit on an application. The three regular, associate, and/or special alternate members sitting on a case may elect a chair at their discretion from among those members on the panel. At least one regular member shall sit on each case, unless prevented from serving due to a conflict or absence.

§ 301-2.6. Associates and special alternates.

The Board of Appeals may from time to time require the assistance of additional members for public hearings, to provide special expertise or assist in meeting extraordinary time demands. Such members as may be appointed by the Board of Selectmen are welcome to participate in the regular business meetings of the Board and at the discretion of other Board members present to provide comment on other matters.

§ 301-2.7. Quorum.

A quorum shall consist of three regular and/or associate and/or special alternate members of the Board.

§ 301-2.8. Hearings, meetings and site walks.

- A. Public hearings and meetings. Regular hearings and meetings shall be scheduled as necessary, but are usually held on the first and third Wednesday of the month, except in July and August, when the Board traditionally attempts to limit its scheduled meetings. Regular business meetings are usually scheduled at 7:00 p.m. at the Norwell Town Hall with public hearings following at 7:30 p.m. in the Town Hall gym or other location, as set forth in the notice for the hearing. Special hearings and meetings may be called at any time to conduct the necessary business and duly advertised public hearings of the Board by the Chair, or Vice Chair, or a regular member in the absence of the Chair. Notice of special hearings and meetings shall be mailed, posted, and/or published as required by law.
- B. Site walks. The Board may also from time to time conduct site walks of property which is involved in applications before the Board. Site walks are not intended to be public meetings and are for informational purposes only. All applicants seeking any zoning relief shall permit Board members or its consultants to enter onto their property upon arrangement with the applicant or property owner for the purposes of a site walk. In no event shall the Board's request for a site walk be construed as obligating the applicant

1. Editor's Note: See MGL c. 30A, §§ 18 to 25.

or property owner(s) to allow other persons and/or abutters entry to the applicant's or property owner's property, which shall be at the discretion of the applicant or property owner(s).

§ 301-2.9. Legal record.

The Board's written decisions, meeting minutes, the application, and all correspondence, plans and exhibits submitted to the Board relating to the matter under consideration shall constitute the legal record of its proceedings.

§ 301-2.10. Policies and advice.

- A. Advice. Any statement, advice, opinion or information given by the Board of Appeals or any member thereof or any statement, opinion or information given by any other official or employee of the Town shall not be binding on the Board in the proper exercise of its discretionary powers under the Zoning Bylaw or MGL c. 40A or MGL c. 40B, §§ 21 to 23.
- B. Informal meetings. The Board of Appeals will not meet informally with applicants or their agents to give preliminary opinions or advice on applications which may be considered by the Board at a future time.
- C. Other. For other policies, regulations, or procedures refer to the Zoning Bylaw of the Town of Norwell, as legally adopted and amended from time to time, Chapters 40A and 40B of the General Laws, and the Town of Norwell Planning Board rules and regulations, as legally adopted and amended from time to time.²

ARTICLE 3

Pre-Application Process

§ 301-3.1. Requirements by application type.

- A. All applications, except site plan and comprehensive permit. Prior to submitting an appeal, application, or petition, the applicant shall review the proposal and the proposed action, including all plans, specifications, and supporting documents, with the Building Inspector/Zoning Enforcement Officer or designee. It is also recommended that the applicant review the proposal and proposed action with the Town Planner, Conservation Agent, Health Agent, and such other federal, state, and local officials or agencies that have an interest therein. The applicant shall commence all necessary application filings for such approvals as may be required forthwith.
- B. Site plan. In the case of site plan review, simultaneous application to the Planning Board is required in accordance with § 201-3.4 of the Zoning Bylaw.
 - (1) It is the applicant's responsibility to:

2. Editor's Note: See Ch. 201, Zoning, and Ch. 302, Planning Board.

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- (a) Arrange for such meetings or public hearings as may be necessary with the Planning Board, Design Review Board, Conservation Commission, Board of Health, and any and all other interested Town boards or commissions;
 - (b) Commence the application process for other necessary permits or approvals by state or federal regulatory agencies; and
 - (c) Provide the Board of Appeals with copies of any and all recommendations, comments, and approvals made by any such board or regulatory agency, prior to and in the course of the public hearing.
- (2) Failure to obtain necessary approvals or recommendations of other interested boards, commissions, authorities, or agencies could result in delay of the public hearing and the decision process or result in denial for lack of sufficient information.
- C. Comprehensive permit. See Articles 8, 9, and 10 for other rules relating specifically to comprehensive permit applications, not detailed in Articles 1 through 7 herein. See also MGL c. 40B, §§ 21 to 23.

§ 301-3.2. Other approvals.

In order to expedite the public hearing process and to protect the public health, safety, and welfare of the Town's residents, all applicants are urged to obtain necessary comments, approvals, and/or sign-offs from the Board of Health and the Conservation Commission prior to meeting with the Board of Appeals. As the Town's general topography, wetlands, and soil conditions are generally considered to be unique within the local environs, a current wetlands delineation approval by the Norwell Conservation Commission or Conservation Agent certification that the property has no state or local jurisdictional wetlands is a minimum requirement.

ARTICLE 4

Application Process**§ 301-4.1. Commencement of proceedings.**

In order to seek a variance, special permit, site plan approval, or comprehensive permit, or file an appeal, the applicant must provide evidence of proof of legal control of or interest in the property which is the subject of the application. Usual documentation includes a property deed, purchase option, purchase and sales agreement, lease or other sufficient document that establishes a property right or interest and authorization.

§ 301-4.2. Application forms and supporting documents; filing fee and escrow schedule.

The following attached exhibits, as may be amended from time to time, include the Board's application forms and supporting document requirements, filing fee schedule, and escrow requirements, which are incorporated herein and made a part of these rules:³

- A. Exhibit A: ZBA-1, Application for Public Hearing.
- B. Exhibit B: ZBA-1A, Site Plan Review: Supplemental Information.
- C. Exhibit C: ZBA-1B, In-Law Apartment Affidavit.
- D. Exhibit D: ZBA-2, Public Notice Authorization.
- E. Exhibit E: ZBA-3, Comprehensive Permit Application.
- F. Exhibit F: ZBA-4, Public Hearing Continuance Agreement.
- G. Exhibit G: Application Filing Fee and Technical Review Escrow Schedule.

§ 301-4.3. Notice to abutters.

- A. Abutters and abutters to the abutters within a three-hundred-foot radius of the property lines of the subject property and all parties in interest must receive the required statutory and regulatory notice, in accordance with the applicable provisions in General Laws Chapters 40A, 40B, and 41, prior to any public hearing held by the Board.
- B. While current practice is to have the administrative assistant to the Board of Appeals receive a list of abutters from the Board of Assessors and complete a mailing to those parties as soon as practicable after the receipt of an application and the establishing of a hearing date, the final responsibility for ensuring that proper notice is given to all parties in interest rests with the applicant.
- C. Proper notice also includes notification to such abutters in any contiguous towns, if the property line of the property is within 300 feet of a town line. In cases where the subject property is within 300 feet of a town line, the applicant shall obtain, at the applicant's expense, a list of abutters, certified by the office of the Assessors from the contiguous town or towns, and such list shall be submitted as a required component of the completed application packet.

§ 301-4.4. Filing application.

It is the responsibility of the applicant to submit a completed application and to provide all of the required supporting documentation and any other information requested by the Board. The application shall set forth:

- A. The facts of the case so that there shall be no ambiguity or uncertainty concerning the intent of the applicant in seeking approval of the requested action;

3. Editor's Note: Exhibits A to G are available at: <https://www.townofnorwell.net>.

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- B. The reason for the application, the background or history of events leading to the request, and why the applicant is qualified for the relief requested, including references to the relevant sections of the Zoning Bylaw and statutory or case law; and
- C. The names of the owners of the property and, if the property is not owned by individuals, the name and address of all principals involved in the particular matter so that each member of the Board can determine, prior to any hearing, if a potential conflict of interest exists.

§ 301-4.5. Supplemental information.

As delay in submitting any documentation or supporting information required by the Board adversely impacts upon the ability of the Board of Appeals to act in a timely manner:

- A. All supplemental information requiring peer review by a consultant to the Board shall be submitted by the applicant a minimum of 15 business days in advance of the scheduled hearing date or it will not be considered by the Board at that meeting. The applicant shall submit the same number of copies of supplemental information as that required with submittal of the initial application.
- B. Supplemental information not requiring peer review by the Board shall be submitted by the applicant a minimum of five business days in advance of the scheduled hearing date or, at the Board's sole discretion, such information may not be considered at that meeting. The applicant shall submit the same number of copies of supplemental information as that required with submittal of the initial application.

§ 301-4.6. Number of copies.

- A. For private residential property applications by owners, a minimum of six complete copies of the application with supporting and required documentation, including, without limiting the foregoing, all plans, hereinafter described, are required at the time the original application and supporting and required documents are filed with and stamped by the office of the Town Clerk. One digital copy of the application inclusive of all plans and supporting and required documentation shall also be provided in pdf format. Final plans may be required in a format compatible with the Town's GIS system.
- B. For commercial property and multifamily housing applications, requiring review by other Town officials or authorities, a minimum of six complete copies of the application with supporting and required documentation, including, without limiting the foregoing, all plans, hereinafter described, are required to be submitted to the Board of Appeals at the time the original application and supporting and required documents are filed with and stamped by the office of the Town Clerk. In addition, one digital copy of the application inclusive of all plans and supporting and required documentation shall also be provided in pdf format. Final plans may be required in a format compatible with the Town's GIS system. See below Subsection D for additional application copy requirements for the Town Clerk and other boards and departments.⁴

4. Editor's Note: Amendment pending.

- C. For comprehensive permit applications, a minimum of 30 complete copies of the application with supporting and required documentation, including, without limiting the foregoing, all plans, hereinafter described, are required at the time the original application and supporting and required documents are filed with and stamped by the office of the Town Clerk. One digital copy of the application inclusive of all plans and supporting and required documentation shall also be provided in pdf format. Final plans may be required in a format compatible with the Town's GIS system.
- D. Additional application copies. The applicant shall provide such additional full and complete copies as may be required in the case of commercial site plan, special permit, variance, comprehensive permit, or other commercial application, if such application requires action by other Town boards or agencies. It is the responsibility of the applicant to provide the appropriate number of additional copies at the time the application is filed with the Town Clerk or such application will not be considered as complete, which may result in delay in the public hearing or denial of the application due to incomplete information. The applicant may obtain further guidance regarding the number of copies required for a specific application from the Building and Zoning Office or other interested federal, state, and local authorities having jurisdiction.

§ 301-4.7. Application filing fee; escrow funds.

- A. Filing fee. When filing the application, all applicants filing an application with the Board shall pay the filing fee in accordance with the Board of Appeals Application Filing Fee Schedule, attached hereto as Exhibit G and made a part hereof,⁵ at the time the application is filed with the office of the Town Clerk. No application is complete without receipt of the appropriate application filing fee.
- B. Escrow funds. In the case of a site plan or comprehensive permit application, any required technical review escrow funds are also due and payable at the time an application subject to such requirement is filed with the Town Clerk's office. No application is complete without receipt of the requisite escrow deposit, payable to the Town of Norwell.
- C. Site plan escrow. In the case of site plan applications, escrow funds are administered by the Planning Board and managed by the Town Planner, so that all such funds shall be submitted to the Planning Board in accordance with its rules and regulations, and the fee schedule governing such review. See Article 8, Projects Subject to Site Plan Requirements, for additional information and requirements.
- D. Comprehensive permit escrow. Comprehensive permit escrow funds are managed through the office of the Board of Selectmen. See Article 10, Comprehensive Permits, for additional information and requirements.

5. Editor's Note: Exhibit G is available at: <https://www.townofnorwell.net>.

ARTICLE 5

Pre-Hearing Process**§ 301-5.1. Notice, hearings and decision.**

All appeals, applications and petitions to the Board of Appeals require both public and individual notice to the parties in interest, a public hearing, and a written decision, in accordance with MGL c. 40A. Public hearings are held in accordance with MGL c. 40A, § 11, at the Norwell Town offices and are open to the public, as set forth in the Massachusetts Open Meeting Law.⁶

§ 301-5.2. Scheduling public hearing.

- A. The Board makes every effort to schedule public hearings for complete applications as quickly as possible. It may take approximately four weeks to eight weeks to schedule a public hearing, after submission of the completed petition, application, or appeal, and such supporting plans and documentation as may be required (the application package) to the Board of Appeals. In the case of a comprehensive permit (MGL c. 40B) application, a public hearing shall be scheduled within 30 days, as required by law.
- B. An applicant shall review the completed application package with the Building Inspector/Zoning Enforcement Officer or designee before filing with the Town Clerk and scheduling of a public hearing. Only the office of the Town Clerk can officially accept and stamp a petition, application, or appeal. After an application is officially stamped by and filed with the Town Clerk, the applicant shall immediately deliver the requisite copies of such documents to the Board and other parties, as necessary. Failure to provide either all required information or a completed application is sufficient grounds for denial of an application by the Board.

§ 301-5.3. Public hearing and decision timelines.

- A. Appeals. All appeals, including denial of a sign permit by the Building Inspector/Zoning Enforcement Officer, issuance of a building permit, or other action, shall be filed within 30 days of the date of such decision or order. The decision of the Board must be unanimous for approval and made within 100 days of the original filing with the Town Clerk (or within any extended time).
- B. Variances. A public hearing shall be held within 65 days of the filing date with the Town Clerk. The decision of the Board must be unanimous for approval and made within 100 days of the original filing with the Town Clerk (or within any extended time).
- C. Special permits and Section 6 findings. A public hearing shall be held within 65 days of the filing date with the Town Clerk. The decision of the Board must be unanimous for approval and made within 90 days of the original filing with the Town Clerk (or within any extended time).

6. Editor's Note: See MGL c. 30A, §§ 18 to 25.

- D. Site plan approval/modification. A public hearing shall be held within 65 days of the filing date with the Town Clerk. The approval must be by unanimous vote of the Board of Appeals and, if site plan approval is the only action requested, it shall be rendered within 90 days of filing, unless time is extended by mutual agreement between the applicant and the Board.
- (1) A copy of the approved site plan, duly reviewed by the Town's consultant and endorsed by the Board, shall be filed with the office of the Town Clerk within 15 days of such approval.
 - (2) However, at the close of the public hearing, if the applicant's engineer is required to amend the filed plans in order to conform to the Board's approval, such plans shall be prepared forthwith and submitted to the Board for final review by the Town's consultant, prior to such filing.
 - (3) The applicant shall grant in writing such reasonable time as may be necessary and mutually agreed upon by the applicant and Board to complete review of such plans for compliance.
 - (4) In the event the Town's consultant is unable to confirm such plans meet the conditions of the Board's approval, reopening of the public hearing or a new public hearing may be required.
- E. Comprehensive permit. A public hearing shall be held within 30 days of the filing date of the application with the Town Clerk. A hearing shall not extend beyond 180 days from the date of opening the public hearing, presuming that the applicant has made timely submissions of materials in response to reasonable requests of the Board, except with the written consent of the applicant. The Board shall render a written decision within 40 days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The Board shall file its decision within 14 days in the office of the Town Clerk and forward a copy to the applicant and the Department of Housing and Community Development (DHCD), and to such other parties as may be required. In the event the applicant does not provide or causes delay in providing information in response to reasonable requests of the Board, the Board may request a reasonable extension of the time frame set forth herein. Such extension shall be consistent with the length of delay caused by the failure to timely submit the requested information. In setting the requested extension time, the Board may also consider any impact to the ability of Board members to attend further hearings. The applicant shall not unreasonably withhold, delay, or condition his/her/its consent to any request for an extension caused by his/her/its delays in responding to information requests from the Board.

§ 301-5.4. Public notice and notification to parties in interest.

- A. In accordance with provisions of MGL c. 40A, § 11, notice of a public hearing must be advertised by publication in the Patriot Ledger, the Norwell Mariner, or a newspaper of general circulation in the Town once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and by posting such notice in a conspicuous place in the Town Hall (by the Town Clerk) for a period of not less than 14 days before the day of such hearing.

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- B. Notice must also be sent by mail, postage prepaid, to parties in interest as defined in MGL c. 40A, § 11. The cost of newspaper advertising is the obligation of the applicant and is billed directly to the applicant. All of the notice requirements set forth in MGL c. 40A, § 11, aforesaid, must be observed by the applicant.

§ 301-5.5. Zoning Bylaw and documents availability; Town website.

Copies of the Norwell Zoning Bylaw are available for viewing at the Norwell Public Library or the Building and Zoning Office. Official bylaw copies are available for purchase in paper and/or electronic format from the office of the Town Clerk. All application forms are available at the Building and Zoning Office. Unofficial versions of the Norwell Zoning Bylaw, these rules and regulations, and applications and documents can be viewed or downloaded at www.townofnorwell.net. Reasonable efforts shall be made to periodically update the website to maintain the most current versions of all bylaws, rules and regulations, and application forms on the website.

ARTICLE 6

Public Hearing Process

§ 301-6.1. Hearing procedure.⁷

The first order of business at all hearings before the Board of Appeals shall be a review of the applicant's submission. (See § 301-6.2 following.)

§ 301-6.2. Applicant's submission.

The applicant's submission to the Board shall consist of a completed, dated, and signed application that includes, but is not limited to, the following:

- A. A complete listing and copies of all plans, specifications and other documents, data, and submissions, all individually identified by date, title, description for identification purposes, page numbers (1 of 6, 2 of 6, etc.) and all other information reasonably necessary for identification purposes, to be considered by and used for project identification, scope and zoning relief purposes by the Board;
- B. A complete listing of the zoning relief requested in the application;
- C. The name and address of the owner of the property and the title reference for the current deed to the property;
- D. The name and address of the applicant and the property owner, if a person or entity other than the applicant; and
- E. The name and address of the attorney, if any, representing the applicant.

7. Editor's Note: Original § 1, Notice to abutters, of this article has been deleted. See § 301-4.3, Notice to abutters.

§ 301-6.3. Applicant's representatives and presentation.

The applicant and/or the applicant's designated representative shall present the matter set forth in the application to the Board and be prepared to answer questions from the Board. If the applicant designates a representative to act on his or her behalf, the applicant must, if the representative is not a member of the Massachusetts Bar or a registered professional whose stamp appears on plans filed with the application, provide written authorization to the Board of Appeals in advance of any appearance by that representative before the Board or accompany such representative at the opening of the public hearing.

§ 301-6.4. Examination by Board.

Following the applicant's initial presentation, Board members shall have the opportunity at any time to ask questions or request such additional information as may be required in their opinion to properly consider the application before the Board.

§ 301-6.5. Submission of evidence; witnesses, speakers and oaths.

- A. The public hearing is part of a legal process. Any information provided to the Board must be true and accurate and shall be made under the full pains and penalties of perjury.
- B. The Board, therefore, reserves the right to place under oath any and all witnesses or speakers at its public hearings, at its sole discretion.

§ 301-6.6. Proponents.

At the close of the applicant's presentation, all persons in support of the application shall be given the opportunity to speak and introduce evidence in favor of the application. Participation by residents of the Town interested in or concerned about the matter is encouraged.

§ 301-6.7. Opponents.

At the completion of the presentation in support of the application, all persons not in support of the application shall be given the opportunity to speak and introduce evidence in opposition to the application. Participation by residents of the Town interested in or concerned about the matter is encouraged.

§ 301-6.8. Interested and concerned citizens.

Participation by residents of the Town interested in or concerned about the particular matter before the Board is encouraged. All interested or concerned persons may, in this segment of the hearing, be given the opportunity to speak, ask questions (through the Chair), and introduce evidence.

§ 301-6.9. Other counsel or representatives.

The Board may request the name and address of counsel or representative appearing for any other party interested in the application.

§ 301-6.10. Reports.

Reports, comments, opinions, and recommendations from the Planning Board, Board of Health, Conservation Commission, Design Review Board, the Building Department, and any other Town agents or officials will be received and considered by the Board. Any information submitted in writing by the respective officials may also be presented by that official or an authorized representative of that authority to the Board at the public hearing.

§ 301-6.11. Rebuttals.

At the discretion of the Chair, those in support and in opposition (if there is any new fact or argument not previously raised) of the application may be given the opportunity to give rebuttals prior to close of the public hearing.

§ 301-6.12. Briefs.⁸

The Board will, at the close of the evidentiary portion of the hearing, accept briefs and suggested findings of fact and rulings of law (the briefs) from any party, citizen or group. A minimum of five copies of all briefs shall be required at the time of the filing of a brief with the Board. One copy of the brief shall be given to each member and alternate of the panel hearing the case. A copy of all briefs filed shall be made available for inspection, review, and reference by any party, citizen, or group in the Building and Zoning Office.

§ 301-6.13. Decision.

The Board can either deliberate and decide the matter immediately or take the matter under consideration for deliberation and decision at another properly noticed public meeting of the Board. Such meeting will be announced for the benefit of all citizens present. The Board will render its decision within the time limits set forth in MGL c. 40A or such time as may be mutually agreed by the applicant and the Board. Such extension requests shall be confirmed in writing by the applicant. A member of each panel or designee shall write the decision for each case heard by that panel, but the Board may accept, at its sole discretion, a draft decision or draft conditions for reasonable consideration by the Board. In writing its decision, the Board may seek the advice of its consultant(s) or Town Counsel.

8. Editor's Note: Amendment pending.

ARTICLE 7

Action by Board**§ 301-7.1. Voting requirements.**

The concurring vote of three members of the Board shall be required for any affirmative action taken by the Board of Appeals. The Board shall, in addition, set forth clearly the reasons that form the basis for each decision.

§ 301-7.2. Withdrawal.

- A. An appeal, petition, or application may be withdrawn without prejudice by the petitioner prior to publication of the notice of a public hearing thereon. Such notice must be received in writing by the Board prior to the publication of the legal notice.
- B. After the notice of the hearing, an application may be withdrawn without prejudice only by request in writing to the Board and with the unanimous vote of the panel sitting in favor of such withdrawal.
- C. If the application is withdrawn after publication of the legal notice, the filing fee shall be forfeited.

§ 301-7.3. False or misleading information.

If, during any hearing, it is determined that the application was submitted with false or misleading information, the Board may consider that fact in determining the credibility of the evidence submitted by the applicant.

§ 301-7.4. Appeal of Board decision.

A decision of the Board of Appeals may be appealed to the appropriate court of competent jurisdiction within 20 days after the filing of that written decision with the Town Clerk's office, as provided in MGL c. 40A, § 17. In the case of a comprehensive permit, the applicant may appeal to the Housing Appeals Committee (HAC) in accordance with MGL c. 40B, §§ 20 to 23, the regulations governing such applications.

§ 301-7.5. Recording of decision.⁹

After receiving certification from the Town Clerk that no appeal has been taken within the twenty-day appeal period (or if an appeal was filed and then dismissed or denied), the applicant, or his or her agent, successor or assign, shall record (or register, if registered land) a certified copy of the Board's decision, at the applicant's expense, with the Plymouth County Registry of Deeds (or Recorder of the Land Court, if registered land). A copy of the recorded decision, together with a copy of the recording fee receipt, shall be returned to the Building and Zoning Office for filing in the official file for the case. No action, including the issuance of building or other permits, authorized by the decision shall be taken until a copy of the

9. Editor's Note: Amendment pending.

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recorded decision, with recordation data set forth thereon, is filed with the Building and Zoning Office and Building Department. In all instances, the Board of Appeals at its sole discretion reserves the right to record its decision in accordance with this section at the applicant's expense.

§ 301-7.6. Repetitive petitions.

Repetitive petitions for special permits, appeals, and petitions for variances and applications to the Board of Appeals shall be limited as provided in MGL c. 40A, § 16.

§ 301-7.7. Limitation on approval; extensions.

If an application is approved by the Board, all permits necessary for the commencement of the work shall be obtained and construction shall be commenced within one year from the effective date of the Board's decision, unless, in the case of the granting of a special permit or other action, the Board's decision or the standard provisions of the Norwell Zoning Bylaw provide other limitations. The effective date of a decision will be suspended during the pendency of an appeal to a court of competent jurisdiction. (See Article 1, § 301-1.3G, Time extension.)

§ 301-7.8. Waiver of requirements; additional information.

Notwithstanding the foregoing, the Board may, in its sole discretion, in public session waive any of the non-statutory provisions of this Article 7, or may require additional information as it deems necessary.

ARTICLE 8

Projects Subject to Site Plan Requirements

§ 301-8.1. Documentation required.

- A. Norwell Planning Board standards. All site and property plans shall be drawn to conform to standards established by the Town of Norwell Planning Board. (Scale one inch equals 40 feet, except locus plan.) All plans shall be dated and include a North arrow, name and address of the property owner and designer, and certification of compliance with the Norwell Zoning Bylaw, with all exceptions noted on the plans.
- B. Property line plans. All plot plans and site plans for property line determinations shall be based on an on-the-ground survey prepared by a professional land surveyor, licensed by the Commonwealth of Massachusetts, and referenced to USGS datum and MassGrid. The licensed professional that prepared the original "plot" sheets shall affix a signed and stamped statement thereon, confirming that all surveying conforms to Land Court standards. The Board may hire a registered professional land surveyor and/or firm employing such persons to peer review the work at its discretion. The fee for this review would be paid through the applicant's escrow funding if required by the Board.

- C. Stamped plans. Wherever required, plans shall be stamped and signed by a registered professional engineer and/or registered landscape architect licensed by the Commonwealth of Massachusetts. All architectural plans, for other than one- and two-family residential developments, shall be prepared by a registered architect licensed by the Commonwealth of Massachusetts. Failure to comply at the time of submission with these requirements is grounds for denial of site plan approval for lack of sufficient information.
- D. Plan sheets for a proposed project shall include the following, as appropriate:
- (1) Existing conditions.
 - (2) Site preparation/demolition.
 - (3) Erosion control/construction plan.
 - (4) Grading/limit of work.
 - (5) Site layout.
 - (6) Utilities.
 - (7) Drainage and stormwater.
 - (8) Landscaping.
 - (9) Details.
 - (10) Site constraints.
 - (11) Site improvements.
 - (12) Architectural drawings.
 - (13) Post-development operations and maintenance plan.
- E. Plan information requirements shall include, but not be limited to, the following:
- (1) Locus plan.
 - (2) Acreage, including total upland area on subject property and total wetlands on subject property and wetlands within 100 feet of each lot line, as required by the Norwell Zoning Bylaw.
 - (3) Existing topography at two-foot intervals. (Detailed topography at one-foot intervals with spot grades may be required for areas with less than 5% slopes.)
 - (4) Existing and proposed property line monuments.
 - (5) Lot lines with setback requirements.
 - (6) All existing buildings and structures, whether public or private.
 - (7) All easements, restrictions, rights-of-way, setbacks, or other constraints.
 - (8) Existing conditions of the surrounding area to sufficiently determine the impact of the proposed project to the surrounding area.

- (9) Adjacent streets and ways, whether public or private.
- (10) Ownership and use of all abutting lots with Assessor's map identification, including block and parcel numbers.
- (11) Zoning classifications and location of any zoning district boundaries, including the Aquifer Protection District and/or other overlay district, Town zoned one-hundred-year floodplain, wetland resource areas as determined by the Conservation Commission, zoned wetlands, and one-hundred-foot buffer zone within the locus of the plan.
- (12) Dimensional regulations currently in effect shall also be listed including any conflicts.
- (13) All landscape and screening features (such as fences, walls, planting areas and walks).
- (14) Location and spacing of existing plant material, including existing tree lines. Include numbers, sizes, and types of plant materials and plants to be removed.
- (15) Location of adjacent private water supplies and septic systems within 100 feet of the project property line.
- (16) Distance to nearest Town well/water supply location (if within 2,500 feet). Indicate areas that are Zone II or III.
- (17) Location, type, size and age of any underground storage tanks.
- (18) Massachusetts General Laws Chapter 21E (Massachusetts Oil and Hazardous Material Release Prevention and Response Act) status.¹⁰
- (19) Proposed roadways, driveway openings, loading and parking areas.
- (20) Proposed treatment of all ground surfaces (paving, gravel, grading, turf, etc.).
- (21) Parking spaces, existing and proposed.
- (22) Service areas.
- (23) Location and results of soil, permeability, percolation, and water table tests using the Department of Environmental Protection soil evaluation procedures under Title 5.¹¹ Water table determinations by a certified soil evaluator are required under all proposed drainage detention facilities, under all buildings, and adjacent to any road cuts greater than three feet. All such tests shall be witnessed by an approved agent of the Board of Appeals and/or Board of Health.
- (24) Documentation of curb cut approval meeting with MassDOT for site access approval on state highways.¹²

10. Editor's Note: Amendment pending.

11. Editor's Note: See 310 CMR 15.000, the State Environmental Code, Title 5.

12. Editor's Note: Amendment pending.

- (25) All proposed topography at two-foot intervals. (Detailed topography at one-foot intervals with spot grades may be required for areas with less than 5% slopes.)
- (26) All proposed buildings and structures, whether public or private.
- (27) Proposed easements and/or rights-of-way, whether public or private.
- (28) Statement and certification on the plan by the professional engineer and/or registered landscape architect certifying the site plan submitted complies with the Zoning Bylaw.
- (29) All facilities and lines for sewage, refuse and other waste disposal, and for surface water drainage, and locations of waterlines and hydrants and electric, telephone, cable, gas, and other utilities, including all connections to street service, where applicable.
- (30) All proposed landscape and screening features (such as fences, walls, planting areas and walks) on lot.
- (31) Plant list. Wherever practicable, native species shall be used.
- (32) Location and spacing of proposed plant material, including tree lines.
- (33) Signs, both temporary and permanent, existing and proposed.
- (34) Walkways and sidewalks with materials to be used.
- (35) Open space uses, existing and proposed.
- (36) Snow removal storage areas in accordance with best practices.
- (37) Construction and post-development operations and maintenance plans.
- (38) For new construction, a description of site preparation and erosion and sedimentation control measures, including location and specifications of temporary and permanent measures. A schedule of operations indicating the starting and completion dates for each phase of construction shall accompany each plan.
- (39) Proposed curbing type, location, and details.
- (40) Proposed street and site lighting and details, including type of fixture and wattage to conform to International Dark-Sky Association standards.¹³
- (41) Drainage calculations to comply with DEP stormwater management requirements, stamped by a registered professional engineer licensed by the Commonwealth of Massachusetts.
- (42) Calculations of the area for all upland and wetland areas.
- (43) Parking and density calculations.
- (44) Building and open space calculations.

13. Editor's Note: Amendment pending.

- (45) Impervious area calculations.
 - (46) State soil series and United States Department of Agriculture Natural Resources Conservation Service (USDA-NRCS) drainage categories.
 - (47) Proposed buildings and structures showing front, side and rear elevations.
- F. Natural resource conservation. The Board suggests that all projects be designed to conserve energy, natural resources, and the environment; that all landscaping be designed to promote water conservation and use of native plant materials in naturalized settings and minimize open lawn space areas; that the use of plant material requiring irrigation be discouraged; that all lighting design and fixtures comply with International Dark-Sky Association standards to minimize light pollution and conserve energy; and building design, machinery, equipment, appliances, fixtures, and the like incorporate Energy Star or other energy conservation technology or standards.¹⁴
- G. Stormwater management. All submitted project plans shall comply with the stormwater management requirements as set forth in Article 9, §§ 301-9.1 and 301-9.2, incorporated into this subsection by reference.

§ 301-8.2. Technical review.

- A. Consultant review. Application submittals may be sent to an independent peer review engineer(s) or such other consultant(s) selected by the Board as may be required for technical review and assistance to the Board in order to adequately address public health, safety, and welfare, or other local concerns.
- B. Escrow requirements. Technical review of site plan applications and associated escrow review requirements falls within the purview of the Norwell Planning Board with which the applicant must simultaneously file an application and schedule a meeting in order to obtain comments and recommendations required to be made to the Board of Appeals. Additional information regarding this process can be obtained from the Town Planner, who can also arrange to schedule time for the applicant to appear on the Planning Board's agenda.
- C. Construction monitoring. The Board may condition its decision to require monitoring of any and all aspects of construction to ensure that construction proceeds in accordance with its decision. Such monitoring shall be at the direction of the Board and at the expense of the applicant, and subject to escrow requirements.
- D. Appeal of decision to engage consultants. In accordance with MGL c. 44, § 53G, any applicant may appeal a decision of the Board to engage any consultant within 20 days of the Board's vote at a public meeting or hearing to employ such a consultant to the Norwell Board of Selectmen. The grounds for such an appeal are limited to those set forth in MGL c. 44, § 53G. The failure by the Board of Selectmen to render a decision on such administrative appeal within 30 days shall be deemed to be an approval of the determination by the Board.

14. Editor's Note: Amendment pending.

§ 301-8.3. Performance guarantees; certificates of occupancy; as-built plans.

- A. Performance guarantees. The Board of Appeals may require the applicant at its expense to procure and maintain such surety, performance bond(s), or other guarantees as it deems necessary to protect the interests of the Town of Norwell at any point in the construction of an approved project. All such guarantees must be in a form approved by Town Counsel.
- B. Certificates of occupancy. No certificate of occupancy shall be issued until such time as all conditions therefor of the Board's decision are met or, in the case of continuing conditions, compliance is maintained.
- C. Interim and final as-built plans and certifications. As-built plans to ensure construction progress of the proposed project, as set forth in the plans approved by the Board of Appeals, are required and shall meet Town standards as set forth in the Norwell Planning Board Rules and Regulations, as may be amended from time to time, or as set forth elsewhere herein. All such as-built plans and certifications are subject to the review and approval of the Board's consulting engineer. All as-built plans shall be prepared by a professional land surveyor and professional engineer. Plans shall include certifications that the plans comply with the approved plans stamped by the appropriate professionals.
 - (1) Interim as-built plans of the project shall be required:
 - (a) For any and all foundations, prior to issuance of a building permit;
 - (b) For all access roadways, ways, and driveways to service the project, immediately after installation of the base layer of pavement, if required;
 - (c) Prior to issuance of any certificates of occupancy, to confirm substantial completion of all drainage, stormwater management facilities, wastewater facilities, utility mains and services, and such other infrastructure as may be required to service the project; or
 - (d) At the discretion of the Board's consulting engineer.
 - (2) Final as-built plans of the completed project shall include all information shown on the interim as-built plans. In addition, such plans shall show all buildings, setbacks, final grades, and roadway profiles, if applicable, and such other features to demonstrate completion of the project in accordance with the approved plans.

§ 301-8.4. Site plan changes and modifications.

Any proposed change to an approved site plan shall be submitted to the Board of Appeals for a determination whether in its sole judgment such change constitutes a significant modification that may require a new public hearing.

ARTICLE 9**Stormwater Management Requirements**

Applicable to all site plan review and comprehensive permit applications.

§ 301-9.1. Requirements and purpose.

- A. The most recent Massachusetts Department of Environmental Protection (DEP) Stormwater Management Regulations are applicable to all projects, site plan review applications and to all comprehensive permit applications filed under MGL c. 40B, §§ 20 to 23.
- B. The purpose of this article is to require that all future comprehensive permit projects and site plan review projects conform to the performance standards of the Department of Environmental Protection's Stormwater Management Regulations or best management practices, whichever is more stringent, as may be amended from time to time.
- C. These regulations require that there shall be no net increase in runoff allowed post-construction for the one-, two-, ten-, twenty-five- and one-hundred-year twenty-four-hour storm and that a project's storm drainage capacity shall be designed and constructed to manage flooding during these same storm events. No design shall result in erosion or on- or off-site flooding for the one-, two-, ten-, twenty-five- and one-hundred-year twenty-four-hour storm events. The rainfall amounts used in the drainage analysis shall be based on the Northeast Regional Climate Center Atlas of Precipitation Extremes for the Northeastern United States and Southeast Canada (Cornell Rainfall).
- D. Each proposed site plan and comprehensive permit (MGL c. 40B) project shall be confirmed, prior to any site clearing or construction of the project, to be in conformance with DEP regulations, as set forth below, so as to protect future residents of the project, nearby residents, adjacent roadways, wetlands, drinking water supplies, and groundwater supplies from post-construction increases in flooding and pollution.

§ 301-9.2. Documentation and plans.

- A. Design report. The proposed stormwater management system design shall be documented in a report submitted at the time of application. The report shall include all drainage calculations, proposed maintenance and operation requirements, and in the case of a homeownership project, provide a copy of the instrument(s) proposed to create an owners' association, which shall own and maintain the system, to allow the Board to evaluate the adequacy of the proposed design. The DEP Stormwater Report Checklist shall be included in the submittal.
- B. Major site features. So that drainage calculations and impacts can be properly understood and evaluated, the plan shall depict the location of major site features, such as existing stone walls, fences, buildings and all buildings within 50 feet of property limits; large trees, rock ridges and outcropping, bodies of water, natural waterways, and the limits of all wetlands on and within 100 feet of the project; all streams, including perennial and intermittent streams and other water bodies, located on the property and within 200 feet of the project, as approved by the Conservation Commission or Department of Environmental Protection; floodplains located on the property and within 200 feet of the project; and all existing culverts and drains on the property and

within 200 feet of the project. The Board may require survey of culverts or other stormwater controls beyond 200 feet if they are a control point for analysis of flooding.

- C. Staking. The proposed buildings, wastewater disposal area, stormwater management areas, and the accessway or driveway center line shall be staked sufficiently for review of the location of proposed improvements. All stakes shall be in place at the time of the Board's site visit. Additional staking of other utilities, easements, and other areas may be required at the Board's discretion.
- D. Natural Resources Conservation Service (NRCS) soils classifications. The location of the general soil classification boundaries identified by the Natural Resources Conservation Service shall be provided. Any difference in on-site soils testing from the NRCS mapping categories shall be noted on the plans and the divides limits of soil divides modified as appropriate.
- E. Soil evaluations, percolation tests, and permeability testing.
 - (1) Soil test data shall be provided for areas proposed for wastewater disposal systems or drainage.
 - (2) Test locations shall be indicated on the plans and standard soil evaluation logs and percolation test forms provided.
 - (3) A minimum of two soil tests including permeability tests at the location of stormwater management systems used for infiltration purposes shall be performed. Additional testing may be required for larger systems or where variable soil conditions and/or ledge is present.
 - (4) Soil permeability testing is required for infiltration systems.¹⁵
 - (5) Soil testing shall be performed at a minimum of every 250 feet along the access drive/roadway and at proposed cuts of three feet or greater and at other locations requested by the Board, in order to demonstrate suitable soils for site construction.¹⁶
 - (6) Soil testing shall be witnessed or confirmed by the Board's technical consultant or an agent of the Board within 30 days of the submission of a plan or such extension of time as the Board and applicant may agree upon.
- F. Plan information. The plan shall show the following information:
 - (1) Where access roadways are proposed, a profile and plan shall be included. On the profile plan the proposed center-line grades shall be depicted in bolded lines, all appropriately designated, and showing grade elevations at every fifty-foot station, except on vertical curves where grade elevations shall be shown at every twenty-five-foot station and at PVC and PVT.
 - (2) Proposed system of drainage, including but not limited to swales, catch basins, manholes and proposed rim elevations, inverts and pipe sizes, and stormwater management systems such as detention or retention basins and underdrains. (See

15. Editor's Note: Amendment pending.

16. Editor's Note: Amendment pending.

the general rules and regulations of the Norwell Permanent Drainage Committee in Chapter 308 of the Town Code, as revised through November 1970, and any subsequent revisions thereto.)

G. Profile plans of proposed accessways shall be drawn as follows:

- (1) A horizontal scale of one inch equals 40 feet.
- (2) A vertical scale of one inch equals four feet.
- (3) Existing center line in fine solid black line.
- (4) Existing right side line in fine dotted black line.
- (5) Existing left side line in fine dashed black line.
- (6) All existing intersecting walks and driveways.
- (7) Elevations referred to NGVD or NAVD as established by the United States Coast and Geodetic Survey.
- (8) Rates of gradient (% slope) shown by figures for roadways and drainage.

H. Calculations. It shall be demonstrated through a volume calculation that there shall be no net loss of soil materials from the site. This calculation shall be set forth in a note on the post-construction conditions sheet and shall be certified and signed and stamped by the professional engineer.

I. Construction details and specifications shall be shown on a separate sheet(s) as part of the submission and shall be certified and signed and stamped by the professional engineer.

§ 301-9.3. Drainage specifications.

Every project shall conform to the following drainage requirements in order to satisfy all of the performance standards of the Department of Environmental Protection Stormwater Management Regulations, in order to prevent on-site and off-site flooding.

§ 301-9.4. Drainage design.

All drainage systems, including but not limited to storm drains, culverts, swales, paved waterways, ditches, ponds, basins, check dams, drainage systems, and related construction, grading and installation, including but not limited to riprap, forebays, catch basins, gutters, manholes, and drainpipes, shall be designed, installed, maintained and replaced to provide adequate disposal of surface and subsurface water, including control of erosion, flooding, and standing water from or in the project and adjacent land. All drainage systems shall adhere to the standards set forth below.

§ 301-9.5. General requirements.

- A. All drainage systems shall be designed to meet the performance standards of the DEP Stormwater Management Regulations. Drainage systems shall be designed to be consistent with ASCE technical references, as applicable. Hydrologic designs shall be based on Natural Resources Conservation Service (NRCS) TR55 and TR20 methodology.
- B. The design of stormwater management systems shall demonstrate no increase in runoff rate or flooding for the one-, two-, ten-, twenty-five-, and one-hundred-year twenty-four-hour storm events. Stormwater quality systems shall meet 80% TSS removal per DEP requirements. In the Aquifer Protection District, runoff should be treated as if tributary to a critical area.

§ 301-9.6. Data submission.

The applicant shall provide four copies of the following data to the Board to allow the Town's engineering consultant to evaluate the proposed stormwater runoff designs:

- A. Subarea delineation at a minimum scale of one inch equals 100 feet. A minimum scale of one inch equals 40 feet shall be required for smaller sites or if plans are unclear at one inch equals 100 feet.
- B. The subarea plan shall include any off-site area which flows onto the site and shall include off-site areas, if required, to identify defined control point(s) including culverts, weirs, etc.
- C. Pre- and post-construction cover types shall be identified on the subarea plan.
- D. Post-construction site design shall be indicated on the post-construction subarea plan.
- E. The plan shall indicate conceptual proposed buildings, drives, grading, clearing limits, etc.
- F. Test pit logs and test pit locations shall be provided. The locations shall be shown on the plan.
- G. Test pits shall be required at the location of stormwater management systems to determine seasonal high groundwater and soil type.
- H. Permeability testing may be required for systems utilizing infiltration as a component of peak runoff rate control.
- I. All soil testing shall be performed by a responsible professional and witnessed by an agent of the Board.
- J. Natural Resources Conservation Service (NRCS) soil types shall be identified on the subarea plan.
- K. Soil type divides shall be modified if appropriate based on actual field test data.
- L. Pre- and post-development runoff flow paths and control points shall be indicated on the subarea plans.

M. Drainage reports shall be provided as follows:

- (1) Reports shall be bound and clearly present all assumptions used to develop the data together with final results.
- (2) References used to develop the report and justify assumptions used shall be included in the report.
- (3) A schematic of the runoff model including subareas, ponds, reaches, etc., as applicable, shall be provided in the report.
- (4) Runoff hydrographs together with input data shall be provided for both pre- and post-construction.
- (5) Routing hydrographs with all structure data (i.e., stage, storage, and discharge) shall be provided to justify the assumptions for structures.
- (6) A summary table indicating pre- and post-development peak discharge rates and total volume of runoff at each control point and flood elevations as applicable shall be included in the report.
- (7) Total suspended solids (TSS) form(s) and supporting documentation, as applicable.

§ 301-9.7. Construction plan/erosion and sedimentation control plan.

Prior to the close of the public hearing the applicant shall submit a construction plan/erosion and sediment control plan that is subject to peer review. Said plan shall be prepared by a registered professional engineer and shall be signed and stamped by said engineer. The construction plan shall contain the following information and requirements:

- A. The applicant shall provide to the Board of Appeals the name, address, telephone number and e-mail address of the project manager or other responsible party on site who will be responsible for construction activities. This must be provided at least 48 hours prior to any land disturbing activity on site.¹⁷
- B. The location of any and all construction areas shall be delineated.
- C. The location of vehicle parking and location of equipment storage during construction, together with the location for wash down of vehicles and equipment. Construction equipment shall not be parked or stored adjacent to any drainage channel, drainage inlet, or wetland buffer area as set forth under the Massachusetts Wetlands Protection Act¹⁸ and local Norwell Wetland Protection Bylaw and Regulations.¹⁹ Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage channels and inlets and such wetland buffer areas.
- D. Limits of clearing and grading in relation to the existing trees and the property lines shall be shown on the plan.

¹⁷. Editor's Note: Amendment pending.

¹⁸. Editor's Note: See MGL c. 131, § 40.

¹⁹. Editor's Note: See Ch. 61, Art. I, Wetlands Protection, and Ch. 303, Art. I, Wetlands Regulations.

- E. The calculations for stormwater runoff from the property for all storm events, up to and including a ten-year storm event, shall be provided and the runoff for the same shall be shown to be fully contained on site during construction so as to eliminate flooding from site runoff. The design shall accommodate any existing runoff onto the property.
- F. The total amount of land disturbance shall be quantified for the entire project, including but not limited to any disturbance that will be caused by the work, lot clearing, foundations for any structure, septic work, parking areas, landscaping, etc. The amount of bare earth that will be exposed at any one time during development of the project (roads, lots and any other clearing) and the length of time it will be exposed shall also be quantified.
- G. The methods that will be employed to protect areas with exposed earth during development and to prevent erosion and control sedimentation during and after the construction. This shall include a detailed description of the procedures that will be employed to maintain the site in good condition during and after construction, including all operations and maintenance procedures and plans, vegetation controls and erosion and sediment control measures (e.g., siltation fences and hay baling and filter bags for catch basins and a specific program for cleaning and repairing catch basins).
- H. Methods for construction within a floodplain to floodproof all structures and replace all flood storage capacity to control run-on and runoff in the event of two-year through one-hundred-year storm events so as to result in no net increase in runoff during such events.
- I. Methods for the preservation and protection of waterways, floodplains, and open space/conservation areas.
- J. Location of all other conservation measures, permanent and temporary, including but not limited to dikes, water diversions, terraces, dams, reservoirs, water conduits, grassed waterways and plantings of drought-resistant grass, shrubs and trees, temporary seeding, mulching, dust control, diversion dams, sediment traps, snow fence, silt fence, hay bales, filter fabric or filter bags in catch basins and stabilized construction entrance.
- K. Location of specific major structures controls (i.e., where the stabilization practices will be placed, surface water locations, soil disturbance areas, and drainage patterns during and following grading).²⁰
- L. The location for the stockpiling of topsoil, loam, gravel and any other materials, together with a plan to contain the same so as to prevent erosion and runoff in the event of two-year through ten-year storm events. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long-term stockpiles (i.e., over 30 days) shall be shaped, stabilized and circled by siltation fence or hay bales and shall be stabilized by temporary seeding or netting. Such stockpiling shall not exceed a duration of more than three years from the date of endorsement.
 - (1) Any soil or earth material brought to the property during construction shall be approved by the Board's engineer, prior to its arrival.

20. Editor's Note: Amendment pending.

- (2) All earth removal shall comply with the regulations and the Town of Norwell's Earth Removal Bylaw²¹ requirements and receive the necessary permits and approvals thereunder.
- M. All areas to be protected from encroachment from construction shall be marked on the ground as shown on the approved subdivision plan and these barriers shall be maintained by the developer throughout the construction phase of the project.
- N. Satisfactory inlet protection shall be provided for the drainage system until all work has been completed and vegetation established.
- O. The construction plan must account for the timing and sequence of installing all conservation measures in order to provide for maximum control of erosion and sedimentation in the event of a two-year through a ten-year storm event during construction.
- P. A copy of the NPDES plan and permit, if applicable, for construction sites with one acre or more of total disturbed area, inclusive of lot development, shall be provided by the applicant to the Board of Appeals prior to the start of construction.²²
- Q. All stormwater management facilities shall be constructed and stabilized to contain the runoff from a two-year storm event through and including a one-hundred-year storm event prior to paving and connection of the storm drain system. This requirement shall be a mandatory condition of approval and a note setting forth this requirement shall be placed upon the plan.
- R. In the event that a temporary stormwater management basin is proposed, it shall be shown in detail on the plan and shall be constructed and stabilized to contain the runoff before paving of any roadway that will contribute to the runoff occurs. This requirement shall be a mandatory condition of approval and a note setting forth this requirement shall be placed upon the definitive plan.
- S. Tree stumps, limbs, brush and all construction debris shall be legally disposed of, off site.
- T. Hours of construction shall occur only during the following times:
- (1) Monday through Friday: 7:00 a.m. to 6:00 p.m. or dusk, whichever is earlier.
 - (2) Saturday: 8:00 a.m. to 5:00 p.m. or dusk, whichever is earlier.
 - (3) Sunday: none.
- U. Any blasting operations shall require proper permits and shall not be undertaken on any weekend or holiday.
- V. Excavation dewatering shall be in a workman-like manner and such water shall be free of suspended solids before being discharged into either a wetland or any stormwater drainage system. This condition applies to all forms of dewatering including pumping and trenching.

21. Editor's Note: See Ch. 62, Soil, Loam, Sand or Gravel Removal.

22. Editor's Note: Amendment pending.

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- W. Catch basin grates shall be set flush with the binder course and then reset so as to be flush with the topcoat when installed.
- X. A program for sweeping of the streets, cleaning and repairing of catch basins and other drainage structures and mowing of all drainage structures that are to be stabilized with seeding.
- Y. All construction activities associated with the endorsed plan shall be conducted in a workman-like manner. During construction all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of Town roads.
- Z. Construction, once commenced, shall progress through to completion of the development as approved as continuously and expeditiously as possible and in accordance with the construction sequence and timetable approved at the pre-construction meeting.

§ 301-9.8. Operations and maintenance plan.

Eight copies of the proposed operations and maintenance plan for the proposed stormwater drainage system shall be provided by the applicant with the drainage report.

§ 301-9.9. Minimum design criteria for stormwater basins and subsurface systems.

- A. The minimum design and construction requirements for open stormwater basins shall be as follows:
 - (1) Side slopes for stormwater basins shall be constructed with 4:1 side slopes per ASCE Design and Construction of Urban Stormwater Management. Retaining walls are specifically prohibited.
 - (2) The top of the berm width shall be 15 feet per DEP requirements.
 - (3) Clogging protection. Trash grates per ASCE Design and Construction of Urban Stormwater Management shall be used and no outlet smaller than two inches shall be used.
 - (4) Maximum depth in a two-year storm event shall not exceed two feet.
 - (5) Maximum depth in a one-hundred-year storm event shall not exceed four feet.
 - (6) Berms shall be built into natural landscape if possible and as much as possible.
 - (7) Excavation shall be prohibited if the water table is within two feet of existing grade.
 - (8) An interim as-built of drainage system, including basins, shall be completed prior to the subbase for the roadway being laid.
- B. The minimum design and construction requirements for subsurface stormwater infiltration systems shall be as follows:

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- (1) The design shall conform to DEP regulations for trenches for all types of subsurface infiltration systems.
 - (2) For infiltration systems upgradient of existing septic systems groundwater mounding analysis may be required at the Board's discretion.
 - (3) Subsurface infiltration systems should be set back a minimum of 20 feet from lot lines. The Board at its sole discretion may require groundwater mounding analysis to demonstrate no impact to abutting properties.
 - (4) The plans and supporting documentation shall detail how the system will be maintained including proposed maintenance access measures.
 - (5) The plans and supporting documentation shall detail how the system will be replaced and how runoff will be controlled during system repair and replacement.
- C. Subsurface detention systems are not identified in the DEP regulations. Where used as a component in the stormwater management system the applicant shall provide documentation of the suitability of system components to meet the requirements of the specific application. The minimum design and construction requirements for subsurface stormwater detention systems shall be as follows:
- (1) Subsurface detention systems should be set back a minimum of 20 feet from lot lines. The Board may at its sole discretion require data to demonstrate that the systems do not allow infiltration of groundwater into the system, or, if there is a recharge component of the system, a mounding analysis to demonstrate no impact to abutting properties may be required.
 - (2) The plans and supporting documentation shall detail how the system will be maintained, including proposed maintenance access measures.
 - (3) The plans and supporting documentation shall detail how the system will be replaced and how runoff will be controlled during system repair and replacement.

§ 301-9.10. Minimum design criteria for drainage pipes.

The minimum design and construction requirements for drainage pipes shall be as follows:

- A. Cover shall be a minimum of 2.5 feet and have a maximum depth of eight feet.
- B. Slope shall have a minimum slope of 0.5% and not exceed a maximum of 15 feet per second velocity flowing full.
- C. Design calculations. No surcharge in system shall be allowed for a ten-year storm event.
- D. Downstream system determination shall be made and reviewed and approved by the Town's engineering consultant. If the downstream system is inadequate to handle the proposed runoff or the existing runoff, the system shall be upgraded.
- E. Minimum actual velocity in trunk lines shall be two feet per second.
- F. Maximum actual velocity in pipes shall not exceed 12 feet per second.

§ 301-9.11. Drainage easements.

Easements for all surface and subsurface drainage structures shall be provided, as necessary, in a form acceptable to the Board and Town Counsel. Such easements shall be recorded prior to issuance of any building permit. If the proposed project is for homeownership, any such easement is to ensure that individual unit owners shall properly maintain or allow proper maintenance, repair and replacement of said structures and shall run to a homeowners' association. See § 301-9.12 of this article.

§ 301-9.12. Homeowners' association requirements.

All requirements set forth in this section shall be memorialized in the condominium documents and the master deed and shall be the obligation of the applicant until such time as these obligations and responsibilities are accepted by the activated homeowners' association. If any drainage structures are to be installed, then the homeowners' association documents shall include, in addition to affordable housing and other requirements imposed by the Board's decision, the following minimum requirements:

- A. Membership shall be mandatory. All owners of units within the project shall be required to be members as a condition of approval.
- B. Ownership of drainage improvements. The homeowners' association shall be the owner of the drainage structures and shall hold all of the necessary easements and fees to all of the drainage structures, including detention basins or ponds, retention basins or ponds, combination detention/retention basins or ponds, catch basins, pipes, swales, berms, riprap, check dams, drainage catchment areas and other drainage structures and equipment and to all areas that must be used to access the drainage systems and equipment to effect maintenance, repairs and replacement.
- C. Management of drainage. The homeowners' association shall be responsible for repairing, maintaining, and replacing the drainage systems within a project. As a condition of approval of the proposed project, the homeowners' association, in the opinion of the Board, shall be sufficiently funded initially by the applicant, and then require monthly or yearly funding by individual unit owners to allow for sufficient funding of initial and projected repair, maintenance, and replacement costs.
- D. Status reports. The homeowners' association shall be responsible for written notification to the individual unit owners twice per year to provide a report on the status of drainage funding, including the yearly cost of drainage maintenance and repairs for that calendar year; the yearly cost of drainage maintenance and repairs projected for the following 10 calendar years; and the projected date for replacement of drainage systems and the projected cost of the same. In addition, at the same time, the homeowners' association shall write to the individual unit owners and remind the individual unit owners of any obligations that the owners may have to maintain drainage swales or berms or other structures located on any individual lots, whether by periodic mowing or clean-outs and by not planting trees and other landscaping in drainage swales. Individual unit owners shall also be instructed as to best management practices that require the accessways to be maintained in a clear, swept condition to avoid damage to drainage structures.

§ 301-9.13. Installation; gas and sand traps; excavation; gravel removal.

- A. Installation. Installation of drainage shall be under the supervision of the Town's engineering consultant. Any and all drainage basins shall be constructed and an interim, surveyed as-built shall be provided and confirmed to be accurate and in accordance with the approved design before any building permits are issued.
- B. Gas and sand traps. Gas and sand traps shall be required to be constructed by the applicant to prevent pollution of ponds, lakes, rivers, and/or streams, and the Town's drinking water supply.
- C. Excavation. No excavation or removal of gravel, topsoil, or other matter shall take place except:
 - (1) Within the right-of-way for normal accessway construction.
 - (2) For the digging of a cellar hole, water well, or trench for utility installation.
 - (3) Normal grading and filling around the units to beautify the land or to satisfy Board of Health requirements, and subject to the approval of this Board.
- D. Gravel removal permit. No gravel or other earth materials shall be removed from any site without a gravel removal permit under Chapter 62, Soil, Loam, Sand or Gravel Removal, of the Town Code, except as specified in Chapter 62.
- E. Stormwater management as a component of the proposed project. All stormwater management requirements are but one of the many components of the overall site plan review requirements set forth in Article 8 and of the overall comprehensive permit requirements set forth in Article 10 of these rules and shall be considered as such in the evaluation of any and all projects subject to these requirements.

ARTICLE 10

Comprehensive Permits**§ 301-10.1. Purpose; applicability of other rules and regulations.**

- A. The rules and regulations in this article establish procedures for applications to the Board of Appeals for comprehensive permits, under MGL c. 40B, §§ 20 to 23, and its associated regulations in 760 CMR 56.00, as may be amended from time to time, and authorized therein.
- B. The purpose of that Act and these rules is to facilitate the development of affordable housing in Massachusetts. In addition, the Board's general rules and regulations adopted under MGL c. 40A apply to comprehensive permit applications. In case of an inconsistency or conflict between those general rules for conduct and this article, this article shall govern.

§ 301-10.2. Definitions.

As used in this article, the following terms shall have the meanings indicated:

BOARD — The Board of Appeals of the Town of Norwell, established under MGL c. 40A § 12.²³

LIMITED DIVIDEND ORGANIZATION — Any applicant that proposes to sponsor housing under MGL c. 40B, §§ 20 to 23, and satisfies all of the following:

- A. Is not a public agency;
- B. Is eligible to receive a subsidy from a state or federal agency; and
- C. Agrees to limit the dividend on its actual invested equity to the maximum amount allowed by the applicable statute or regulations governing the pertinent housing program. See § 301-10.3 following.

LOCAL BOARD — All local boards and officials, including but not limited to the Board of Health, Planning Board, Conservation Commission, Historical Commission, Design Review Board, Groundwater Protection Committee, Lands and Natural Resources, Water Commissioners, Community Housing Trust, Norwell Housing Authority, Highway Surveyor/Director, Permanent Drainage Committee, Commission on Disabilities, Fire Department, Police Department, Building Inspector/Zoning Enforcement Officer, ADA Coordinator, Transportation Enhancement Committee, North River Commission, the Board of Selectmen, and/or any authorized agents or designees thereof.²⁴

§ 301-10.3. Minimum jurisdictional requirements for filing application.

The applicant shall meet the following minimum jurisdictional requirements of 760 CMR 56.04(1) in order to be eligible to submit a comprehensive permit application to the Norwell Board of Appeals, specifically:

- A. The applicant shall be a public agency, a nonprofit organization, or a limited dividend organization;
- B. The project shall be fundable by a subsidizing agency under a low- and moderate-income housing subsidy program. The project eligibility letter issued by the funding agency shall be included with the application at the time it is filed. No application shall be considered complete without that document, as the Board does not have jurisdictional authority without such evidence. The Board may review documentation to ensure that the applicable subsidizing agency has performed the due diligence required under 760 CMR 56.00, or amendments thereto; and
- C. The applicant shall control the site and the means of access thereto. This documentation must adequately demonstrate that the applicant possesses the necessary control over the site and the site access to develop the project as proposed in the application. Such site control shall include, but not be limited to, the following:
 - (1) Proof of current ownership of any and all parcels that may constitute the proposed project site shall be provided by the applicant, including certified copies of recorded deeds and/or certificates of title for all parcels pertaining to the

23. Editor's Note: Amendment pending.

24. Editor's Note: Amendment pending.

proposed development, establishing clear and proper title, and means of access, if not otherwise owned; or

- (2) Valid copies of such offer(s) to purchase and/or purchase and sale agreement(s) and/or lease agreement(s) relating to any and all parcels that may constitute the proposed project site. The applicant shall provide certified copies of recorded deeds and/or certificates of title for all parcels pertaining to such purchase and sale agreement(s) relating to the proposed development, establishing clear and proper title, and means of access, if not otherwise owned; and
- (3) In all instances, if the proposed development includes more than one parcel of land, then the applicant shall be required to produce evidence satisfactory to the Board of Appeals as to the manner in which the proposed parcels shall be merged, showing any grants, easements, or other restrictions that may encumber or affect the proposed development or future use of the land.
- (4) To comply with Subsection C(3) above, prior to any land disturbance, the applicant shall be required to provide a plan of land drawn from an on-the-ground boundary survey showing metes and bounds, prepared, stamped, and signed by a registered land surveyor, licensed in the Commonwealth. Such plan shall be approved by the Planning Board, if required, and recorded at the Plymouth County Registry of Deeds or Land Court, as appropriate. In no instance shall any building permit be issued without evidence thereof.

§ 301-10.4. Elements of complete application.

Further, as listed in 760 CMR 56.05(2), the applicant shall provide the following supporting information and documentation delineated herein:

- A. Preliminary site development plans showing the locations and outlines of proposed buildings; the proposed locations, general dimensions and materials for streets, drives, parking areas, walks and paved areas; and proposed landscaping improvements and open areas within the site, as well as buildings on all abutting property to the proposed development, including abutters separated by a public way. Every project shall be designed to meet the performance standards of the Department of Environmental Protection's Stormwater Management Regulations. There shall be no net increase in runoff allowed and the storm drainage capacity shall be designed to handle two-year through one-hundred-year storm events without creating a net increase in run-on or runoff. See Article 9, Stormwater Management Requirements, herein.
- B. Existing site conditions plan with narrative report. A report on existing site conditions and a summary of conditions in the surrounding areas, including but not limited to existing topography and geographic features, such as wetlands, soil types, groundwater elevations, ledge, boulders, flood zones, zoning district lines, zoning overlay districts, easements, rights-of-way, encumbrances, limitation or any other natural or imposed restriction or constraint that may affect the proposed construction or site development, the location and nature of existing buildings, existing street elevations, traffic patterns, and character of open areas, if any, in the neighborhood.

- C. Preliminary, scaled, architectural drawings. For each building, the drawings shall be prepared by a registered architect and shall include typical dimensioned floor plans, typical elevations referenced to actual site elevations with ground grade, floor elevation and top of building elevations, and sections, and shall identify construction type and exterior finishes. All architectural drawings shall be coordinated with the site development plans of the proposed project. If there is any discrepancy or inconsistency between the site development plans and the architectural drawings submitted as respects number of units, size of units, number of rooms or other quantitative irregularities that the Board of Appeals at its sole discretion may consider significant, the application may be considered incomplete until any such discrepancy is resolved.
- D. Tabulations of proposed buildings by type, size (number of bedrooms; floor area in square feet) and ground coverage, and a summary showing the ground area and percentage of the tract to be occupied by buildings, by parking and other paved vehicular areas, wetlands and upland area, and by open areas. Any and all rooms that may be used as a bedroom, including but not limited to studies, offices, dens or any other room not intended for use as a kitchen or living room (limited to one each), or bathroom(s), shall be counted as a bedroom for the purpose of this tabulation. Any room that is larger than would normally be anticipated in a dwelling unit of the size proposed or that could reasonably be subdivided into a separate usable living space shall also be counted as a bedroom for the purposes of such tabulation.
- E. Preliminary subdivision plan, where a subdivision of land is involved.
- F. Preliminary utilities plan showing the proposed location and types of all public utilities, including, but not limited to, sewage, drainage, electrical, cable, telephone, gas, and water facilities, including hydrants.
- G. Traffic survey indicating existing and proposed conditions, and plans showing intersection sight distances and the proposed width and grades of ways, and cross sections of ways and utilities.
- H. Stormwater management. All submitted project plans shall comply with the stormwater management requirements as set forth in Article 9, §§ 301-9.1 and 301-9.2, incorporated into this subsection by reference.
- I. Waivers. The applicant shall provide a list of requested exceptions to local requirements and regulations, including local codes, ordinances, bylaws, rules, or regulations, and a written explanation as to why, but for the failure to grant the requested waiver, the project would be rendered uneconomic. See also § 301-10.8 of this article. A request for a so-called blanket waiver without delineating the sections of the bylaws, rules and regulations shall not be accepted.
- J. Abutters list, certified by the Assessor's office.
- K. Proof of filing of a project notification form with the Massachusetts Historical Commission for the site.
- L. If relevant, proof of filing of a conservation and management permit with the Massachusetts Natural Heritage and Endangered Species Program for the site.

- M. A narrative description of how the project complies with MassHousing's and the Commonwealth's smart growth policies, as well as a description of energy saving safeguards and calculations of the climate impacts of the development.
- N. A narrative description of how the project complies with the Massachusetts Governor's Executive Order 385, Planning for Growth.
- O. Pro forma.
 - (1) The Board may request to review a pro forma detailing the projected costs and revenues of the proposed project in accordance with the regulations promulgated by DHCD under 760 CMR 56.05(6). A complete pro forma shall detail the projected costs and revenues of the proposed project and provide an explanation of all assumptions and the basis and sources for the projections made in the pro forma. Subject to the final approval of the subsidizing agency, the applicant shall limit its costs to actual investment in the property. Acquisition costs shown in the pro forma shall be limited to the lesser of the existing, as-is, fair market value of the property (i.e., the value under existing bylaws and regulations without the benefit of waivers or variances) or the amount of last arm's length sale (with all reasonable and demonstrable carrying costs), whichever is less. Additionally, the applicant shall fully disclose any costs ascribed to related entities. Profits generated by any related entities in the development of any aspect of the project shall not be allowable as project costs. Any delay or period of time required by the applicant to prepare this documentation for submission to the Board shall not be counted against the Board in meeting its obligations to file a timely decision. See also § 301-10.8 of this article.
 - (2) All pro formas submitted should be signed and dated by the applicant or its agent and include the following statement: "To the best of the applicant's knowledge, the pro forma submitted herein is accurate and complete as of the date executed."
- P. An appraisal of the parcel(s) by an appraiser licensed in the Commonwealth conducted not less than 90 days prior to the date of application that reflects the current "as is" fair market value of the land under existing zoning without a comprehensive permit in place.
- Q. The appropriate review fee.
- R. The project eligibility (site approval) letter from MassHousing or other legally authorized agency. In accordance with 760 CMR 56.06(3), the Board will not open a public hearing, except upon a complete application, including each of the items enumerated in this section, the filing fee from § 310-10.6, and the project review fee from § 310-10.7.
- S. Other applications and submissions. The applicant shall provide a complete copy of any and all materials, plans, and applications submitted by the applicant to any prospect subsidizing agency or source or other authority having jurisdiction in this proposed project, including but not limited to applications for site approval or project eligibility, groundwater discharge permit, or other permits or approvals necessary to its construction.

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- T. Permits, approvals and grants. The applicant shall provide forthwith, upon receipt, copies of any approvals, permits, or grants necessary to construct this proposed project, as may be granted by any authority having jurisdiction therefor.
- U. Development and marketing team. The applicant shall provide a list of each member of the development and marketing team, including all contractors and subcontractors, to the extent known at the time of application. The applicant shall also be required to disclose its relationship to all such entities.
- V. Prior development projects. The applicant shall provide a list of all prior development projects completed by the applicant with a brief description of each.

§ 301-10.5. Town authority and departmental review; application copies.

- A. As required by 760 CMR 56.05(3), within seven days of receiving a complete application, the Board shall notify each local board of its receipt by sending a copy of the submitted application with a list of waivers of local rules and regulations requested by the applicant.
- B. At the same time, the Board shall invite each local board to review the application and provide its written comments on any local concerns that relate to its powers and authority or such other concerns it may have relating to waivers requested by the applicant or which, in the opinion of the local board, may otherwise be required to construct the project as proposed.
- C. In order to allow timely review, the applicant shall provide a minimum of 30 copies of the complete application and such additional copies as may be required for review by boards, officials, and departments. In addition, for copying purposes, the applicant shall provide one unbound copy of the application with an eleven-inch by seventeen-inch or smaller sized copy of all plans (with match lines).

§ 301-10.6. Application filing fees.

As permitted by 760 CMR 56.05(2), the Board may require the payment of a reasonable filing fee with the application, if consistent with subdivision, cluster zoning, and other fees reasonably assessed by the municipality for costs designed to defray the direct costs of processing applications, and taking into consideration the statutory goal of MGL c. 40B, §§ 20 to 23, to encourage affordable housing development. See Exhibit G, Application Filing Fee and Technical Review Escrow Schedule.²⁵

§ 301-10.7. Technical review escrow; consultant selection and appeal.

- A. Technical review escrow. The escrow for technical review fees is intended to cover the Town's cost of hiring outside consultants, including but not limited to surveyors, engineers, landscape architects, architects, specialized legal counsel not usually required, financial, real estate, and/or other professionals to review the project.

²⁵. Editor's Note: Exhibit G is available at: <https://www.townofnorwell.net>.

- (1) Escrow deposit. The initial escrow deposit amount required to be paid by the applicant for a comprehensive permit shall be \$20,000.
 - (2) Escrow replenishment. Whenever the account falls below 50% of the requirement set by the Board, the applicant shall deposit an additional amount sufficient to return the account to the required level. Any unexpended monies in the escrow account may be returned to the applicant only after all obligations are satisfied.
 - (3) Escrow adjustments. However, at the sole discretion of the Board, if circumstances warrant, the initial escrow deposit and replenishment schedule may be adjusted for good cause by majority vote of the Board. Such request shall be made by the applicant in writing and shall be considered at the same time the Board chooses its technical review consultant.
- B. Noncompliance with escrow requirements. If necessary, the Board at its sole discretion may suspend the public hearing until such time as the escrow requirement is met. However, failure of an applicant to meet and pay a peer review fee in a timely fashion shall be grounds for denial of the comprehensive permit application.
- C. Technical review. In hiring outside consultants, the Board may engage engineers, scientists, financial analysts, special counsel, planners, urban designers or other appropriate professionals to assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws, and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulations, or inspecting a project during construction or implementation.
- D. Technical review consultant selection. All professional engineers, land surveyors, landscape architects, and other similar professionals shall hold a valid license issued by the Commonwealth of Massachusetts. Technical review consultants engaged on behalf of the Town of Norwell shall be paid from technical review escrow funds furnished by the applicant. Such consultants shall be chosen in accordance with applicable provisions of MGL c. 30B, §§ 1 to 19, and MGL c. 44, § 53G, as required.
- E. Appeal of technical review consultant selection. An applicant may appeal the selection of the outside consultant to the Board of Selectmen.
- (1) Such appeal must be made in writing and may be taken only within 20 days of the Board's vote at a public meeting at which the applicant or its representative is present or after the Board has mailed or hand-delivered notice to the applicant of the selection.
 - (2) The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three or more years of practice in the field at issue or a related field.
 - (3) The required time limit for acting upon an application by the Board shall be extended by the duration of the administrative appeal.

- (4) In the event that no decision is made by the Board of Selectmen within 30 business days following the filing of the appeal, the selection made by the Board shall be final.²⁶

- F. Escrow accounting. Funds received by the Board pursuant to this section shall be deposited with the Municipal Treasurer-Collector who shall establish a special account for this purpose, consistent with the terms and provisions of MGL c. 44, § 53G. Expenditures from this special account may be made at the direction of the Board without further appropriation. Expenditures from this special account shall be made only for services rendered in connection with a specific project or projects for which a project review fee has been or will be collected from the applicant.²⁷
- G. Refund of unused escrow. At the completion of the Board's review of a project, any excess amount in the account attributable to a specific project shall be repaid to the applicant or the applicant's successor in interest. A final report of said account shall be made available to the applicant or applicant's successor in interest. For the purpose of this subsection, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

§ 301-10.8. Review of conditions claimed to render project uneconomic; pro forma and escrow requirements.

- A. It shall be the applicant's burden to demonstrate to the satisfaction of the Board that the waiver of any particular local regulation, bylaw, or ordinance is necessary in order to maintain the project's economic viability. There shall be a presumption that the waiver of any local bylaw, ordinance, or regulation will adversely affect local concerns.
- B. In order to assist the Board in the determination of whether or not any proposed conditions will render the project uneconomic, as required under MGL c. 40B, §§ 20 to 23, the application fee shall include an additional \$5,000 for the retention of an financial expert and engineers or other consultants to assist the Board. The Board, in its sole and unfettered discretion, may waive any or all of the additional fees if it is determined that a financial review or other review is not necessary or the fees otherwise paid are sufficient to cover the cost of said financial review.

§ 301-10.9. Public hearing and decision.

- A. The Board shall hold a public hearing on the application within 30 days of its receipt. It may request the appearance at any hearing of such representatives of local officials as it considers necessary or helpful in reviewing the application. In making its decision, the Board shall take into consideration the recommendations of local officials.
- B. The Board shall render a decision, based on a unanimous vote of the Board, within 40 days after termination of the public hearing, unless such time period is extended by written agreement of the Board and the applicant. The hearing is deemed terminated when all public testimony has been received and all information reasonably requested

²⁶. Editor's Note: Amendment pending.

²⁷. Editor's Note: Amendment pending.

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by the Board, including such requirements as may be set forth in the project eligibility letter of the subsidizing agency, has been received, subsequently reviewed by its consultant, and those results discussed at a public hearing without further questions being raised.

- C. As provided in 760 CMR 56.05(8)(a), the Board shall file its decision within 14 days of its vote with the office of the Town Clerk and forward a copy to the applicant or its designated representative and to the Department of Housing and Community Development.

§ 301-10.10. Changes in application.

- A. In the event that, during the public hearing, the applicant proposes any change in its application or project plans which, in the Board's discretion, constitutes a material or substantial change to the project, the applicant shall provide a new project eligibility letter from the subsidizing agency or written confirmation from the subsidizing agency that the changes in the project do not necessitate a new project eligibility letter.
- B. In the event of material or substantial changes, the Board may request, and the applicant shall provide, any and all information specified in § 301-10.4 hereof deemed by the Board to be necessary to evaluate such changes.
- C. In the event of a material or substantial change, any and all plans and supporting information shall be provided to all of the local entities identified in § 301-10.5 above.
- D. If the applicant submits a revised plan for the Board's consideration, and said plan is the plan that is the subject of the Board's hearing and deliberation, then the application shall be deemed to be revised, subject to the foregoing provisions.

§ 301-10.11. Appeals.

- A. If the Board approves the comprehensive permit, any person aggrieved may appeal within the time period and to the court provided in MGL c. 40A, § 17.
- B. If the Board denies the comprehensive permit or approves the permit with conditions or requirements considered by the applicant to be unacceptable, the applicant may appeal to the Housing Appeals Committee as provided in MGL c. 40B, §§ 21 to 23, and 760 CMR 56.00, and any revisions thereto.

§ 301-10.12. Other provisions.

- A. Ground disturbance and commence of construction. In no event shall any site work preparation or other on-site construction work commence until such time as the Board of Appeals has reviewed and approved final construction plans for consistency with the original decision and notified the applicant thereof in writing. The applicant shall provide an adequate number of approved plan copies, signed by the Board of Appeals, for distribution to the Norwell Building Inspector/Zoning Enforcement Officer and such other local boards as may require an approved final plan copy. For homeownership projects, it is a further requirement that all condominium and affordable housing

documents be filed with and approved by the Board of Appeals prior to land disturbance, and issuance of any building permit.

- B. Issuance of building permit(s). No building permit shall be issued until such time as the applicant is in compliance with the conditions of the comprehensive permit decision and these rules and regulations, as may be amended from time to time by the Norwell Board of Appeals.
- C. Terms and conditions of the comprehensive permit. Any comprehensive permit issued with or without conditions specific to the proposed project, sited in whole or in part within the Town of Norwell, shall be valid only for the applicant to which it has been issued. No comprehensive permit approved by the Norwell Board of Appeals may be assigned or transferred to any other party or entity without its expressed written approval that shall not be unreasonably withheld. An approved comprehensive permit, and any extension, modification or renewal thereof, shall take effect only at such time as the Board's decision and approved final plans have been recorded at the Plymouth County Registry of Deeds or the Land Court. However, the date of such filing will not change the expiration date of the Board's decision.
- D. Project modification. Any change in plans or in the scope of the project for which a comprehensive permit has been issued shall be submitted to the Board of Appeals, which shall, at its sole discretion, determine whether such change at its sole discretion constitutes a significant modification that may require a new public hearing.
- E. Performance guarantees. The Board of Appeals may require the developer at its expense to procure and maintain such surety, performance bond(s), or other guarantees as it deems necessary to protect the interests of the Town of Norwell at any point in the construction of an approved project. All such guarantees must be in a form approved by Town Counsel.
- F. Certificates of occupancy. No certificate of occupancy shall be issued until such time as all conditions of the decision therefor are met. Certificates of occupancy shall be issued so that no more than three market-rate units are permitted for every affordable unit so permitted.
- G. Interim and final as-built plans and certifications. As-built plans to ensure construction progress of the proposed project, as set forth in the plans approved by the Board of Appeals, are required and shall meet Town standards as set forth in the Norwell Planning Board Rules and Regulations, as may be amended from time to time, or as set forth elsewhere herein. All such as-built plans and certifications are subject to the review and approval of the Board's consulting engineer. All as-built plans shall be prepared by a professional land surveyor and professional engineer. Plans shall include certifications that the plans comply with the approved plans stamped by the appropriate professionals.
- H. Interim as-built plans of the project shall be required:
 - (1) For any and all foundations, prior to issuance of a building permit;
 - (2) For all access roadways, ways, and driveways to service the project, immediately after installation of the base layer of pavement;

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- (3) Prior to issuance of any certificates of occupancy, to confirm substantial completion of all drainage, stormwater management facilities, wastewater facilities, utility mains and services, and such other infrastructure as may be required to service the project; or
 - (4) At the discretion of the Board's consulting engineer.
- I. Final as-built plans of the completed project shall include all information shown on the interim as-built plans. In addition, such plans shall show all buildings, setbacks, final grades, and roadway profiles, if applicable, and such other features to demonstrate completion of the project in accordance with the approved plans.
 - J. Monitoring of affordability. The Board of Appeals shall reserve the right to appoint a local affordable housing authority or agency for monitoring of affordability requirements.

ARTICLE 11

Severability**§ 301-11.1. Severability.**

If any provision of these rules and regulations is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of these rules and regulations, it being hereby expressly declared that these rules and regulations and each provision thereof would have been adopted irrespective of the fact that any one or more other provisions be declared invalid or unconstitutional. Further, if any provision of these rules and regulations is for any reason held to be in excess of the authority of the Board of Appeals, such provision shall not affect any other part of these rules and regulations.

Chapter 302

PLANNING BOARD

Part 1

Subdivision Rules and Regulations

ARTICLE 1

Purpose and Authority

- § 302-1.1. Purpose.
- § 302-1.2. Authority.
- § 302-1.3. Amendments.
- § 302-1.4. Severability.

ARTICLE 2

Definitions

- § 302-2.1. Definitions.

ARTICLE 3

General Regulations

- § 302-3.1. Applicability.
- § 302-3.2. Applications and submittals.
- § 302-3.3. Compliance with rules and regulations.
- § 302-3.4. Waivers.
- § 302-3.5. Issuance of building permits.
- § 302-3.6. Planning Board procedures.
- § 302-3.7. Professional and technical assistance.
- § 302-3.8. Fees.
- § 302-3.9. Modification, amendment or rescission of subdivisions.
- § 302-3.10. Dwelling and lot limitation.
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[HISTORY: Adopted by the Planning Board of the Town of Norwell as indicated in part histories. Amendments noted where applicable.]

GENERAL REFERENCES

Public ways — See Ch. 81.

Zoning — See Ch. 201.

Part 1
Subdivision Rules and Regulations
[Adopted 4-5-2004; amended 5-20-2006]

ARTICLE 1
Purpose and Authority

§ 302-1.1. Purpose.

These Subdivision Rules and Regulations (the "Regulations") are enacted in accordance with the provisions of the Subdivision Control Law, MGL c. 41, §§ 81M and 81Q, and for all of the purposes stated therein, including protecting the safety, convenience, and welfare of the inhabitants of the Town of Norwell, by regulating the laying out and construction of ways in subdivisions which provide 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 Planning Board shall exercise its powers under the Regulations and the Subdivision Control Law 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 the lessening of congestion in such ways and in the adjacent public ways; for securing safety in the case of fire, flood, panic, and other emergencies; for ensuring compliance with the Town of Norwell's Zoning Bylaw; for securing adequate provisions for water, sewerage, drainage, underground utility services, fire, police, and other municipal equipment and services, and streetlighting and other requirements where necessary in a subdivision; 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.

§ 302-1.2. Authority.

The Regulations have been adopted under MGL c. 41, § 81Q. The Planning Board shall administer the Regulations and have all of the powers assigned to it under MGL c. 41, §§ 81K to 81GG, inclusive (the Subdivision Control Law).

§ 302-1.3. Amendments.

The Regulations or any portion may be amended, supplemented, or repealed from time to time by the Planning Board under MGL c. 41, § 81Q.

§ 302-1.4. Severability.

The final determination of the invalidity of any section, subsection or provision of the Regulations shall not invalidate any other section, subsection or provision thereof. If any provision of the Regulations is finally determined by a court of competent jurisdiction to be invalid as applied in a particular case, all other applications of such provisions to other cases shall not be affected thereby.

ARTICLE 2

Definitions**§ 302-2.1. Definitions.**

For the purposes of the Regulations the following words and terms used herein are hereby defined or the meaning thereof explained, extended, or limited as stated in MGL c. 41, as amended. Where a term is defined in the Subdivision Control Law or the Norwell Zoning Bylaw and not herein, such definition shall be incorporated by reference herein. Other terms or words or phrases shall be construed according to the common and approved usage of the language, but technical words and phrases and such other terms or phrases as may have acquired a particular and appropriate meaning in law shall be construed and understood according to such meaning.

AASHTO — Standard specifications for highway materials and methods of sampling testing adopted by the American Association of State Highway and Transportation Officials.

ABUTTER —

- A. An owner of land that shares a common property line with the owner(s) of land that is the subject of a subdivision application; and
- B. An owner of land that is directly across a way from the land that is the subject of a subdivision application.

ACI — The American Concrete Institute.

APPLICANT — The individual or individuals seeking definitive subdivision approval or endorsement that subdivision approval is not required from the Planning Board. The term "applicant" shall include the applicant's successor in interest and the applicant's agents, servants and employees and shall include any contractor and subcontractor engaged by the applicant.

APPROVAL NOT REQUIRED PLAN (ANR) — A plan of a proposed division of land submitted to the Planning Board for its endorsement under MGL c. 41, §§ 81L and 81P, and prepared in accordance with the requirements set forth under Article 4.

ASTM — The American Society for Testing and Materials.

BUILDING CODE — Massachusetts Building and Highway Construction Code.

CONSTRUCTION PLAN — An overall soil and water management plan, prepared in accordance with § 302-6.4D, that shall be followed during construction and provide a maintenance schedule which shall be followed after completion of the project.

DEFINITIVE PLAN — The plan of a proposed subdivision, prepared under Article 6, submitted to the Planning Board for approval under the Subdivision Control Law.

DWELLING — As defined in the Norwell Zoning Bylaw.

EASEMENT — A right acquired for the use or control of property for designated purposes.

ENGINEER — A professional civil engineer who is registered to practice in the Commonwealth of Massachusetts.

FRONTAGE — As defined and regulated under the Norwell Zoning Bylaw.

LAND SURVEYOR — A professional land surveyor who is registered to practice in the Commonwealth of Massachusetts.

LEVEL OF SERVICE (LOS) — The measurement of the efficiency and adequacy of a roadway segment or intersection to handle the existing or proposed traffic flows, based upon existing or expected trip generation. The LOS shall be calculated based on the methodology of the most recent edition of the Transportation Research Board Highway Capacity Manual. An adequate LOS shall be LOS "D" or better on every approach for residential roadways; LOS "C" or better for residential roadways.

LOT — As defined and regulated under the Norwell Zoning Bylaw.

LOT, CORNER — As defined and regulated under the Norwell Zoning Bylaw and which shall include a lot which has legal frontage on both a public way and on a proposed subdivision way, and which shall be shown on any proposed subdivision plan and shall be considered a part of said plan.

MASSACHUSETTS GENERAL LAWS or MGL — The General Laws of the Commonwealth of Massachusetts, with all additions thereto and amendments thereof. In the case of a rearrangement of the General Laws, any citation of particular sections herein set forth shall be applicable to the corresponding sections in the new codification.

MCP — The Manual of Concrete Practice published by the American Concrete Institute.

MUNICIPAL SERVICES OR UTILITIES — Public utilities furnished by the Town of Norwell and all private utilities proposed for a subdivision, including sanitary sewers or septic systems, surface and subsurface water drains, water pipes, gas pipes, electric lines, streetlighting, telephone lines, communication cables, fire alarm lines, communication cables, and their respective appurtenances.

OWNER — All of the persons holding the ultimate fee simple title to the land depicted on a definitive subdivision plan or approval not required plan, as shown by the record in the appropriate Land Registration Office, Registry of Deeds, or Registry of Probate. The term "owner" shall include any successor in interest.

PERSON — An individual, partnership, trust, corporation, or two or more individuals or a group or association of individuals or other legal entity.

PLANNING BOARD — The Planning Board of the Town of Norwell.

PLANNING BOARD ENGINEER — A registered professional civil engineer designated by the Planning Board to act as its technical consultant and to provide the Planning Board with engineering assistance or data as requested by the Planning Board.

PRELIMINARY PLAN — A plan for a proposed subdivision or resubdivision of land prepared in accordance with Article 5.

PRINT — A contact print, dark line on a white background.

REGULATIONS or RULES AND REGULATIONS — The rules and regulations promulgated and adopted by the Planning Board under MGL c. 41, § 81Q.

ROADWAY or STREET — That portion of any way, right-of-way or street layout which has been designed and constructed to serve vehicular traffic for more than one lot. This term shall not include a driveway or common driveway or any other way that is not a public way or a way has not been approved under the Subdivision Control Law.

ROADWAY OR STREET CATEGORIES —

- A. **COMMERCIAL OR INDUSTRIAL STREET** — A street which is being used or will be used to serve as access to a business or industrial subdivision.
- B. **DEAD-END STREET** — A street or a combination of streets with only one means of through ingress or egress to a public way or through intersecting way and shall have a maximum length of not more than 550 feet as measured from the center line of the intersection of the nearest through public way to the furthest edge of pavement, except in the case of a cul-de-sac, to the center point of the cul-de-sac.
- C. **PRIVATE OR UNACCEPTED WAY** — A street which has not been accepted as a public way.
- D. **RESIDENTIAL STREET** — A street which is being used or will be used to serve a residential subdivision.

SCENIC ROAD — Any road designated as a scenic road under MGL c. 40, § 15C, including, but not necessarily limited to, Bowker Street, Jacobs Lane, Norwell Avenue, Stetson Road, Stetson Shrine Lane and Tiffany Road.¹

STATE HIGHWAY STANDARDS — The Massachusetts Standard Specifications for Highways, Bridges and Waterways as adopted by the Massachusetts Department of Public Works or Massachusetts Highway Department.

STRUCTURE — As defined and regulated under the Norwell Zoning Bylaw.

SUBDIVISION — As defined under MGL c. 41, § 81L.

SUBDIVISION CONTROL LAW — Massachusetts General Laws c. 41, §§ 81K to 81GG, inclusive, and any amendments thereof, additions thereto, or substitutions therefor.

TOWN — The Town of Norwell.

TRIP GENERATION — The expected number of vehicular trips to and from any given type of land use activity or development. Trip generation figures shall be calculated using the methodology and statistics presented in the most recent edition of the Institute of Transportation Engineers "Trip Generation."

WAY — The full strip of land designated as a way, including the full right-of-way layout and any planting strips or sidewalks. A designated way shall be available only for such uses as are customary for ways in the Town, and shall not be available for any private construction such as buildings, fuel tanks, septic systems, fences, or walls.

WETLANDS — All land protected pursuant to MGL c. 131, § 40, and all land protected under the Town's Zoning Bylaw and the Town's Wetlands Protection Bylaw.²

1. Editor's Note: See Ch. 82, Scenic Roads.

2. Editor's Note: See Ch. 61, Art. I, Wetlands Protection.

ARTICLE 3

General Regulations

The following regulations shall apply in all circumstances governed by the Subdivision Control Law.

§ 302-3.1. Applicability.

Any person desiring to divide or subdivide land shall, before proceeding with the improvement or sale of lots in the division or subdivision, or the construction of ways or the installation of municipal services therein, submit to the Planning Board a plan of such division or subdivision pursuant to the Subdivision Control Law and the Regulations and secure approval or endorsement by the Planning Board as hereinafter provided.

§ 302-3.2. Applications and submittals.

Any application for approval or endorsement, required plan, required submittal, and required fee shall comply in all respects with the provisions of the Regulations. No plan shall be approved or endorsed by the Planning Board until said plan together with all required applications, forms, fees, lists and other items have been duly submitted by the applicant and are properly executed and fully completed in accordance with the Regulations. Where the applicant fails to comply with the Regulations, the Planning Board may reject the application after detailing the ways in which said application and plan do not conform as required under MGL c. 41, §§ 81P and 81U.

§ 302-3.3. Compliance with rules and regulations.

Any proposed division and any proposed subdivision of land shall comply in all respects with the Regulations, unless the Planning Board authorizes an express waiver therefrom in specified and authorized instances in accordance with the requirements set forth under MGL c. 41, § 81R, and does so in writing.

§ 302-3.4. Waivers.

Strict compliance with the Regulations governing the subdivision of land may be waived under MGL c. 41, § 81R, provided that the Planning Board determines that, in its judgment, in the particular case at issue, waiver of strict compliance would be in the public interest and not inconsistent with the Subdivision Control Law.

3. Editor's Note: See Ch. 201, Zoning.

§ 302-3.5. Issuance of building permits.

As mandated under MGL c. 41, § 81Y, Paragraph 2, the Building Inspector/Zoning Enforcement Officer shall not issue any permit for erection of a building until first satisfied that the lot on which the building is to be erected is not within a subdivision that requires approval under the Subdivision Control Law, or that the way which furnishes the access to the lot within a subdivision as required by the Subdivision Control Law is shown on a plan recorded or entitled to be recorded under MGL c. 41, § 81X, and that any conditions endorsed on a subdivision plan that limit the right to erect or maintain buildings on such lot have been satisfied, or waived by the Planning Board, and in the event that the Planning Board has by rule or regulation required that not more than one building for dwelling purposes be erected or placed or converted to use as such on any lot without its consent, until the Building Inspector/Zoning Enforcement Officer is satisfied that such consent has been obtained.

§ 302-3.6. Planning Board procedures.

The Planning Board shall be responsible for the division or subdivision of land, as set forth in MGL c. 41, § 81N.

- A. Scheduling of meetings. The Planning Board shall schedule and hold regular meetings at such a place and on such dates and times as may be designated by notice filed with the Town Clerk at least 48 hours in advance as required under MGL c. 30A, § 20. Regular meetings of the Planning Board are open for the public to attend.⁴
- B. Appointments. Anyone desiring to initiate an action that is within the jurisdiction of the Planning Board shall do so by advance appointment only at a posted meeting, unless otherwise provided for by law. To secure an appointment, all applicants shall contact the Planning Board's staff at least four business days prior to a regularly scheduled meeting. The applicant shall provide the applicant's name, address and a brief outline of the nature of the business that is to be discussed with the Planning Board. The only exception to the four-day rule shall be that the nature of the business is confidential under MGL c. 30A, § 18 et seq.⁵
- C. Public meeting procedures.
 - (1) All meetings of the Planning Board shall be public, unless conducted in executive session, and shall be conducted formally under the direction of the Chair or the Chair's designee and only when a quorum of the Board is in attendance, other than to reschedule meetings or to take action that is required to indicate that a quorum was not present.
 - (2) All applicants and all other persons desiring to submit a petition or to be heard shall address the Planning Board only upon being properly recognized by the Chair and shall direct all testimony to the Chair. All spectators at a meeting of the Planning Board shall respect the desire of the Chair to conduct business in an orderly manner. No person shall address a public meeting of the Planning Board

4. Editor's Note: Amendment pending.

5. Editor's Note: Amendment pending.

without permission of the presiding officer. All persons shall, at the request of the presiding officer, be silent. If, after warning from the presiding officer, a person persists in disorderly behavior, the presiding officer may order that person to withdraw from the meeting and, if the disorderly person does not withdraw, the presiding officer may order a constable or any other person to remove the disorderly person and confine said person in some convenient place until the meeting is adjourned. MGL c. 30A, § 20.⁶

- (3) Executive sessions. Executive sessions of the Planning Board may be held as authorized by the Open Meeting Law. MGL c. 30A, § 21.⁷
- D. Public hearing procedures. All comments or information, documents, plans and letters received during a public hearing shall be taken into consideration by the Planning Board in making a decision on a pending matter.
- E. Records. The records of the Planning Board shall be public records as provided for under state law. Maintenance of such records shall be consistent with the requirements of MGL c. 30A, §§ 18 to 25.⁸

§ 302-3.7. Professional and technical assistance.

Pursuant to MGL c. 41, § 81Q, and MGL c. 44, § 53G, the Planning Board may assign as its agents appropriate Town officials and/or may hire professional technical consultants for the purpose of reviewing plans and inspecting improvements at the cost of the applicant. The selection of an outside consultant shall be subject to an administrative appeal to the Board of Selectmen, but such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications as set forth under MGL c. 44, § 53G.

§ 302-3.8. Fees.

The fees appended hereto as Appendix V, Schedule of Fees, are hereby adopted under MGL c. 41 and MGL c. 44, § 53G, and shall apply to the submittal of application materials of the various plans specified in the Regulations, to cover the Planning Board's costs of processing applications, obtaining technical review, and inspecting work.

§ 302-3.9. Modification, amendment or rescission of subdivisions.

- A. The Planning Board, on its own motion or on the petition of any interested person, 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, after due notice and opportunity to the owner to be heard in accordance with MGL c. 41, § 81W, as amended.

6. Editor's Note: Amendment pending.

7. Editor's Note: Amendment pending.

8. Editor's Note: Amendment pending.

- B. No modification, amendment or rescission of the approval of a plan of a subdivision or changes in such plan shall affect the lots in such subdivision which have been sold or mortgaged in good faith and for a valuable consideration subsequent to the approval of the plan, or any rights appurtenant thereto, without the consent of the owner of such lots, and of the holder of the mortgage or mortgages, if any, thereon; provided, however, that nothing herein shall be deemed to prohibit such modification, amendment or rescission when there has been a sale to a single grantee of either the entire parcel of land shown on the subdivision plan or of all the lots not previously released by the Planning Board.

§ 302-3.10. Dwelling and lot limitation.

- A. Not more than one dwelling shall be erected, or placed, or converted to use as a dwelling on any lot in a subdivision or elsewhere in the Town without the consent of the Planning Board, and such consent shall be conditioned upon provision of adequate ways furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision. MGL c. 41, § 81Q, Paragraph 1, and § 81Y, Paragraph 2. This regulation applies to all land in the Town, even if it is not being subdivided.
- B. Lot limitation. No lot may be added to an approved subdivision without obtaining further subdivision approval under MGL c. 41, § 81W.

§ 302-3.11. Access adequacy regulations.

Plans shall be endorsed as not requiring approval under the Subdivision Control Law and subdivision plans shall be approved only if each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, MGL c. 41, §§ 81K to 81GG.

- A. Standards of adequacy of access. The following standards of adequacy of access shall be followed:
- (1) Approval not required (ANR) site. A way providing access to lots proposed on a plan submitted under or pursuant to MGL c. 41, § 81P, shall be considered adequate access only if said way meets the requirements of MGL c. 41, § 81L.
 - (2) Within a subdivision. A street depicted on a proposed subdivision plan shall be considered adequate access only if it complies with the standards established in the Regulations or has received proper waivers therefrom.
 - (3) To a subdivision. Adjacent, existing ways that would provide access to streets within a proposed subdivision shall be considered to provide adequate access to the proposed subdivision only if such adjacent, existing ways meet the standards set forth herein for width of right-of-way, construction, drainage, pavement width, sight distance, and maximum grade.
- B. Obligations of applicant to make improvements. The Planning Board may require appropriate and reasonable improvements in adjacent streets and ways to minimize congestion, to ensure safe and adequate access to the proposed subdivision and to

ensure safe and adequate vehicular and pedestrian travel in a coordinated system of streets and ways in Norwell and connecting to adjacent municipalities. The Planning Board may require, as a condition of its approval of a definitive subdivision plan, that the applicant shall dedicate or acquire and then dedicate a strip of land for the purpose of widening existing ways to a width as required in the Regulations and that the applicant shall make physical improvements within such way or compensate the Town for the cost of such improvements in order to meet the standards specified above.

ARTICLE 4

Approval Not Required Plans

An applicant who wishes to record in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that such plan does not require approval under the Subdivision Control Law, pursuant to MGL c. 41, §§ 81L and 81P, may submit such an approval not required or ANR plan to the Planning Board and request that the plan be endorsed "Approval Not Required Under the Subdivision Control Law."

§ 302-4.1. Application requirements.

An applicant submitting an ANR plan to the Planning Board for consideration shall provide an application to the Planning Board as set forth below.

- A. Application form and copies. An ANR plan applicant shall submit an application on Planning Board Form A (Appendix I, Form A), together with:
 - (1) One original and six copies of the application;
 - (2) Twelve copies of the ANR plan (one for the Planning Board's file, one for each of the five Planning Board members, one for the Town Planner, and five for endorsement and distribution following endorsement to the Planning Board file, Town Clerk, Building Inspector/Zoning Enforcement Officer, Highway Surveyor and the applicant);
 - (3) A Mylar of the ANR plan; and
 - (4) All the necessary evidence to show that said ANR plan does not require subdivision approval.
- B. Required signatures on application. The Form A application shall be signed by the applicant and the owner [i.e., all owner(s)] of record of all the land proposed to be divided by the ANR plan. The application shall be signed under oath and shall certify that all of the owners of record have executed the application. In addition, the engineer and/or surveyor who prepared the plan shall sign the application and certify that the plan (referring to the date and last revision date of the plan submitted), as prepared, to the best of his/her knowledge, conforms to all of requirements of the Regulations.
- C. Required application fee. An ANR plan applicant shall submit the required fee, as set forth in Appendix V, Schedule of Fees, with the Form A application.
- D. Delivery of application. An ANR plan shall be submitted to the Planning Board at a regular meeting or by registered mail. (See MGL c. 41, §§ 81O, 81P and 81T.)

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- E. Filing with Town Clerk. An ANR plan applicant may file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission of such a plan to the Planning Board under MGL c. 41, § 81T.
- F. Effective date of Subdivision Control Law. The Town accepted the provisions of the Subdivision Control Law on February 9, 1953.

§ 302-4.2. Approval not required plan requirements.

An ANR plan shall satisfy all of the requirements set forth below.

- A. Preparation. An ANR plan shall be of a minimum dimension of 9 1/2 inches by 14 inches but shall not exceed a dimension of 24 inches by 36 inches, and shall be drawn at a minimum of one inch equals 80 feet and a maximum scale of one inch equals 40 feet.
- B. Contents. An ANR plan shall contain, but shall not necessarily be limited to, the following information and shall be based upon an on-the-ground survey:
 - (1) Name, address, telephone number and e-mail address of the applicant and each owner of record for the land to be divided under the ANR plan.
 - (2) North point.
 - (3) Date of ground survey performed and seal and signature of the registered professional who prepared said plan.
 - (4) Name, address and seal of the registered professional engineer and registered land surveyor who prepared, signed and stamped said plan.
 - (5) Names and addresses of all abutters from the most recent Town tax list.
 - (6) The Assessing Map reference for the land proposed to be divided.
 - (7) Existing and proposed boundary lines, dimensions and areas of each of the parcels and lots shown on said plan, with all bounds, keyed into the Massachusetts grid system. At least two bounds shall reference the corresponding Massachusetts grid coordinates. If the division is within 500 feet of a highway or road which has been laid out by the Town of Norwell, Plymouth County Commissioners, or the Massachusetts Department of Public Works, the division shall also be tied into two or more permanent points or bounds of the existing highway or road by bearing and distance.
 - (8) Existing and proposed lines of streets, ways and easements and whether each is a public or private way.
 - (9) Zoning classification and location of any zoning district boundaries that may lie within the locus.
 - (10) Any present or proposed public areas within the property.
 - (11) Location of all existing buildings or structures, if any, including setback and side and rear yard designations of any existing structures on any remaining adjoining

land owned by the applicant and dimensions of yards relating to such structures. A note shall be placed on the plan as follows: "Endorsement of this plan shall not be deemed to be a verification of the location of the structures shown or setbacks indicated."

- (12) Proposed or existing permanent monuments.
- (13) The limits of all wetlands or a notation that there are no wetlands, if none exist. If wetlands limits exist, then a note shall be placed on the plan as follows: "Endorsement of this plan shall not be deemed to be a verification of the location of the wetlands shown on this plan and can be verified only by a current plan approved by the Conservation Commission."
- (14) A locus map at a minimum scale of one inch equals 1,000 feet extending a minimum of 1/2 mile beyond the property limits.
- (15) Remaining adjoining land in the ownership of the applicant, if any; if applicable, the applicant shall furnish evidence on the plan indicating that the adjoining land has adequate frontage for later development.
- (16) Location of any easement, public or private, across the land, with a designation as to the use of the same.
- (17) A signature block shall be placed on the plan that provides sufficient space for the date of endorsement and the signatures of the members of the Planning Board.
- (18) In any instance in which ANR endorsement of a plan is sought based upon the assertion that the plan shows a division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect into separate lots on each of which one of such buildings remains standing, under MGL c. 41, § 81L, Paragraph 13, the applicant shall provide information to satisfy the Planning Board that:
 - (a) The buildings are presently substantial in nature.
 - (b) The buildings were substantial in nature and in existence on or before February 9, 1953.
 - (c) The buildings were on the same tract of land on or before February 9, 1953.
 - (d) Each of the new parcels to be created for each of the buildings will qualify as a "lot" within the meaning of MGL c. 41, § 81L.
- (19) In the event that the Planning Board votes to endorse such an ANR plan, a note shall be placed on each of the new parcels created as follows: "This parcel was created as a separate parcel under MGL c. 41, § 81L, Paragraph 13, and zoning compliance requirements shall be followed prior to conveyance of the parcel as a separate lot with a building that may be occupied either by: (1) obtaining a special permit that a lawfully preexisting, nonconforming lot may be extended, changed or altered so as to allow the proposed division and conveyance; or (2) obtaining a variance to address all nonconformities."

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- (20) A note shall be placed on every ANR plan as follows: "Approval under the Subdivision Control Law not required."
- (21) A note shall be placed on every ANR plan as follows: "Endorsement of this plan shall not be an indication, express or implied, that the parcels or structures shown on this plan conform to applicable zoning requirements."
- (22) If a parcel is shown on the plan that does not have frontage as required by the Zoning Bylaw, each such parcel shall contain the following notation: "Not a building lot without further zoning relief."

§ 302-4.3. Planning Board action.

The Planning Board shall review the ANR plan to determine whether it is a subdivision within the meaning of the Subdivision Control Law and whether it conforms to the standards for endorsement of an ANR plan.

- A. Endorsement. If the Planning Board determines that the ANR plan does not require approval under the Subdivision Control Law, a majority of the Planning Board or its Clerk shall, without a public hearing and within 21 days of submission, endorse on the plan the words "Approval under the Subdivision Control Law not required," together with any reasonable notations to indicate that:
 - (1) Endorsement shall not constitute a determination as to zoning compliance.
 - (2) In particular cases, further zoning relief shall be required if endorsement is obtained under MGL c. 41, § 81L, Paragraph 13.
- B. Denial of endorsement. If the Planning Board determines that an ANR plan does require approval under the Subdivision Control Law or does not conform to the standards for endorsement hereunder, it shall, within 21 days of submission of said plan, notify the applicant and the Town Clerk in writing that in the Planning Board's opinion the plan shows a subdivision and cannot be endorsed and return the Mylar plan to the applicant.
- C. Constructive endorsement. The failure of the Planning Board to take final action to endorse or refuse endorsement for a plan submitted under MGL c. 41, §§ 81L and 81P, may result in a constructive endorsement as provided for by state law.

§ 302-4.4. Distribution of prints and original tracing.

One copy of the endorsed ANR plan shall be retained by the Planning Board for its files. An endorsed copy shall be forwarded to the Town Clerk, Building Department and Highway Surveyor. The Mylar shall be returned to the applicant for recording in the Plymouth Registry of Deeds or for registration with the Land Court. No construction shall commence in accordance with the endorsed ANR plan until it has been duly recorded.

ARTICLE 5 Preliminary Plans

302:14

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A preliminary subdivision plan may be submitted by an applicant, pursuant to MGL c. 41, § 81S, to the Planning Board for discussion and approval, modification, or disapproval. All nonresidential subdivisions shall submit a preliminary plan.

§ 302-5.1. Purpose.⁹

The purpose of a preliminary plan is to provide a prospective applicant with an opportunity to acquaint the Planning Board with the applicant's intentions and allow for an informal discussion of the plan. This procedure allows recommended changes to be conveniently incorporated into the preliminary plan prior to the development of the final plans. It is recommended that a preliminary plan be filed in every case, and a preliminary plan is required for a nonresidential subdivision under MGL c. 41, § 81S, Paragraph 2.

§ 302-5.2. Pre-application.

Prior to investing in extensive professional design costs for preparation of a preliminary plan, the applicant may review the proposed development of the parcel of land with the Planning 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 of the preliminary plan. In some cases, the pre-submission review may eliminate the need for the formal submission of a preliminary plan. Neither the applicant nor the Planning Board shall be bound by the discussions and no binding waivers of the Regulations can be made.

§ 302-5.3. Effect.

The submission of a preliminary plan to the Planning Board shall not be deemed submission of a definitive subdivision plan for approval by the Planning Board under MGL c. 41, § 81U.

§ 302-5.4. Preliminary plan application requirements.

An applicant submitting a preliminary plan of a subdivision for consideration shall provide an application as set forth below.

- A. Application form and copies. An applicant shall submit an application in duplicate on Planning Board Form B (Appendix I, Forms, Form B), together with 15 copies of the preliminary plan to the Planning Board.
- B. Required signatures on application. The Form B application shall contain the original signatures of the applicant and all record owners of the land that is proposed to be subdivided, indicating that all owners of record are aware of the application and have assented to the application.
- C. Required application fee. A preliminary plan applicant shall submit the required fee as set forth in Appendix V, Schedule of Fees, with the Form B application.

⁹ Editor's Note: Amendment pending.

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- D. Delivery of application. The preliminary plan shall be deemed submitted when the Form B and preliminary plan are delivered to the Planning Board at a public meeting or delivered by registered mail.
- E. Filing of application with Town Clerk. A preliminary plan applicant may file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission of the Form B and preliminary plan to the Planning Board.

§ 302-5.5. Preliminary plan requirements.

A preliminary plan shall be prepared and contain information and documentation as set forth below.

- A. Preparation. The preliminary plan shall be on paper with clearly legible lines, at a scale of one inch equals 40 feet. The preliminary plan shall be clearly labeled: "Preliminary Plan." A preliminary plan shall be prepared by a registered land surveyor and a registered professional engineer, who each shall be appropriately licensed to perform the specific work involved.
- B. Contents. A preliminary plan shall contain the following documentation and information:
 - (1) The subdivision name, boundaries, North point, date and scale.
 - (2) Name, address, telephone number and signature of the applicant and each record owner of the land proposed to be subdivided.
 - (3) Name, address, e-mail address and telephone number of the applicant's engineer or surveyor.
 - (4) Names of all abutters, as determined from the most recent Town tax list.
 - (5) Assessing Map reference information.
 - (6) Lines of existing and proposed streets, ways, easements and common or public areas within the subdivision.
 - (7) Location, names, and present width of streets bounding, approaching or near the subdivision.
 - (8) Existing and proposed boundary lines, dimensions and areas of lots.
 - (9) All existing bodies of water, brooks and streams and wetlands, with direction of flow and the proposed disposition of watercourses.
 - (10) Existing highway drainage within the frontage area of the subdivision and for a sufficient distance beyond as required by the Planning Board.
 - (11) The boundary lines of proposed lots with areas and dimensions indicated.
 - (12) Profile of streets including details of typical road and sidewalk cross sections, full storm drainage details, and location of all utilities.

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- (13) Where the owner or applicant also owns or controls land adjacent to or across the street from the land shown on the preliminary plan, the applicant shall submit a sketch plan showing a possible or prospective street layout for such adjacent land. The sketch may be submitted separately from the preliminary plan.
- (14) Evidence that all lots and other aspects of such plan conform to the Zoning Bylaw or evidence that a variance has been granted.
- (15) A written list of any waivers from the Regulations requested.
- (16) The location of the general soil classification boundaries identified by the Natural Resources Conservation Service.
- (17) The proposed roadway center line should be staked at fifty-foot intervals at the time of submission. Additional staking of drainage facilities, easements and other areas may be required by the Planning Board.
- (18) The applicant shall demonstrate that development of the site shall be balanced relative to earthwork and result in no net loss of earth materials. Calculations of anticipated cut and fill volumes shall be provided.

§ 302-5.6. Review by municipal agencies.

The Planning Board may submit copies of the preliminary plan to the Board of Health, Board of Selectmen, Building Inspector/Zoning Enforcement Officer, Conservation Commission, Drainage Committee, Fire Department, Highway Surveyor, Police Department, Board of Water Commissioners, and Tree Warden for their review and comment. Replies shall be made to the Planning Board within 30 days.

§ 302-5.7. Site visit.

After the regular Planning Board meeting at which preliminary plan is first discussed, the Planning Board and/or its agent may schedule a site visit to the proposed subdivision, with or without the applicant and the applicant's agents or representatives under MGL c. 41, § 81CC. To facilitate review of the proposed subdivision site, temporary staking may be required along the center line of all proposed roads in the subdivision before the site visit, or, if staking is impractical, the Planning Board may permit a suitable alternative procedure.

§ 302-5.8. Planning Board action.

The Planning Board shall, under MGL c. 41, § 81S, approve a preliminary plan, approve it with modifications or disapprove it with the detailed reasons stated therefor in writing.

- A. Disapproval. In case of disapproval, the Planning Board shall state in detail its reasons for disapproval, enabling the applicant to resubmit the plan after correcting it to comply with the Regulations and the Zoning Bylaw.
- B. Effect of preliminary plan action. Approval of a preliminary plan, with or without modifications, shall not constitute approval of a definitive subdivision. Planning Board

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action regarding a preliminary plan shall not prejudice action as to any later filed definitive plan.

- C. Notice to Town Clerk. The Planning Board shall notify the Town Clerk in writing of its action on a preliminary plan within 45 days of the date of submittal of the application, under MGL c. 41, § 81S, unless the time for action is otherwise extended.

ARTICLE 6

Definitive Plans

§ 302-6.1. Purpose.

The purpose of the definitive subdivision approval process is to ensure that formal divisions of land conform to all of the requirements for such divisions that are set forth under MGL c. 41, § 81M, and with all local zoning requirements.

§ 302-6.2. Pre-application conference.

Prior to investing in extensive professional design costs for preparation of definitive subdivision plans, the applicant may submit a preliminary plan under Article 5 and MGL c. 41, § 81S, to informally explore general conditions involving the site and to discuss potential problems with the Planning Board.

§ 302-6.3. Application requirements.

An applicant submitting a definitive subdivision plan shall provide the following documentation and information:

A. Application form and copies.

- (1) An applicant for definitive subdivision approval or modification of subdivision approval shall submit an application to the Planning Board in duplicate on Planning Board Form C (see Appendix I, Forms, Form C), together with 18 copies of the proposed definitive plan to be filed with the Planning Board, one for the Planning Board's file; one for each of the five Planning Board members; one for the Town Planner; one for the Planning Board's technical consultant; and nine for distribution for comments and recommendations to the Board of Health, Board of Selectmen, Board of Water Commissioners, Conservation Commission, Drainage Committee, Fire Department, Highway Surveyor, Police Department and Tree Warden. (See MGL c. 41, § 81O and § 81T.) The copies of the 18 definitive plan sets shall consist of six full-sized plan sets and 12 reduced-sized plan sets 11 inches by 17 inches for distribution. One full-sized plan shall be provided to the Planning Board's engineering consultant.
- (2) Whenever a drainage calculation report is submitted, a minimum of three full reports shall be provided and one full copy shall be provided to the Planning Board's engineering consultant for review, together with a copy of any summary report. If an applicant desires, the remaining 15 copies may be in the form of a

summary report. If a summary report is provided, then 18 copies of the summary report shall be provided.

- B. Certified abutters list. An applicant for definitive subdivision plan approval or modification of definitive subdivision plan approval shall obtain a list of the owners of all land abutting upon the land proposed to be subdivided as appearing on the most recent tax list and have the list certified by the Town Assessor and then submit the certified abutters list (Appendix I, Form D) with the Form C application.
- C. Required signatures on application. The Form C application shall be signed by the applicant and all record owners of the land shown on the definitive plan that is proposed to be subdivided. If the definitive plan shows a connection with a private way, the applicant shall document to the Planning Board that the applicant has the legal right to make the proposed connection. The application shall be signed under oath and shall certify that all of the owners of record have executed the application. In addition, the engineer and/or surveyor who prepared the plan shall sign the application and certify that the subdivision plan (referring to the last revision date of the specific plan submitted), as prepared, conforms to all of the Town's Zoning Bylaw and all of the Regulations, except for those provisions that are expressly identified on a written list which shall be submitted as an exhibit to the application.
- D. Required fee. A definitive subdivision plan applicant shall submit the required fee as set forth in Appendix V, Schedule of Fees, together with the fully executed Form C application.
- E. Delivery of application. As set forth in MGL c. 41, § 81O, a definitive plan application shall be deemed submitted when the application and definitive plan are delivered to the Planning Board at a regular meeting or when sent by registered or certified mail to the Planning Board. If so mailed, the date of receipt shall be the date of submission.
- F. Filing with Town Clerk. A definitive subdivision plan applicant may file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission of the Form C and definitive plan to the Planning Board.
- G. Filing with Board of Health. A definitive subdivision plan applicant shall file one copy of the definitive plan and one copy of the Form C application with the Board of Health immediately following submission to the Planning Board and shall provide evidence to the Planning Board of the date of said submission. See MGL c. 41, § 81U, Paragraph 1.

§ 302-6.4. Definitive plan requirements.

A definitive plan shall conform to the following requirements:

- A. Preparation of definitive plan. A definitive plan shall be prepared by a professional civil engineer and land surveyor, each of whom shall be registered in Massachusetts, and each separate plan sheet shall bear the appropriate stamp and signature of the professional engineer and land surveyor who prepared the plan sheet.
- B. Survey to support definitive plan. A definitive plan shall be based upon an on-the-ground survey that was performed by a professional land surveyor who shall be registered in Massachusetts. All surveying shall conform to the requirements of the

Land Court, Class A, as set forth in the manual of the Land Court, as may from time to time be changed. The plan shall contain a note that indicates the method of surveying, the date of the survey and a certification that the survey as performed conformed to the requirements of the Land Court. The sheet containing this note shall be signed and stamped by the professional land surveyor who performed the survey.

- C. Definitive plan details. A definitive plan shall be clearly and legibly drawn and shall be drawn at a scale of one inch equals 40 feet. Each plan sheet shall be 24 inches wide and 36 inches long, with a one-inch border, except on the left side where the border shall be 2 1/4 inches. If multiple sheets are required, they shall be numbered consecutively in the lower right-hand corner and set forth a title and be accompanied by an index sheet that shows the proposed layout of the entire subdivision and lists the title of each subsequent sheet. The index sheet shall contain a key plan at one inch equals 100 feet or as approved by the Planning Board, indicating the location of each sheet. A glossary of terms and symbols that explains the terms and symbols used in the plan set shall be provided on the title sheet.
- D. Definitive plan contents. A definitive plan shall contain the following:
 - (1) A title block on each plan sheet that sets forth the following:
 - (a) The name of the proposed subdivision;
 - (b) The date of the plan and each revision date;
 - (c) The scale of the plan;
 - (d) The name and address of the subdivision applicant;
 - (e) The name and address of each owner of record;
 - (f) The name and address and telephone number of the engineer and land surveyor who prepared the plan;
 - (g) A North point;
 - (h) Benchmarks;
 - (i) The name of the plan sheet; and
 - (j) The number of the plan sheet (e.g., "1 of 1").
 - (2) Adequate space above the title block for the Planning Board's endorsement on each sheet.
 - (3) A locus map at a scale of one inch equals 1,000 feet showing the streets in the immediate vicinity on the title sheet.
 - (4) Names of all abutters, including those separated from the subdivision by only a street, as they appear on the most recent tax list, and approximate intersecting boundary lines of the abutting lands.
 - (5) Assessor's Map and parcel reference information for the locus.

- (6) The zoning classification (and requirements) shall be detailed in a note and any zoning boundary(s) shall be shown.
- (7) Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision.
- (8) The proposed names of the proposed streets shall be shown, but shall not be final until approved by the Planning Board.
- (9) Existing and proposed boundary lines, dimensions and areas of lots shall be shown, with all bounds keyed into the Massachusetts grid system and at least two Massachusetts grid points shown on the plan. If the subdivision is within 500 feet of a highway or road which has been laid out by the Town of Norwell, Plymouth County Commissioners, or the Massachusetts Department of Public Works, the subdivision shall also be tied into two or more permanent points or bounds of the existing highway or road by bearing and distance.
- (10) Sufficient data to determine the location, direction, and length of every street and way line, lot line, and boundary line shown on the plan so as to establish these lines on the ground. Closure information shall be provided to indicate all street corners with a relative error of closure of property line traverse that shall be less than one part in 12,000. All monuments referenced in the closure calculations shall be indicated on the plan. A closure certification shall appear on the surveyor's drawing and be signed and stamped by the surveyor. A copy of traverse notes shall be furnished to the Planning Board upon request.
- (11) Acreage including total upland areas on the subject property and total wetland areas on the property and within 100 feet of each lot line, with bearings and length thereof in conformity with the Zoning Bylaw in each case.
- (12) Location of all permanent monuments as defined in "Design Standards and Required Improvements," properly identified as to whether existing or proposed.
- (13) Location, names and present widths and grades of streets public and private ways bounding, approaching, or within reasonable proximity of the subdivision, with existing water, electrical, cable, gas, telephone, fire hydrants, and drainage facilities.
- (14) Location of existing roadways and driveways opposite or adjacent to the site within 200 feet of the property limits.
- (15) So that drainage calculations and impacts can be properly understood and evaluated, the plan shall depict the location of major site features, such as existing stone walls, fences, buildings and all buildings within 50 feet of property limits; large trees, rock ridges and outcropping, bodies of water, natural waterways, and the limits of all wetlands on and within 100 feet of the subdivision; all streams, including perennial and intermittent streams and other water bodies, located on the property and within 200 feet of the subdivision, as approved by the Conservation Commission or Department of Environmental Protection; floodplains located on the property and within 200 feet of the subdivision; and all existing culverts and drains on the property and within 200 feet of the subdivision.

- (16) Size and location of existing and proposed storm drains, water mains, utilities, and their appurtenances, including hydrants, within and adjacent to the subdivision.
- (17) Profile plans of proposed streets, drawn as follows:
 - (a) A horizontal scale of one inch equals 40 feet.
 - (b) A vertical scale of one inch equals four feet.
 - (c) Existing center line in fine solid black line.
 - (d) Existing right side line in fine dotted black line.
 - (e) Existing left side line in fine dashed black line.
 - (f) Proposed center-line grades in heavy lines, all appropriately designated showing grade elevations at every fifty-foot station, except on vertical curves where they shall be shown at every twenty-five-foot station and at PVC and PVT.
 - (g) Proposed system of drainage, including, but not limited to, catch basins, manholes and proposed rim elevations, inverts and pipe sizes, and stormwater management systems such as detention or retention basins and underdrains. (See the general rules and regulations of the Norwell Permanent Drainage Committee in Chapter 308 of the Town Code, as revised through November 1970.)
 - (h) All existing intersecting walks and driveways.
 - (i) Elevations referred to mean sea level as established by the United States Coast and Geodetic Survey.
 - (j) Rates of gradient (% slope) shown by figures for roadways and drainage.
- (18) Typical section of proposed streets shall be shown on a profile plan in accordance with the typical cross sections as shown in Appendix II, Typical Cross Sections, and Appendix III, Detail A.
- (19) Profiles and cross sections of drainage easements, existing water bodies, natural waterways, swamps and floodplains within and adjacent to the subdivision.
- (20) Existing and proposed topography shall be depicted on separate plan sheets as follows:
 - (a) The contour intervals shall be one foot where slopes are less than 5% and two feet on slopes 5% or greater.
 - (b) Existing contours shall be shown as dashed lines and proposed final contours as dark solid lines.
 - (c) Contours shall extend beyond the boundaries of the property a sufficient distance to indicate the effect of the subdivision on abutting property, at least 100 feet and such greater distance as the Planning Board may reasonably require in a particular instance.

- (d) A note shall be placed on the plan indicating that the existing contours were determined pursuant to an on-the-ground survey and provide the date of the survey, and the note shall be certified by the registered land surveyor who shall sign and stamp the sheet on which this note appears.
- (21) The location of the general soil classification boundaries identified by the Natural Resources Conservation Service.
- (22) Soil evaluations and percolation tests. Soil test data should be provided for each proposed lot. Test locations shall be indicated on the plans and standard soil evaluation logs and percolation test forms provided. A minimum of two soil tests including percolation tests at the location of stormwater management systems shall be performed. Soil permeability testing may be required in infiltration systems. Soil testing at a minimum of every 250 feet along the roadway and at locations requested by the Planning Board, in order to demonstrate suitable soils for roadway construction. Soil testing shall be witnessed or confirmed by the Planning Board's technical consultant or by another person designated by the Planning Board within 30 days of the submission of a definitive plan.
- (23) Each subdivision, regardless of size, shall be designed to meet the performance standards of the Department of Environmental Protection's Stormwater Management Policy. There shall be no net increase in runoff allowed and the storm drainage capacity shall be designed to handle two-year through one-hundred-year storm events without creating a net increase in run-on or runoff.
- (24) The stormwater management system design shall be documented in a report submitted at the time of application. This report shall include all drainage calculations and proposed maintenance and operation requirements and provide a copy of the instruments that are proposed to be used to create a homeowners' association that will own and maintain said system to allow the Planning Board to evaluate the adequacy of the proposed design.
- (25) The subdivision submission shall include a plan in the plan set that indicates the maximum build-out of the property. This plan shall indicate proposed buildings, driveways, lot grading, including grading for septic systems, limits of clearing, and any other pertinent data. This plan will be utilized to evaluate the proposed stormwater management system. The plan and associated drainage design shall demonstrate that no increase in runoff rate or flooding of adjacent properties or streets will result post-construction. All water runoff and flooding shall be controlled on site in any instance in which downstream receiving waters are not adequate to handle any portion of the runoff from a two-year through a one-hundred-year storm event.
- (26) The proposed roadway center line shall be staked at fifty-foot intervals and be in place at the time of the Planning Board's site visit. Additional staking of drainage facilities, easements, and other areas may be required at the discretion of the Planning Board.
- (27) It shall be demonstrated through a volume calculation that there shall be no net loss of soil materials from the site. This calculation shall be set forth in a note on

the post-construction conditions sheet and shall be certified and signed and stamped by the professional registered engineer.

- (28) Construction details and specifications shall be shown on a separate sheet as part of the subdivision submission and shall be certified and signed and stamped by the professional registered engineer.

E. Other submittal requirements. The following additional documents shall be submitted with the Form C application and the definitive plan:

- (1) If the applicant or owner(s) of the land to be subdivided owns or controls land adjacent to or across the street from that shown on the definitive plan, the applicant shall submit a sketch plan showing a possible or prospective street layout for such adjacent land, unless such a plan has already been submitted to the Planning Board with a preliminary plan.
- (2) Construction plan per Subsection F.
- (3) Traffic analysis per Subsection G.
- (4) The report of one percolation test per two lots in the area of the proposed septic systems, performed in accordance with the requirements of the Norwell Board of Health.
- (5) A written list of any waivers requested from the Regulations.

F. Construction plan. An applicant for definitive subdivision plan approval shall submit a construction plan and eight copies for approval by the Planning Board before the close of the public hearing and it shall be imposed as a condition of approval. The construction plan shall be prepared by a registered professional engineer and shall be signed and stamped by said engineer. The construction plan shall contain the following information and requirements:

- (1) The applicant shall provide to the Planning Board the name, address, telephone number and e-mail address of the project manager or other responsible party on site who will be responsible for construction activities. This must be provided at least 48 hours prior to any land disturbing activity on site.
- (2) The location of any and all construction areas shall be delineated.
- (3) The location of vehicle parking and location of equipment storage during construction, together with the location for wash down of vehicles and equipment.
- (4) Construction equipment shall not be parked or stored adjacent to any drainage channel, drainage inlet, or wetland buffer area. Maintenance of construction equipment involving transfer of fluids and fuels shall be conducted in areas away from drainage channels and inlets and wetland buffer areas.
- (5) Limits of clearing and grading in relation to the existing trees and the property lines shall be shown on the plan.
- (6) The calculations for stormwater runoff from the property for all storm events, up to and including a one-hundred-year storm event, shall be provided and the runoff

for the same shall be shown to be fully contained on site during construction so as to eliminate flooding runoff and run-on.

- (7) The total amount of land disturbance shall be quantified for the entire project, including, but not limited to, any disturbance that will be caused by roadway work, lot clearing, foundations for any structure, septic work, pools, tennis courts, and landscaping. The amount of bare earth that will be exposed at any one time during development of the project (roads, lots and any other clearing) and the length of time it will be exposed shall also be quantified.
- (8) The methods that will be employed to protect areas with exposed earth during development and to prevent erosion and control sedimentation during and after the construction. This shall include a detailed description of the procedures that will be employed to maintain the site in good condition during and after construction, including all operations and maintenance procedures and plans, vegetation controls and erosion and sediment control measures (e.g., siltation fences and hay baling and filter bags for catch basins and a specific program for cleaning and repairing catch basins).
- (9) Methods for construction within a floodplain to floodproof all structures and replace all flood storage capacity to control run-on and runoff in the event of two-year through one-hundred-year storm events so as to result in no net increase in runoff during such events.
- (10) Methods for the preservation and protection of waterways, floodplains, and open space/conservation areas.
- (11) Location of all other conservation measures, permanent and temporary, including, but not limited to, dikes, water diversions, terraces, dams, reservoirs, water conduits, grassed waterways and plantings of drought-resistant grass, shrubs and trees, temporary seeding, mulching, dust control, diversion dams, sediment traps, snow fence, silt fence, hay bales, filter fabric or filter bags in catch basins and stabilized construction entrance.
- (12) Location of specific major structures controls (i.e., where the stabilization practices will be placed, surface water locations, soil disturbance areas, drainage patterns and during and following grading).
- (13) The location for the stockpiling of topsoil, loam, gravel and any other materials, together with a plan to contain the same so as to prevent erosion and runoff in the event of two-year through one-hundred-year storm events. Earth material stockpiles shall not be allowed immediately adjacent to perimeter siltation barriers or drain inlets. Long-term stockpiles (i.e., over 30 days) shall be shaped, stabilized and circled by siltation fence or hay bales and shall be stabilized by temporary seeding or netting. Such stockpiling shall not exceed a duration of more than three years from the date of endorsement.
- (14) Any soil or earth material brought to the property during construction shall be approved by the Planning Board's engineer, prior to its arrival.

- (15) All earth removal shall comply with the Regulations and the Town of Norwell's bylaw requirements.¹⁰
- (16) All areas to be protected from encroachment from construction shall be marked on the ground as shown on the approved subdivision plan and these barriers shall be maintained by the developer throughout the construction phase of the project.
- (17) Satisfactory inlet protection shall be provided for the drainage system until all work has been completed and vegetation established.
- (18) The construction plan must account for the timing and sequence of installing all conservation measures in order to provide for maximum control of erosion and sedimentation in the event of a two-year through a one-hundred-year storm event during construction.
- (19) A copy of the NPDES plan and permit, if applicable, for construction sites with one acre or more of total disturbed area, inclusive of lot development, shall be provided by the applicant to the Planning Board prior to the start of construction.
- (20) All stormwater management basins shall be constructed and stabilized to contain the runoff from a two-year storm event through and including a one-hundred-year storm event prior to paving and connection of the storm drain system. This requirement shall be a mandatory condition of subdivision approval and a note setting forth this requirement shall be placed upon the definitive plan.
- (21) In the event that a temporary stormwater management basin is proposed, it shall be shown in detail on the plan and shall be constructed and stabilized to contain the runoff before paving of any roadway that will contribute to the runoff occurs. This requirement shall be a mandatory condition of subdivision approval and a note setting forth this requirement shall be placed upon the definitive plan.
- (22) Tree stumps, limbs, brush and all construction debris shall be legally disposed of, off site.
- (23) Hours of construction shall occur only during the following times:
 - (a) Monday through Friday: 7:00 a.m. to 6:00 p.m. or dusk, whichever is earlier.
 - (b) Saturday: 8:00 a.m. to 5:00 p.m. or dusk, whichever is earlier.
 - (c) Sunday: none.
- (24) Any blasting operations shall require proper permits and shall not be undertaken on any weekend or holiday.
- (25) Prior to the start of any road construction, a standard Town of Norwell street sign shall be erected indicating the approved street name.
- (26) Excavation dewatering shall be in a workmanlike manner and such water shall be free of suspended solids before being discharged into either a wetland or any

10. Editor's Note: See Ch. 62, Soil, Loam, Sand or Gravel Removal.

stormwater drainage system. This condition applies to all forms of dewatering including pumping and trenching.

- (27) The subdivision plan endorsement and approval shall be exercised in compliance with all applicable provisions of the Norwell Conservation Commission order of conditions. If there is any inconsistency between the subdivision plan, as approved by the Planning Board, and the plans approved by the Conservation Commission, the applicant shall apply for subdivision modification under MGL c. 41, § 81W. The amended plan shall be accompanied by a report detailing changes from the prior approved subdivision plan and include revised drainage calculations, if applicable.
 - (28) Catch basin grates shall be set flush with the binder course and then reset so as to be flush with the topcoat when installed.
 - (29) Once paved, the subdivision street shall be kept clear and passable at all times. No equipment shall be parked in such a manner as to render the street impassable, and no refuse containers, trailers, or construction materials of any kind shall be placed or stored upon the street.
 - (30) A program for sweeping of the streets, cleaning and repairing of catch basins and other drainage structures and mowing of all drainage structures that are to be stabilized with seeding.
 - (31) All construction activities associated with the endorsed plan shall be conducted in a workmanlike manner. During construction all local, state and federal laws shall be followed regarding noise, vibration, dust and blocking of Town roads.
 - (32) Construction, once commenced, shall progress through to completion of the development as approved as continuously and expeditiously as possible and in accordance with the construction sequence and timetable approved at the pre-construction meeting.
 - (33) No building permit for any new dwelling unit shall be granted by the Building Inspector/Zoning Enforcement Officer until all drainage facilities and associated structures, including pipes, and underground utilities, such as electric, telephone and cable television, have been completed to the satisfaction of the Planning Board. No building permit for any new dwelling unit shall be granted by the Building Inspector/Zoning Enforcement Officer until the base course of the roadway pavement to serve each unit has been completed to the satisfaction of the Planning Board.
 - (34) Adequate provision for snowplowing, deicing and road maintenance shall be provided for by the applicant during construction and by the applicant or the homeowners' association once construction is completed and before roadway acceptance.
- G. Traffic impact analysis. At the time of submission of the Form C and definitive plan, the applicant shall provide a traffic impact analysis report. The report shall document and assess existing traffic conditions, including the current level of service, document the increased traffic that would be generated by the proposed subdivision development and analyze the impact of the proposed development, including the level of service, on

existing conditions. The Planning Board, upon written request by the applicant, may waive this requirement if it finds that the traffic impact that would be caused by the proposed development would be insignificant and that the existing level of service is satisfactory and the current satisfactory level of service would be maintained or improved as a result of the project.

- H. Site development plan. The Planning Board may require a site development plan for individual lots shown on the plan where, in its opinion, such lots are located on steep slopes or high groundwater or have similar development constraints.

§ 302-6.5. Review by municipal agencies.

- A. Upon submission of a Form C application and a definitive plan, the Planning Board should, forthwith, forward copies of the same and accompanying submittals to the Board of Health, Board of Selectmen, Board of Water Commissioners, Conservation Commission, Drainage Committee, Fire Department, Highway Surveyor, Police Department and Tree Warden and request their review and comment. The Planning Board may request comment and advice regarding the Form C application and definitive plan from other parties as well, including Town Counsel. In addition, the applicant shall file a copy of the definitive plan with the Board of Health as required under MGL c. 41, § 81U, Paragraph 1, and provide evidence of the date of submittal to the Planning Board.
- B. Timing of review by municipal agencies. The Board of Health shall provide its report, if any, within 45 days of submittal by the applicant. Comments by other Town agencies should be made to the Planning Board within 30 days of the Planning Board's request.

§ 302-6.6. Public hearing.

Before approval, modification, or disapproval of a definitive plan is granted, a public hearing shall be held by the Planning Board after posting and advertising the public hearing as required under MGL c. 41, §§ 81K through 81GG.

- A. Procedure for the scheduling of the public hearing. At the regular meeting at which a Form C application and definitive plan are submitted to the Planning Board, the Planning Board should develop a schedule for the orderly and productive review of the project as follows:
 - (1) The Planning Board should determine the date of submittal and the deadline for final action.
 - (2) The Planning Board should review its meeting calendar and establish a date for the opening of the public hearing.
 - (3) The Planning Board should direct its staff to advertise the public hearing as required under state law.
 - (4) The Planning Board should direct its staff to provide a copy of the public hearing notice to the applicant for mailing under MGL c. 41, § 81T.

- (5) The Planning Board should appoint a Planning Board engineer to review the definitive plan and other submittals and forward the same to the engineer forthwith, together with a request that the engineer review the same for compliance with the Regulations and the Zoning Bylaw and send a detailed written report to the Planning Board via e-mail and regular mail within 30 days of receipt of the materials by the engineer and forward a copy of said report directly to the applicant's engineer via e-mail and regular mail at the same time.
 - (6) The Planning Board should direct that the definitive plan and other submittals be distributed to Town agencies as set forth under the Regulations.
 - (7) The Planning Board should encourage the applicant to arrange a meeting between the applicant's engineer, the Planning Board's engineer and the Town Planner, prior to the opening of the public hearing, to review the Planning Board engineer's initial report. The purpose of this meeting shall be for the respective staffs to review the application and the definitive plan for compliance with the Regulations and the Zoning Bylaw and provide the applicant with an opportunity to cure any defects in the application prior to the opening of the public hearing.
 - (8) Prior to the opening of public hearing, the applicant shall provide the Planning Board's staff with evidence that the applicant gave notice of the public hearing as required under MGL c. 41, § 81T.
 - (9) Prior to the opening of the public hearing, the application shall be technically complete (i.e., all required items and fees shall have been received) and the application shall be subject to denial at the opening of the public hearing if it is not.
- B. Conducting the public hearing. The Planning Board shall conduct the public hearing in accordance with state law and procedures set forth under Article 3. The Planning Board shall allow the applicant an opportunity to present the plan at the public hearing and shall allow the public an opportunity to comment and file documents in support of and in opposition to the application. In the event that the applicant submits revised plans, the applicant shall allow the Planning Board (and the public) sufficient time to obtain review and comments on the revised plans from other Town agencies and the Planning Board's engineer. In the event that the Planning Board does not have sufficient time to obtain the required review of plan revisions before the deadline for final action expires, the Planning Board shall deny the plan.

§ 302-6.7. Site visit.

After the first session of the public hearing at which the definitive plan is discussed, the Planning Board and/or its agent may schedule a site visit to the proposed subdivision under MGL c. 41, § 81CC. In order to facilitate inspection and review of the site of the proposed subdivision, the Planning Board may require temporary staking along the center line of all proposed roads in the subdivision before said site visit, or, if impractical, the Planning Board may permit a suitable alternative procedure.

§ 302-6.8. Review of definitive plans.

The Planning Board shall review the Form C application and definitive plan and submittals for compliance with these Regulations and the Zoning Bylaw, in consultation with other Town agencies and the Planning Board's engineer and the interested members of the public.

- A. Board of Health report. The Board of Health, within 45 days after submission of the definitive plan to the Board of Health by the applicant under MGL c. 41, § 81U, Paragraph 1, shall report to the Planning Board in writing and provide its approval or disapproval of the plan and, in the event of disapproval, shall make specific findings as to which, if any, of the proposed 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 therefor in such report and, where possible, shall make recommendations for the adjustments thereof. Failure of the Board of Health or its officer to report shall be deemed approval. The Board of Health shall send a copy of its report to the applicant or the applicant's representative who filed the plan with the Board of Health. MGL c. 41, § 81U, Paragraph 1.
- (1) In the event that the Board of Health so requires, subdivision approval shall be conditioned on the requirement that no building or structure shall be built or placed upon designated areas without consent by the Board of Health or Health Officer. In the event that approval by the Board of Health or Health Officer is by failure to report, a note to this effect shall be placed on the definitive plan before endorsement. MGL c. 41, § 81U, Paragraph 3.
 - (2) Notwithstanding this provision, a permit to construct an individual sewage disposal system for sanitary wastewater disposal shall be obtained from the Board of Health for each individual lot prior to the issuance of a building permit. A note shall be placed on the definitive plan prior to endorsement as follows: "No building or structure shall be built or placed upon any lot without a permit from the Board of Health."
- B. Closing of the public hearing. After the public hearing is closed, the Planning Board shall not take any further evidence from the applicant, Town agencies, members of the public or any other source, except that the Planning Board may seek procedural advice from Town Counsel and may accept draft decisions prepared by staff at the Planning Board's direction.

§ 302-6.9. Planning Board action.

Following the close of the public hearing, the Planning Board in due course shall approve, approve with conditions or disapprove the definitive plan. The Planning Board shall approve the definitive plan if the plan conforms in all respects to the Regulations (including conformance to applicable zoning requirements) and the Board of Health's recommendations. If the definitive plan does not conform in all respects to the Regulations (including zoning requirements) and/or the Board of Health's recommendations, the Planning Board may either approve the definitive plan with conditions or deny the plan.

§ 302-6.10. Certificate of final action.

The final action of the Planning Board with respect to any definitive plan shall be by vote, which shall be reduced to writing in the form of a certificate of final action. In the event of a disapproval, the Planning Board shall state in detail wherein the plan does not conform to the Regulations or the recommendations of the Board of Health. The Planning Board shall file a certificate of its final action with the Town Clerk and send notice of said action by registered or certified mail, postage prepaid, to the applicant at the address stated on the application.

§ 302-6.11. Amendment, modification or rescission of approval.

Pursuant to MGL c. 41, § 81W, the Planning Board may, upon its own motion or upon the request of the applicant, amend, modify or rescind the approval of a definitive plan.

§ 302-6.12. Modification of definitive plan.

A modification of a definitive plan shall adhere to the following requirements:

- A. Procedure. The procedure for the modification of a definitive plan, pursuant to MGL c. 41, § 81W, shall conform to the requirements for approval of an original definitive plan as set forth herein.
- B. Change of lot lines. Pursuant to MGL c. 41, § 81O, certain changes of lot lines may be approved by the Planning Board without a public hearing.
- C. Effect. The modification of a previously approved definitive plan shall not affect lots sold or mortgaged by the applicant except as provided for under MGL c. 41, § 81W.

§ 302-6.13. Endorsement and recording.

- A. Endorsement. Following approval of a definitive plan and the expiration of the appeal period without an appeal or following termination of litigation in favor of the applicant, the applicant shall revise the definitive plan to reflect all required revisions and conditions of approval and provide a copy of the revised plan to the Planning Board and to the Planning Board's technical consultant for review prior to endorsement. Endorsement shall be sought and obtained within 120 days of the final action taken by the Planning Board to approve the subdivision plan (i.e., filing of the certificate of vote with the Town Clerk.) Once the Planning Board is satisfied that its decision is final and that all conditions of approval have been added to the definitive plan and that all required revisions have been made, the Planning Board shall endorse the original Mylar drawing of the definitive plan, by placing the signatures of a majority of the Board upon such plan.
- B. Endorsement copies. After the definitive plan has been finally approved and revised to show all required revisions and conditions of approval and is ready for endorsement, the applicant shall furnish the Board with the original Mylar, two eleven-inch by seventeen-inch prints, and five additional copies, which shall be distributed following endorsement to the applicant, Board of Health, Conservation Commission, Highway Surveyor and Planning Board file.

- C. Effect. Final approval of the definitive plan does not constitute the laying out or acceptance by the Town of streets within a subdivision nor does final approval indicate that the lots shown on the plan conform to zoning requirements or other applicable local, state and federal requirements.
- D. Recording.
 - (1) Within 30 days after the endorsement of an approved plan, the applicant shall cause said endorsed plan to be recorded in the Registry of Deeds, and in the case of registered land with the recorder of the Land Court. Following recording of the endorsed plan, the applicant shall provide the Planning Board with one print of the endorsed plan that has been certified by the Registry of Deeds as having been recorded. In the event that the Planning Board's decision was required to be recorded also, the applicant shall also provide the Board with evidence of the decision's recording.
 - (2) The cost of all Registry recording will be borne by the applicant. Removal of trees, grading or any form of construction shall not proceed until the endorsed definitive subdivision plan (and decision, if required) has/have been duly recorded.

ARTICLE 7

Design Standards

A definitive subdivision plan shall conform to all of the following design standards requirements, unless an express, written waiver is granted by the Planning Board under MGL c. 41, § 81R.

§ 302-7.1. Street design.

All streets shall be designed and located so as to be continuous and in alignment with existing streets and with other proposed streets and so as to provide adequate access to all lots in the subdivision via ways that are safe and convenient for travel and so as to satisfy all of the purposes set forth under MGL c. 41, § 81M. No grant of approval for any definitive subdivision shall occur unless the Planning Board first determines that the adjacent private and public ways to which the subdivision streets are proposed to connect will provide adequate access that is safe and convenient for travel and satisfy all of the purposes set forth under MGL c. 41, § 81M, and § 302-3.11.

- A. General. Streets shall be designed and constructed so as to be continuous, of uniform width, and in alignment with existing streets and shall conform to the following specific requirements.
- B. Typical street cross section. Street and roadway construction shall conform to the typical street cross sections and details shown in Appendices II and II to the Regulations, which shall be considered part of the Regulations.
- C. Street width of right-of-way. The minimum width of a street right-of-way shall be 50 feet. A greater width may be required for streets that serve commercial or industrial uses. Width of street right-of-way within an industrial park or area shall be 70 feet.

- D. Street width of pavement. Streets shall be constructed in the manner described herein with a minimum paved surface width of 26 feet for all residential streets and a minimum paved surface width of 40 feet for all commercial and industrial streets. Each street shall be constructed on the center line of the way. The Planning Board may require, for commercial and industrial development, that the traveled way shall be separated by a raised median strip with a width to be determined by the Planning Board. In this case, the traveled way shall consist of two roadways each with a minimum width of 20 feet or such greater width as the Planning Board may specify.
- E. Projection of streets and easements. Provision satisfactory to the Planning Board shall be made for the proper projection of streets or for access to adjoining property that is not yet subdivided, including a condition that such a through connection shall not occur without further subdivision approval, including modification of the original subdivision. If such a projection is required, then, except as otherwise provided by law, projection of streets shall be included within the street layout and provision made to deed an easement interest to the Town at the time of street acceptance although not constructed. (See Appendix VI.) Sufficient easements for construction of the way(s) shall be included in the plans and deeds for abutting lots. Easements shall be located to the property boundary for future utility connections, water main looping, etc., to the satisfaction of the Planning Board and applicable purveyors. Alignment for roadways across the street shall be provided.
- F. Reserve strips prohibited. Reserve strips prohibiting access to streets or adjoining property shall not be permitted except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- G. Street intersection design. Street intersections shall be laid out either directly opposite one another or be separated by a minimum offset of 200 feet from center line to center line, unless otherwise specified by the Planning Board. Streets shall be laid out to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60°. Street intersections on the same side of the roadway shall be separated by a minimum of 350 feet from center line to center line.
- H. Driveway intersections. The center line of new subdivision way intersections shall be separated from all existing and proposed driveways (both within and outside of the subdivision) by a minimum of 75 feet.
- I. Curb radius. Street right-of-way lines at intersections shall have a minimum curb radius of not less than 30 feet. Where the angle of intersection between two streets varies more than 10° from a right angle, the radius of the curve at the gutter line curblines at the obtuse angle shall be less and at the acute angle shall be correspondingly greater than the radius specified herein to the extent approved by the Planning Board.
- J. Minimum center line radii. The minimum center line radii of curved streets shall be 150 feet for minor streets, 500 feet for secondary streets and 1,000 feet for major streets. All curved streets shall be designed to ensure safe vehicular travel.
- K. Minimum length of tangent between reverse curbs. The minimum length of the tangent between reverse curves shall not be less than 100 feet radii.
- L. Minimum center-line grade. The center-line grade of any street shall not be less than 1%.

- M. Maximum center-line grade. The maximum center-line grade shall not exceed 6%.
- N. Vertical curves. All changes in grade exceeding 0.5% shall be connected by vertical curves of sufficient length to afford a sight distance of 200 feet. For purpose of design calculations a minimum K value of 30 on a crest curve and 35 on a sag curve shall be provided.
- O. Leveling area and maximum gradient at intersections. A profile shall be provided for a distance of 200 feet on each side of layout lines. Where the gradient of any street is 5% or greater within 150 feet of the intersection of street right-of-way lines, a leveling area of at least 75 feet with a maximum gradient of 3% shall be provided. No street shall intersect another street at a gradient in excess of 3%.
- P. Maximum gradient on curves. No center-line gradient shall exceed 6% on any curve.
- Q. Maximum gradient on dead-ends. No center-line gradient shall exceed 6% within 500 feet of a dead end.
- R. Retaining walls, guard fences and slopes. Whenever the approved street grade differs substantially from the grade of adjacent land, or where otherwise determined by the Planning Board to be reasonably necessary for public safety, the applicant shall be required to erect retaining walls and guardrail fences or provide slopes with proper plantings to retain the slope, not steeper than 3:1. The Planning Board shall approve the type and dimensions of such retaining walls, fences or slopes and all work shall conform to the standard specifications of the Town of Norwell. Construction of retaining walls shall conform to the standards established by the Massachusetts Highway Department. No work shall be performed in the right-of-way to a public way other than to tie the pavement of a new subdivision way into the public way at grade level without obtaining the necessary easement interest to do so from Town Meeting. No work shall be performed in the right of to a private way other than to tie the pavement of a new subdivision way into the private way at grade level without providing evidence of the legal right to do so.
- S. Shoulders. Improved shoulders shall slope toward the paved surface at 1 1/2% slope. They shall be covered with six inches of loam and shall be raked, seeded and rolled. Deviation from the above shall occur only with the written approval of the Planning Board. Improved shoulders on all roads shall be a minimum of four feet wide. In the event that the sidewalk requirement is waived, the improved shoulder shall be a minimum of five feet in width.
- T. Curbs/berms.
- (1) Curbing or berming shall be required throughout the subdivision. Granite curbing or Cape Cod berm shall be installed at such points as required by the Planning Board. Vertical granite curbing shall be required at all street corners along the circumference of the roadway for the full length of the rounded curve plus a straight section at each end of the curve for at least six feet in length. Vertical granite curbing may also be required on both sides of streets where the grade exceeds 3%. Additional areas may require vertical granite curbing if, in the opinion of the Planning Board, it would contribute to the proper control of drainage, traffic or pedestrian safety. Driveway cuts shall be at least eight feet wide and have a curb return at the roadway of three feet in radius. Vertical

granite curbing shall be installed at the edge of the pavement wherever the street side line is laid out on a curve of 60 feet or less radius and at all drain catch basin inlets as specified in Appendix II. Sloped granite curbing shall be allowed for cul-de-sac islands.

(2) Granite curbing shall be cut to the following dimensions:

- (a) Minimum length: six feet.
- (b) Width at top: six inches.
- (c) Depth: 17 inches to 19 inches.
- (d) Minimum width at bottom: four inches.
- (e) Projection above pavement: seven inches.

U. Way lines parallel. Way lines shall be parallel.

V. Free flow of traffic. At principal intersections, extra space shall be required to allow for traffic circles and other devices to expedite the free flow of traffic and to provide for adequate sight distance at the proposed curb cut.

W. Traffic standard. New development shall be permitted only when the projected traffic that would be generated by the proposed development can be accommodated either by existing roadway capacity or proposed improvements that will ensure public safety.

X. Extension of streets. Subdivision streets shall be laid out so as to safely connect to existing ways. No subdivision shall be approved unless the proposed streets connect to and are accessible from a public way or a private way that is open and dedicated to public use, having in the opinion of the Planning Board adequate construction, width and grades.

Y. Intersection sight distance. Adequate sight distance shall be provided at all intersections with existing and proposed roadways and as set forth below.

- (1) Required stopping distance. The required stopping sight distance shall be calculated under the stopping sight distance of the American Association of State Highway and Transportation Officials, A Policy on Geometric Design of Highways and Streets 2001, 4th edition, based on the 85th percentile speed of the major roadway. The 85th percentile speed shall be determined from an acceptable engineering speed study with a minimum of 20 speed observations in each direction.
- (2) Calculation of sight distance. Available intersection sight distance shall be measured a minimum of 15 feet from the edge of pavement along the center line of the proposed roadway. For all calculations, the height of the driver's eye shall be considered to be 3.75 feet above the road surface and the height of the object shall be considered to be 0.50 foot above the road surface in accordance with AASHTO policy.
- (3) Required plan details to allow sight distance evaluation. The definitive plan shall detail existing trees (of a caliper greater than six inches), stone walls, fences, topography, driveways and streets within 350 feet and pavement limits so as to

allow the Planning Board's technical consultant to adequately evaluate intersection sight distance. The definitive plan shall include the measured sight distance triangles and any applicable approach grades. Sufficient sight easements shall be provided before a plan is approved.

§ 302-7.2. Dead-end street design.

A dead-end street shall mean any street that is closed to through traffic at one end and shall adhere to the following requirements:

- A. Maximum length of dead-end streets. No dead-end street shall exceed 550 feet in length. The length of a dead-end street shall be measured from the center line of the nearest intersecting through street to the end of the subdivision way. A cul-de-sac shall be deemed a dead-end street. A hammerhead or T-shaped arrangement of streets shall not be considered an "intersecting through street" for purposes of this section.
- B. Turnaround dimensions. A dead-end street shall be designed and constructed with a turnaround at the closed end that has an outside roadway diameter of at least 100 feet and a property line diameter of at least 124 feet. A fifty-foot minimum island diameter shall be provided in the center of the turnaround.
- C. Fire lane. A dead-end street having in the opinion of the Planning Board a potential hazard to public safety shall have a fire lane easement for the travel of emergency vehicles connecting the dead-end street with the nearest possible way in existence. The fire lane shall be kept clear of all obstructions and shall be properly graded for its intended use.
- D. Grade. The last 100 feet of a dead-end street shall not have a grade greater than 3%.
- E. Termination of dead-end turnaround. Upon construction of an extension to a dead-end street that makes it a through way, the easement for the existing turnaround shall terminate and the turnaround shall be removed by the applicant extending the street as a condition of subdivision approval.

§ 302-7.3. Drainage design.

All drainage systems, including but not limited to storm drains, culverts, swales, paved waterways, ditches, ponds, basins, check dams, drainage systems, and related construction, grading and installation, including but not limited to riprap, forebays, catch basins, gutters, manholes and drainpipes, shall be designed, installed, maintained and replaced in accordance with the Regulations herein and the regulations of the Permanent Drainage Committee in effect at the date of the adoption of the Regulations as revised through November 1970 and printed in Chapter 308 of the Town Code in order to provide adequate disposal of surface and subsurface water, including control of erosion, flooding, and standing water from or in the subdivision and adjacent land. All drainage systems shall adhere to the standards set forth below.

- A. General.

- (1) Massachusetts Department of Environmental Protection stormwater standards. All stormwater management systems shall be designed to meet the performance standards of the Massachusetts Department of Environmental Protection, known as Stormwater Phase II, as in effect on June 15, 2006, except as set forth below.
 - (2) American Society of Civil Engineers standards. All stormwater management systems shall be designed to be consistent with the most recent technical references published by the American Society of Civil Engineers, as of June 15, 2006, as applicable. The design of every stormwater management system shall demonstrate that no increase in off-site runoff rate or flooding for the one-, two-, ten-, twenty-five- and one-hundred-year storm events shall occur. Every stormwater management system shall demonstrate that it shall provide 80% total suspended solids (TSS) removal in a ten-year storm event.
 - (3) Hydrologic design: Cornell stormwater standard, not TP40. Hydrologic designs shall be based on NRCS TR55 and TR20 methodology, except that the Northeast Regional Climate Center's Atlas of Precipitation Extremes for the Northeastern United States and Southeastern Canada, Publication No. RR 93-5 (Cornell University, Ithaca, NY, September 1993) (the "Cornell Standard") shall be used for rainfall, not the Technical Paper 40 Standard ("TP40").
 - (4) Emergency overflow requirements for systems that use infiltration. All stormwater management systems which are designed to rely upon infiltration shall be designed to provide safe and controlled emergency overflow in a one-hundred-year storm event, as defined under the Cornell Standard, when Antecedent Moisture Condition III (i.e., saturated surface and groundwater conditions) exists. Safe and controlled emergency overflow shall mean that no increase in off-site runoff rate or flooding shall occur, post-construction.
- B. Data submission. An applicant shall provide four copies of the following data to the Planning Board and to the Permanent Drainage Committee to allow the Planning Board's engineer and the Permanent Drainage Committee to evaluate the proposed stormwater runoff designs:
- (1) Subarea delineation at a minimum scale of one inch equals 100 feet. A minimum scale of one inch equals 40 feet shall be required for smaller sites or if plans are unclear at one inch equals 100 feet.
 - (2) The subarea plan shall include any off-site area which flows onto the site and shall include a downstream area to a defined control point.
 - (3) Pre- and post-construction cover types shall be identified on the subarea plan.
 - (4) Post-construction site design shall be indicated on the post-construction subarea plan.
 - (5) The plan shall indicate conceptual proposed buildings, drives, grading, clearing limits, etc., for the maximum buildout of the lots.
 - (6) Test pit logs and test pit locations shall be provided.
 - (7) Test pits shall be required at the location of stormwater management systems to determine seasonal high groundwater and soil type.

- (8) Natural Resources Conservation Service (NRCS) soil types shall be identified on the subarea plan.
 - (9) Soil type divides shall be modified if appropriate based on actual field test data.
 - (10) Pre- and post-development runoff flow paths and control points shall be indicated on the subarea plans.
 - (11) Drainage reports shall be provided as follows:
 - (a) Reports shall be bound and clearly present all assumptions used to develop the data together with final results.
 - (b) References used to develop the report and justify assumptions used shall be included in the report.
 - (c) Runoff hydrographs together with input data shall be provided for both pre- and post-construction.
 - (d) Routing hydrographs with all structure data (i.e., stage, storage and discharge) shall be provided to justify the assumptions for structures.
 - (e) A summary table indicating pre- and post-development peak discharge rates and total volume of runoff at each control point and flood elevations as applicable shall be included in the report.
 - (f) Total suspended solids (TSS) form.
 - (12) Eight copies of the proposed operations and maintenance plan for the proposed stormwater drainage system shall be provided by the applicant with the drainage report.
- C. Minimum design criteria for stormwater basins. The minimum design and construction requirements for stormwater basins shall be as follows:
- (1) Side slopes for stormwater basins shall be constructed with 4:1 side slopes per ASCE Design and Construction of Urban Stormwater Management.
 - (2) No subsurface infiltration systems shall be allowed.
 - (3) The top of the berm width shall be eight feet per ASCE Design and Construction of Urban Stormwater Management.
 - (4) Clogging protection. Trash grates per ASCE Design and Construction of Urban Stormwater Management shall be used and no outlet smaller than two inches shall be used.
 - (5) Maximum depth in a two-year storm event shall not exceed two feet.
 - (6) Maximum depth in a one-hundred-year storm event shall not exceed four feet.
 - (7) Berms shall be built into natural landscape if possible and as much as possible.
 - (8) Excavation shall be prohibited if the water table is within two feet of existing grade.

- (9) An interim as-built of drainage system, including basins, shall be completed prior to the subbase for the roadway being laid.
- D. Minimum design criteria for drainage pipes. The minimum design and construction requirements for drainage pipes shall be as follows:
 - (1) Cover. Shall be a minimum of 2.5 feet and have a maximum depth of eight feet.
 - (2) Slope. Shall have a minimum slope of 0.5% and not exceed a maximum velocity of 15 feet per second.
 - (3) Design calculations. No surcharge in system shall be allowed.
 - (4) Downstream system determination shall be made and reviewed and approved by the Planning Board's engineer. If the downstream system is inadequate to handle the proposed runoff or the existing runoff, the system shall be upgraded.
 - (5) Minimum actual velocity in trunk lines shall be two feet per second.
 - (6) Maximum actual velocity in pipes shall not exceed 12 feet per second.
- E. Drainage easements. Easements for all surface and subsurface drainage structures shall be provided, as necessary and in a form that is acceptable to the Planning Board in consultation with Town Counsel, and shall be recorded prior to or simultaneously with the endorsed definitive plan to ensure that individual lot owners shall properly maintain or allow proper maintenance, repair and replacement of said structures and shall run to a homeowners' association.
- F. Homeowners' association required to own, maintain, repair and replace drainage systems. If any drainage structures are to be installed within the subdivision, then a homeowners' association shall be created and satisfy the following minimum requirements:
 - (1) Membership shall be mandatory. All owners of land within the subdivision shall be required to be members as a condition of subdivision approval.
 - (2) Ownership of drainage improvements. The homeowners' association shall be the owner of the drainage structures and shall hold all of the necessary easements and fees to all of the drainage structures, including detention basins or ponds, retention basins or ponds, combination detention/retention basins or ponds, catch basins, pipes, swales, berms, riprap, check dams, drainage catchment areas and other drainage structures and equipment, and to all areas that must be used to access the drainage systems and equipment to effect maintenance, repairs and replacement.
 - (3) Management of drainage. The homeowners' association shall be responsible for repairing, maintaining and replacing the drainage systems within a subdivision. As a condition of approval, the homeowners' association, in the opinion of the Planning Board, shall be sufficiently funded initially and then require monthly or yearly funding by individual lot owners to allow for sufficient funding of initial and projected repair, maintenance and replacement costs.

- (4) Status reports. The homeowners' association shall be responsible for writing to the individual lot owners twice per year to provide a report on the status of drainage funding, including: the yearly cost of drainage maintenance and repairs for that calendar year; the yearly cost of drainage maintenance and repairs projected for the following 10 calendar years; and the projected date for replacement of drainage systems and the projected cost of the same. In addition, at the same time, the homeowners' association shall write to the individual lot owners and remind the individual lots owners of any obligations that the owners may have to maintain drainage swales or berms or other structures located on their individual lots, whether by periodic mowing or clean outs and by not planting trees and other landscaping in drainage swales. Individual lot owners shall also be instructed as to best management practices that require the subdivision streets to be maintained in a clear, swept condition to avoid damage to drainage structures.
- (5) Installation. Installation of drainage shall be under the supervision of the Planning Board engineer.
- (6) Gas and sand traps. Gas and sand traps shall be required by the Planning Board to prevent pollution of ponds, lakes, rivers, and/or streams.
- G. Excavation. No excavation or removal of gravel, topsoil, or other matter shall take place within a subdivision except:
 - (1) Within the right-of-way for normal roadway construction.
 - (2) For the digging of a cellar hole, water well, or trench for normal utility installation.
 - (3) Normal grading and filling around the houses to beautify the lot or to satisfy Board of Health requirements.
- H. Gravel removal permit. No gravel or other earth materials shall be removed from any site without a gravel removal permit under Chapter 62, Soil, Loam, Sand or Gravel Removal, except as specified in Chapter 62.

§ 302-7.4. Water provision.

An adequate supply of water, via water mains and related equipment such as hydrants, main shutoff valves and other fittings, shall be installed in all streets within the subdivision as necessary to provide adequate water supply for domestic use and fire protection.

- A. Connection to public water system. Proper connections shall be made with the existing public water system whenever available. Where a public water system is not reasonably accessible, the applicant shall install water mains and hydrants or provide easements to allow for future connections, at the Planning Board's election.
- B. Design and installation. The design and installation of the water system shall be in accordance with the rules and regulations of the Board of Water Commissioners of the Town of Norwell, as revised through November 1970 and printed in Chapter 305 of the Town Code. In no case shall a water main be within three feet of a catch basin.

- C. Fire Chief approval. The hydrant locations shall be approved by the Norwell Fire Chief prior to approval of the definitive plan.
- D. Dead-end water mains. Dead-end water mains shall be avoided and all water mains shall be looped to eliminate standing water, except upon the express written recommendation of the Board of Water Commissioners. Easements for future extension or looping of the water system shall be provided, except upon the express written recommendation of the Board of Water Commissioners.
- E. Supervision of installation. Installation of water mains shall be under the supervision of the Board of Water Commissioners.

§ 302-7.5. Other utilities.

All other utilities shall conform to the following requirements:

- A. Utilities shall be underground. Utility poles, aboveground wires and guy wires shall not be permitted in subdivisions. All utilities, including but not limited to waterlines, drainage, fire alarm, electricity, gas, computer cables, telephone and cable television, shall be installed underground, including service to the individual dwellings. Placement of utilities in streets and roadways shall be installed as shown on the typical street cross sections set forth in Appendix II. The location of transformers, switches, and other such equipment shall be approved by the Planning Board and shown on the definitive plan.
- B. Primary and secondary electric lines. Primary and secondary lines shall run on the same side of the road. All road crossings shall be in conduit and shall be perpendicular to the road center line at that point. Location of telephone cables and primary and secondary power lines shall be approved by the Wiring Inspector and a copy of the definitive plan so endorsed and provided to the Planning Board.
- C. Warning strips. All electrical cable shall be protected with a safety located strip or warning tape.
- D. Gas pressure reducers and meters. If a dwelling is served by gas, then pressure reducers and meters shall be installed outside the dwelling. A dresser-type connection shall be placed in the gas line outside of the dwelling, but within six feet of it.
- E. Standards. Minimum standards for installation of utilities shall be those prescribed by nationally recognized authorities such as the National Electric Corporation (NEC), American Water Works Association (AWWA), and American Gas Association (AGA). Requirements of local inspectors, if more strict than the aforementioned sources, shall prevail.
- F. Installation and inspection. Installation and inspection of all underground utilities shall be performed and written approval obtained before construction of the roadway base course begins.

§ 302-7.6. Easements for utilities.

The necessary easements to support utilities that are to be installed in a subdivision shall be provided as follows:

- A. Location. Easements shall not be permitted to straddle lot lines but should be located along the lines.
- B. Width. Easements shall be a minimum of 20 feet in width.
- C. Recording. Easements shall be recorded before deeds for individual lots are conveyed and shall run initially to the homeowners' association and then be conveyed to lot owners as necessary.
- D. Watercourses and drainageways. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the applicant shall provide to the homeowners' association a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainageway, channel or stream and to provide for construction or other necessary activities. The necessary fee and easement interests in drainage structures shall be conveyed to and held by the homeowners' association. Large drainage structures such as detention or retention basins or ponds shall be segregated on separate parcels that are owned by the homeowners' association.
- E. Easements for maintenance. Adequate easements for the maintenance of slopes, bodies of water or land-locked areas shall be provided to allow for mowing, tree maintenance and other landscaping needs and mosquito and pest control.

§ 302-7.7. Streetlight design.

- A. Streetlights shall be provided by the applicant at street intersections, dead-ends or turnarounds and at all vertical and/or horizontal curves as may be required by the Planning Board.
- B. Streetlight standard. Streetlights shall be Town and Country luminaire lights, or equivalent, mounted on wood laminated poles with extension and decorative fixture, unless otherwise approved by the Planning Board. All lighting shall be controlled so as to be directed down and prevent light pollution.

§ 302-7.8. Sidewalks and plantings.

Sidewalks and plantings shall be required in all subdivisions on both sides of every subdivision way as follows:

- A. Sidewalks. Sidewalks shall be a minimum of five feet wide and located along the side line of the roadway layout in such a manner as to blend in with the natural land features and terrain. The areas between the sidewalk and the road surface shall be finished as directed by the Planning Board so as to maintain a natural appearance.
- B. Pedestrianways/walkways. Pedestrianways or walkways shall be provided to allow convenient circulation or access within the subdivision to area schools, playgrounds,

shopping, churches, transportation, parks, conservation areas and/or other facilities. An easement of proper width and length shall be provided.

- C. Construction requirements. Construction shall consist of 12 inches of gravel that is consistent with the roadway cross section and, after having been brought to subgrade by the necessary excavation and filling, shall receive two inches, compacted depth, of approved bituminous concrete. The areas between the sidewalk and the roadway, if to be loamed, shall have at least six inches of screened loam. The loam shall be spread to grade, seeded and rolled. Once gravel is laid for a sidewalk it shall remain undisturbed, (i.e., utility crossings should be installed prior to laying of subbase). Sidewalk construction shall be inspected by the Planning Board's engineer at each stage of construction.
- D. Sidewalks along existing highways. Sidewalk construction shall be required along existing highways when adjacent land is subdivided.
- E. Trees and plantings. Existing trees and shrubs, and the limbs of existing trees and shrubs, standing within the limits of any proposed way or public way, which, because of their location, species and/or condition, are suitable for preservation shall be shown on the definitive plan and shall be preserved by the applicant, provided that to do so shall not interfere with installation and future maintenance of underground utilities. Furthermore, all sight line requirements shall prevail over preservation of existing trees and vegetation. The definitive plan shall adhere to the following requirements:
 - (1) Trees shall be planted by the applicant along subdivision streets at intervals of 50 feet, subject to the location of proposed driveways, street intersections or other features of the subdivision, and shall be planted so that they will not interfere as they grow with proposed utility services and sidewalk construction.
 - (2) New trees shall be nursery grown and comply with the Association of American Nurseries specifications and be at least three inches in caliper.
 - (3) The preservation of existing trees and the varieties of new trees for planting shall be subject to the approval of the Planning Board which shall be guided by the recommendations of the Town's Director of Lands and Natural Resources as to the number, location, condition and species of such trees and under Appendix III, Detail B.
 - (4) No tree shall be allowed within four feet of the edge of pavement for a way, nor shall a tree be allowed within five feet from the edge of an underground utility that exists or is to be installed.
 - (5) The applicant shall show on the definitive plan the placement and type of trees to be preserved and planted as set forth in this section of the Regulations and under Appendix III, Detail B.
- F. Grass plots and slopes. Embankments outside the shoulders shall be evenly graded and pitched at a rate not steeper than 3:1. The Planning Board may require such banks and all other disturbed areas adjacent to the traveled way to be loamed and seeded with grass. It is recommended that consideration be given to the surrounding growth and terrain. Roadsides should be made to blend with the woods or natural surroundings that exist and plantings in such areas should be chosen accordingly.

- G. Parks and open spaces. Before approval of a definitive plan, the Planning Board may also, in proper cases, under MGL c. 41, § 81U, Paragraph 13, require that the plan show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and the prospective uses of such land. The Planning Board may, by appropriate endorsement on the plan, require that no buildings be erected upon such park or parks without its approval for a period of not more than three years. Such action is to be taken in accordance with that portion of MGL c. 41, § 81Q, which states that: "No rule or regulation shall require, and no planning board shall impose, as a condition for the approval of a plan of a subdivision, that any of the land within said subdivision be dedicated to the public use, or conveyed or released to the Commonwealth or to the county, city or town in which the subdivision is located, for use as a public way, public park or playground, or for any other public purpose, without just compensation to the owner thereof."
- H. Use of conservation grants and easements. The Planning Board encourages applicants to investigate and make use of conservation grants and easements, particularly in wet areas. Information can be obtained from the Conservation Commission.

ARTICLE 8

Construction Requirements

An applicant shall conform to the following construction requirements following subdivision approval and endorsement of the definitive plan.

§ 302-8.1. Pre-construction.

- A. Pre-construction requirements. An applicant shall provide the following information and then arrange a pre-construction meeting with the Planning Board's engineer.
- B. Pre-construction submittals.
 - (1) At least seven days prior to the proposed construction start date and before the pre-construction meeting takes place, an applicant shall provide the Planning Board, Planning Board's engineer with the following information:
 - (a) An affidavit certifying that the applicant is the owner of record of all of the property shown on the endorsed definitive plan or documentation signed by the owner(s) of record that the applicant has authorization to act on all matters pertaining to the construction of the development.
 - (b) An affidavit certifying that the applicant has reviewed all of the conditions of subdivision approval and has taken all of the required steps to satisfy the conditions.
 - (c) An affidavit certifying that all required federal, state and local permits have been obtained and providing a list, with the dates of issuance of each permit and the permit identification number.

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- (d) A letter identifying the persons or entities responsible for completion of any portion of the project, including the name, address, telephone number and e-mail address of each such person or entity.
- (e) A letter that identifies (name, business address, telephone and facsimile numbers and e-mail) the following:
 - [1] The official representative of the applicant and owners.
 - [2] The engineering firm to be used during construction.
 - [3] The general contractor.
 - [4] The soils testing firm to be used during construction.
- (f) Shop drawings and/or catalog cuts of all structures/materials to be used to construct the approved definitive subdivision. All catalog cuts shall be highlighted as to product submitted for approval.
- (g) The location of the disposal site for all solid waste and surplus material must be supplied and approved.
- (2) Any changes to previously submitted information contained above must receive approval of the Planning Board.
- C. Pre-construction meeting. At least 48 hours prior to the beginning of construction, the applicant shall arrange and participate in a pre-construction meeting with the Planning Board's engineer to review all construction requirements.

§ 302-8.2. Construction requirements.

The applicant shall conform to the following construction requirements:

- A. Staking. During construction, proper staking shall be maintained at all times by the applicant including:
 - (1) Establishment of base lines on center line of construction for all roadways. Reproduction of base lines and center lines, or lines offset to them when roadway cuts and fills have been completed.
 - (2) General benchmark control for the subdivision.
 - (3) Original grade stakes at fifty-foot intervals.
 - (4) Bound points and side line stakes.
 - (5) All necessary stakes for pipes and headwalls, and for the establishment of all catch basins and manhole locations as to line and grade.
- B. Clearing. The entire roadway area shall be cleared and grubbed of all obstructions and growth of any kind. Unsuitable material shall be removed to the required depth and the area shall be evenly graded for a distance of not greater than 17 feet either side of the center line. A greater width may be required at corners and on the inside of curves for visibility. Clearance of trees beyond a total width of 34 feet or more than one foot

beyond the slope at cuts or fills is not permitted, except for the construction of sidewalks or utilities.

- C. Non-frost-susceptible soil. All fill and undisturbed soil shall be non-frost-susceptible, to a minimum depth of three feet below the finished pavement grade. Non-frost-susceptible soil shall mean soil that shall not contain more than 3% material that passes through the No. 200 sieve and, in addition, shall not include any material that is larger than three inches in size.
- D. Subgrade preparation. All existing material shall be removed for a depth of at least 17 inches below finish grade for the full cleared width. Ledge and large boulders shall be removed to a depth of at least 24 inches below finish grade. Clay, mulch, or other unstable material shall be removed to a greater depth as required and/or directed. Backfill of approved, stable materials shall be used to bring the subgrade to a uniform grade 17 inches below finish grade. The subgrade shall be prepared to required lines and grades, and all fill shall be constructed in six-inch lifts. The subgrade shall be compacted to a minimum of 92% and 95% of maximum dry unit weight and at or near optimum moisture content as determined by ASTM D-1557-66T, Method D. Preparation of the subgrade shall be approved by the Planning Board's engineer before any subsequent construction is permitted.
- E. Base course. After approval of the subgrade, a minimum of 12 inches of approved compacted gravel in two courses shall be placed over the subgrade for the full cleared width and brought to a true even grade. The gravel base course shall be constructed in six-inch lifts and shall be compacted to a minimum of 95% of maximum dry unit weight and at or near optimum moisture content as determined by ASTM D-1557-66T, Method D. Total depth of gravel at all points after complete compaction shall be not less than 12 inches. The base course shall consist of six inches of Massachusetts Specifications M1.03.0 Type b and the top course shall consist of six inches of Massachusetts Specifications M1.03.1 processed gravel. The gravel base shall be carried 12 inches past the pavement on each side of the roadway.
- F. Bituminous pavement. The approved primed base course shall be paved with a minimum of 3 1/2 inches of Massachusetts Department of Public Works Type I-1 binder course and 1 1/2 inches of top course to lines and grades as required. The pavement shall be compacted to a minimum of 95% of laboratory density, and surface irregularities greater than 1/4 inch as measured with a ten-foot straightedge shall be corrected as determined by the Planning Board's engineer.
- G. Alternate bituminous pavement with maintenance bond. The Planning Board may allow construction of the following if a ten-year maintenance bond is provided: The approved primed base course shall be paved with a minimum of 1 1/2 inches of Massachusetts Department of Public Works Type I-1 binder course and 1 1/2 inches of top course to lines and grades as required. The pavement shall be compacted to a minimum of 95% of laboratory density, and surface irregularities greater than 1/4 inch as measured with a ten-foot straightedge shall be corrected as determined by the Planning Board's engineer.
- H. Truck tickets. Printed truck tickets showing the weight and mix of the bituminous paving material at the batch plant plus the date and time shall be turned over to the Planning Board's engineer at the time of each delivery.

- I. Months and conditions during which bituminous material shall not be laid. No bituminous material shall be laid between November 15 and April 15 of any calendar year. No such material shall be laid when the ambient temperature drops below 40° or when it is raining. A waiver or subsequent modification of the definitive plan shall be required to pave outside of these dates. The Planning Board's engineer cannot provide a waiver. In the event that such paving occurs, an applicant shall be required to remove the pavement and lay new pavement or provide adequate surety to guarantee that the pavement shall survive for its expected useful life or be replaced.
- J. Dust and debris control. The applicant shall promptly remove gravel, sand, dirt and/or any debris generated by the subdivision project from all Town ways. The applicant shall provide and obtain approval from the Planning Board for dust control measures and then conform to those measures during all phases of subdivision construction.
- K. Driveway entrances. A driveway entrance proposed within the way lines shall be installed at the time of the road construction and in accordance with the requirements of the road construction. To prevent surface water from roadways from draining onto individual lots, driveway entrances shall be constructed such that they slope toward the roadway for a minimum distance of four feet at a slope of not less than one inch per foot. Adequate means shall be taken to prevent water from draining onto the roadway in such quantities as to erode the roadway or to form ice buildup in the winter months. Adequate means shall also be taken to prevent any driveway from blocking natural drainage via a culvert or pipe. Driveways, including existing driveways both within and outside of the subdivision, shall not be within 75 feet of the intersection of the center lines of intersecting streets.
- L. Street signs. Street signs shall be erected as required before construction of the roadway begins. The cost of the sign and its installation shall be borne by the applicant and shall conform to the street sign standard used by the Town of Norwell and shall be installed under the direction of the Planning Board or Highway Surveyor. The Planning Board shall approve the name of any new subdivision street.
- M. Not an accepted street. Streets within a subdivision that have not yet been accepted by the Town as public ways shall have conspicuously posted, by and at the expense of the applicant, signs at intersections, suitable to the Highway Surveyor, stating: "Private Way." The latter sign shall be a separate sign that is attached before the signage that sets forth the name of the way, suitable for easy removal when and if the way is accepted by the Town as a public way.
- N. Advertisement signs. Signs may be posted within a subdivision advertising lots or houses for sale only in accordance with the following:
 - (1) Signs shall be no larger than six square feet and not longer than three feet in either direction or higher than six feet at the highest point above the average surrounding grade.
 - (2) Signs shall not fluoresce or glow or be lighted in any manner.
 - (3) A sketch of any proposed sign or signs shall be filed with the Planning Board prior to erection.

- (4) No sign may be erected or displayed until written approval for each such sign is obtained from the Planning Board. No permit is valid for longer than two years. A permit may be renewed by the Planning Board.
- O. Monuments. Stone or approved reinforced concrete bounds shall be placed on both sides of the street at all angle points, at the beginning and end of all curves, and at all intersections of streets. Bounds shall be not less than four feet in length and not less than six inches in width and breadth. Way bounds shall be capped with bronze inserts. No permanent monuments or bounds shall be installed until all construction, which could destroy or disturb the monuments or bounds, is completed. The top of the bounds shall be set to finished grade and be set by a registered professional or registered land surveyor who shall certify in writing that they conform to the endorsed definitive plan.
- P. Prevention of water pollution.
 - (1) During the performance of work within the subdivision, the applicant shall take sufficient precautions during construction to avoid contaminating water in adjacent streams or bodies of water. All earthwork, grading, moving of equipment, water control in foundation areas, and other operations likely to create silting shall be conducted to avoid or minimize pollution in adjacent streams and bodies of water. Water used for any purpose whatsoever by the applicant, which has become contaminated with oil, bitumen, salt or other contaminants, shall be so discharged so as to avoid affecting nearby waters. Under no circumstances shall the applicant discharge contaminants directly into any adjacent stream or bodies of water.
 - (2) When the applicant uses water from natural sources for any construction-related operations, intake methods shall be such as to avoid contaminating the source of supply and maintain adequate downstream flow when the source is a stream. Violations will result in termination of work until the impacted area is restored.
- Q. Barricades and warning signs. The applicant shall furnish, erect and maintain adequate warning and guide signs, traffic signs, safety lighting, barricades and barrier fences for the safe flow of traffic and protection of all life and limb.
- R. Protection and restoration of property. The applicant shall preserve and protect from injury all property either public or private adjacent to the subdivision, and he shall be responsible for and repair any and all damage and injury thereto, arising out of or in consequence of any act of omission, neglect or misconduct in the execution of the work, or in consequence of the non-execution thereof by the applicant in the performance of the work prior to completion and acceptance thereof.
- S. Cleanup. Upon completion of all work on the grounds, the applicant shall remove from the streets and lots all temporary structures, surplus material and rubbish, and shall leave the work in a neat and orderly condition. All disturbed areas shall be properly graded, topsoiled to a minimum depth of six inches, limed, fertilized and seeded to satisfactory established growth including a minimum of three necessary mowings.

ARTICLE 9

Mandatory Conditions of Subdivision Approval

No subdivision shall be approved without the following mandatory conditions.

§ 302-9.1. Conditions.

- A. Conditions of approval shall be noted on the plan prior to endorsement. Prior to endorsement of the definitive plan, the plan shall be revised to reflect all conditions of approval and the Planning Board's consulting engineer shall confirm that the revisions are complete and accurate and in accordance with this decision.
- B. Failure to obtain endorsement. The applicant shall obtain the endorsement of the Planning Board upon the approved definitive plan within 120 days of the date of approval. Failure to obtain such endorsement shall result in the automatic rescission of the approval of such plan. Endorsement shall not be provided until proper surety has been provided as required under MGL c. 41, § 81U, and until the approved plan has been properly revised to set forth on required revisions and notes as to each condition of approval.
- C. Failure to complete construction. The applicant shall begin and complete the construction of all ways and municipal services within three years of the date of endorsement of the definitive plan. Failure to so complete shall result in the automatic rescission of the approval of such plan, unless the Planning Board extends said period, for good cause shown, upon the written request of the applicant prior to the expiration of said period and after holding a public hearing with notice to modify the subdivision approval to extend the time period.
- D. Construct streets and all required utilities. As a condition of approval of a subdivision, the applicant shall construct the streets and complete all other work specified on the approved definitive plan and required under the Regulations and satisfy all relevant provisions of the Zoning Bylaw and other bylaws, including installation of required utilities and all work incidental thereto, such as grading of lots to provide drainage, construction of retaining walls and other details, as outlined in Article 7 of the Regulations or as specifically required by the Planning Board. The Planning Board may require that such construction be completed within a specified period of time.
- E. Grant perpetual rights and easements. As a condition of approval of a subdivision, the applicant shall reserve a right and easement to construct, repair, replace, extend, operate, use and forever maintain all streets, water mains, sewer mains, and all surface and subsurface stormwater drains in, through or under the streets and easements as indicated on the definitive plan and to use the roadways shown on the plan as public ways so that these rights and easements may be conveyed to the Town of Norwell in the event that the roadways are offered and accepted as public ways by the Town. The applicant may convey this right and interest to a homeowners' association. This provision shall not relieve the applicant from the responsibility to complete all construction as required by the applicant's agreements with the Town.
- F. Right of entry of Town officials. As a condition of approval of a subdivision, and in accordance with MGL c. 41, §§ 81B and 81CC, the applicant shall allow the Planning Board and its officers and agents to enter upon any lands and make examinations and

surveys and place and maintain monuments and marks as the Planning Board deems necessary to carry out its duties under the Subdivision Control Law.¹¹

- G. Certification of completion of subdivision in accordance with the approved and endorsed plan. As a condition of subdivision approval by the Planning Board, an applicant shall, prior to final surety release, provide a certification to the Planning Board from a registered professional engineer that the subdivision has been completed in accordance with the approved and endorsed plan and the conditions of approval and certify that the layout, design and construction work in the subdivision are satisfactory and conform to the Town's specifications and the requirements of the Regulations. In addition, a separate and express certification shall be provided that the final grades have been constructed at the subdivision in accordance with the approved and endorsed plan. The certification shall be signed and stamped by the registered professional engineer.
- H. As-built plans.
 - (1) Interim as-built plans.
 - (a) Drainage basins. Interim as-built plans shall be prepared by the applicant and provided to the Planning Board, for any and all drainage basins approved for a project, and then approved by the Planning Board before any building permits for new structures or buildings are issued for any lot in the subdivision. Interim as-built plans for a drainage basin, to be approved, shall confirm that the drainage basin is properly constructed, is located in the approved location and is properly sized, as required, so that the required storage capacity is available and no upland necessary for adjacent lots has been used. The location of a drainage basin shall be confirmed by at least two bounds and shall be tied to at least two bounds for the adjacent subdivision way and shall be tied to at least two Massachusetts grid coordinates. The as-built plans shall be signed and stamped by a registered professional engineer.
 - (b) Roadways. Interim as-built plans shall be prepared by the applicant and provided to the Planning Board, for the roadway system approved for a project, and then approved by the Planning Board before any building permits for new structures or buildings are issued for any lot in the subdivision. The interim as-built plans, to be approved, shall confirm that the roadway is properly constructed, located in the approved location and that no upland necessary for adjacent lots has been used to construct the roadway. The location of the roadway shall be confirmed by at least two bounds that shall be tied to the nearest Town way and shall be tied to at least two Massachusetts grid coordinates. The as-built plans shall be signed and stamped by a registered professional engineer.
 - (2) Final as-built plans. Final as-built plans shall be provided by the applicant and at the applicant's expense prior to final release of subdivision surety to confirm that the subdivision has been completed in accordance with the requirements of the endorsed definitive plan and the Regulations. The final as-built plans shall be prepared by a registered professional engineer and include the following:

11. Editor's Note: Amendment pending.

- (a) A plan showing street line with the bearings and distances on linen or another suitable permanent reproducible material at a scale of one inch equals 40 feet.
 - (b) A plan to show pavement locations; house locations; lot lines; driveway locations; all utilities above ground such as water gates, gas gates, utility poles, manholes with rim elevations and inverts, catch basin rims and inverts, and top of head wall with pipe size and invert; all utility easements; ties from house foundations to water services; and final site grading including all drainage structures and lot grading to demonstrate conformance to the approved drainage design, with a certification as to final grading that is signed and stamped by a registered professional engineer.
 - (c) Names of abutters.
 - (d) A plan section showing profile of center line elevations every 50 feet.
 - (e) Deed descriptions.
 - (f) A plan showing concrete bounds on all points of curvature and points of tangency.
 - (g) Ten sets of as-built prints.
 - (h) Provide the final as-builts with Massachusetts grid datum shown in a digital format acceptable to the Planning Board.
- I. Homeowners' association/maintenance of private streets and utilities. As a condition of approval of a subdivision, prior to endorsement of the definitive plan the applicant shall create and properly fund a homeowners' association and all purchasers of land within the subdivision shall be required to belong to the homeowners' association. The homeowners' association shall be responsible for the maintenance, repairs and plowing of the subdivision roadway(s) unless and until the Town accepts the roadway(s) as a public way(s). The homeowners' association shall maintain permanent ownership of any drainage basins or ponds in the subdivision, including all pipes and other appurtenant devices, and shall have the permanent responsibility of maintaining, repairing and replacing said drainage systems, as necessary. The homeowners' association documents shall be reviewed and approved by the Planning Board, in consultation with Town Counsel, and the homeowners' association shall have an initial fund that is deemed satisfactory to the Planning Board, in consultation with the Planning Board's technical consultant. The homeowners' association shall send correspondence to all members of the association twice a year, once during March and once during September, to advise each member of the association's duties and responsibilities to maintain, repair and plow the roadways and maintain, repair and replace the drainage systems. At the same time, the homeowners' association shall provide a written reminder to each individual member to maintain any portion of the systems on each member's property, including the mowing and clearing of drainage swales and berms. The homeowners' association shall also notify the members that, if public acceptance of the subdivision roadway(s) is sought, then the Town may assess betterments for any work needed to make such streets conform to Town standards prior to acceptance.

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- J. Pre-construction preparations. Prior to the pre-construction meeting, the applicant shall provide the Planning Board with a copy of the subdivision plan on disc in DXF format or other digital format acceptable to the Planning Board and also two legibly printed eleven-inch by seventeen-inch sets of the subdivision plan.
- K. Modification of roadway layout. Any modification of the roadway layout approved hereunder shall be subject to the requirements of MGL c. 41, § 81W.
- L. Recording of certificate of vote. The certificate of vote shall be recorded with and referenced to the subdivision plan immediately following endorsement and the applicant shall provide evidence of the recording to the Planning Board not later than 120 days following endorsement.

ARTICLE 10

Subdivision Surety**§ 302-10.1. Surety to be provided prior to endorsement.**

Prior to endorsement of the definitive plan, the applicant shall provide subdivision surety in accordance with MGL c. 41, § 81U, Paragraph 7, and Appendix I, Forms E-1 through E-5.

§ 302-10.2. Required form of surety.¹²

All surety shall conform to the requirements of MGL c. 41, § 81U, Paragraph 7, and Appendix I, Forms E-1 through E-5. Letters of credit are not acceptable. The form of the surety shall be acceptable to the Planning Board in consultation with Town Counsel and the Town Treasurer-Collector.

- A. A covenant form of surety shall be executed by the applicant, all owners of record and any and all mortgagees. Such covenant shall state that the improvements shown on the definitive plan shall be completed not later than three years from the date of the endorsement of the definitive plan. Failure to so complete the improvements shall result in the automatic rescission of the approval of the definitive plan by the Planning Board, unless the Planning Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period. The covenant shall be referenced on the definitive plan prior to recordation in the Registry of Deeds. The applicant, after recording, shall promptly send a copy of the covenant, showing the Registry book and page number, to the Planning Board.
- B. All surety instruments, other than covenants not to build, shall be accompanied by a separate surety agreement that has been executed by the applicant, all owners of record and all mortgagees and that shall detail the rights and obligations of the various parties and assign the proceeds of the surety to the Town of Norwell, by and through the Planning Board, in the event of a default and provide an easement to the Town to allow the work shown on the endorsed definitive plan to be performed, creating the right to perform such work, but not an obligation. The amount of the surety instrument shall be approved by the Planning Board and the form of the surety instrument shall be

12. Editor's Note: Amendment pending.

approved as to form by the Planning Board and Town Counsel and be acceptable to the Town Treasurer-Collector. The surety instrument shall provide that the required improvements shown on the endorsed definitive plan shall be completed not later than three years from the date of the endorsement of the definitive plan. Failure to so complete shall result in the automatic rescission of the approval of the definitive plan by the Planning Board, unless the Planning Board extends said period, for good cause shown, after the written request of the applicant prior to the expiration of said period after holding a public hearing with notice.

§ 302-10.3. Amount of surety.

- A. In determining the amount of the bond or surety, the Planning Board shall be guided by the following formula in setting the sum of the security:
 - (1) The Planning Board's estimate of the cost to the Town to complete the work;
 - (2) A 50% contingency amount for work that is not performed in accordance with the Subdivision Control Law, the Subdivision Rules and Regulations and the conditions of definitive subdivision approval, to provide for sufficient funds to guarantee the cost to remove deficient work and replace it; and
 - (3) An appropriate amount reflecting the rate of inflation expected over the ensuing five-year period.
- B. The Planning Board reserves the right to increase the required amount of surety if work is released and then later proves defective and to demand different surety in the event of a failure of any surety instrument (e.g., bankruptcy of a surety company or bank).

§ 302-10.4. Performance bonds.

All performance bonds shall contain the following provision:

If the Principal shall fully and satisfactorily observe and perform in accordance with the qualifications and time schedule set forth herein specified all the covenants, agreements, terms and provisions set forth in the following:

1. The application for definitive plan approval (Form C);
2. The Subdivision Control Law and the rules and regulations of the Norwell Planning Board that govern this subdivision [dated: (insert date: _____)];
3. The decision of the Planning Board dated _____ and attached hereto as Exhibit A; and
4. The definitive plan, as approved and endorsed by the Planning Board in the decision;

then this obligation shall be void; otherwise, it shall remain in full force and effect and the aforesaid sum shall be payable to the Town of Norwell, by and through the Planning Board, as liquidated damages in the event of a default.

§ 302-10.5. Supplemental covenants.

The Planning Board may require, prior to the endorsement of the definitive plan, a supplemental covenant containing those conditions of approval that are intended to survive the release of the surety covenant. Such covenant shall be approved as to form by the Planning Board and, as necessary, Town Counsel. Such covenant shall be executed and duly recorded by all of the owners of record and any mortgagees and shall run with the land. The covenant shall be referenced on the definitive plan prior to recordation in the Registry of Deeds. The applicant shall, after recording, promptly send a copy of the covenant, showing the Registry book and page number, to the Planning Board.

§ 302-10.6. Substituting surety.

- A. An applicant may substitute a new form of surety. If an applicant desires that lots be released from a surety covenant prior to completion of the required improvements for the lots, then the applicant shall provide alternate surety as set forth under MGL c. 41, § 81U, Paragraph 7, and shall send the Planning Board a formal written request regarding the same by certified or registered mail which sets forth and includes:
 - (1) Determination of extent of work. The extent and scope of remaining work to be completed to satisfy the requirements for the construction or installation of all required ways and municipal services.
 - (2) Estimate of cost of remaining work. An estimate, pursuant to the Regulations, which reflects all remaining costs related to the construction of all required ways and installation of all required municipal services.
 - (3) Form and type. The form and type of guarantee proposed to be given to the Planning Board to secure all remaining improvements.
- B. Planning Board action. The Planning Board or its agent will make a determination as to the sufficiency of the proposed surety, and, if acceptable, a new performance guarantee shall be given to and accepted by the Planning Board. Upon acceptance by the Planning Board of the new performance guarantee, all applicable lots shall be released from the covenant.

§ 302-10.7. Maintenance bonds.

The Planning Board may require a maintenance bond in the following circumstances or for the following purposes:

- A. Roadways and improvements. A maintenance bond shall be required when construction is completed or at the time of release of any performance guarantee to ensure the maintenance of the roadways, required plantings, utilities, and other improvements for a period of up to 20 years.
- B. Drainage systems. A maintenance bond shall be required for a period of not less than 20 years to ensure the maintenance of any aspect of an approved drainage system, including catch basins and detention ponds. This requirement may be waived upon presentation of satisfactory evidence that a homeowners' association has been created

that mandates membership by all property owners in the subdivision and that the association is properly funded. The purpose of this requirement shall be to prevent flooding of property and Town-maintained streets. (See homeowners' association condition of approval.)

§ 302-10.8. Reduction of security.

The penal sum of any such security, or the amount of any deposit held under § 302-10.1, may, from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by the Planning Board in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required in addition to all of the requirements for a covenant previously set forth.

§ 302-10.9. Release of security.

- A. Submittal. Before the Planning Board will release subdivision surety, the applicant shall submit written evidence that the required performance has been satisfactorily completed or partially completed and shall send a copy of this evidence to the Board of Health, Board of Selectmen, Board of Water Commissioners, Conservation Commission, Drainage Committee, Fire Department, Highway Surveyor, Planning Board, Police Department and Tree Warden and include the following:
- (1) Certification by a registered professional engineer that the subdivision has been completed in accordance with the requirements of the endorsed subdivision plan and the Regulations.
 - (2) Certification by a registered professional engineer that the final grading of the subdivision has been completed in accordance with the requirements of the endorsed plan.
 - (3) Certification by a registered professional engineer or a registered land surveyor that all permanent monuments have been set in the locations shown on the approved plan.
 - (4) A letter from the Highway Surveyor indicating that he has inspected the roadways and other required improvements and they conform to the requirements of the endorsed plan.
 - (5) A letter from the Fire and Police Departments indicating that they have inspected the roadways and lots and that they have determined that the signage conforms to 911 requirements.
 - (6) Certification by the applicant that all required easements have been recorded and the recorded instrument delivered to and accepted by the homeowners' association and/or the Planning Board or other interested Town agency, as appropriate.
 - (7) A letter from the Water Department that the water supply has been properly provided.
- B. Release or partial release of surety. If the Planning Board determines that said construction and installation have been completed or partially completed in the proper

manner as required under the Subdivision Control Law, the Regulations and conditions of approval, it shall release or partially release said security or bond or deposit and shall return the same to the depositor, or release or partially release the subdivision covenant by appropriate instrument that shall be duly acknowledged and which may be recorded.

- C. Denial of release. If the Planning Board determines that the construction or installation has not been completed to its satisfaction and it receives written statement under MGL c. 41, § 81U, Paragraph 10, from the applicant, it shall, within 45 days of the receipt of said statement, specify to the applicant, in writing, the details wherein said construction and installation fail to comply with the Regulations and shall file a copy of the same with the Town Clerk and deny the request for release.

ARTICLE 11

Administration and Supervision of Construction

§ 302-11.1. Notice of start of construction.

Notice shall be given by the applicant in writing to the Board, with duplicate copies to the Town's Highway Supervisor, Water Department, Fire Chief, Building Inspector/Zoning Enforcement Officer, Wiring Inspector and Board of Health, at least 10 days before the applicant first commences construction, clearing, grading or any related activities.

§ 302-11.2. Inspections.

For the protection of the Town and future residents of the subdivision, a series of inspections during the course of construction shall be required to ensure compliance with the endorsed definitive plan and the Regulations. All materials and each part of detail of the work as required under the Regulations shall be subject to inspection. The cost of such inspections shall be borne by the applicant. The Planning Board may establish, at the applicant's expense, an escrow account pursuant to MGL c. 44, § 53G, to fund the cost of such inspections.

- A. Inspection requests. Obtaining inspections shall be the responsibility of the applicant. Inspections shall be requested by the applicant at least four full working days in advance by written notice to the Planning Board and its authorized representative. The applicant shall allow the Planning Board's engineer and other duly authorized representatives access to all parts of the subdivision for purposes of inspection and shall be furnished with such information and assistance as is required to make a complete and detailed inspection.
- B. Inspections required. The applicant shall contact the Planning Board and its duly authorized representative for inspections by the Planning Board's engineer regarding the following aspects of the subdivision, at the specified times:
 - (1) An inspection shall be made of the project upon completion of all clearing, grubbing and excavation and all work incidental thereto, as may be required or implied herein. No fill shall have been placed at the time of this inspection.

- (2) An inspection shall be made of the completed drainage system as required or implied herein or on the endorsed definitive plan, including drainpipe, culverts, catch basins and all related construction. Backfill of any portion of the drainage system shall not be made until after receipt of satisfaction of approval or acceptance by the Planning Board's engineer and the Town's Highway Surveyor.
- (3) Inspections and testing shall be made of the completed water distribution system by the Town's Water Department. The timing and number of inspections shall be determined by the Norwell Water Department.
- (4) The inspection of the construction of the way shall include the inspection of the backfilling and compaction of all utility trenches, including gas, electric and telephone, as may be installed by utility companies, and such work shall be performed in the manner required by the Regulations. It shall be the applicant's responsibility to ensure compliance with these requirements. If, in the opinion of the Planning Board, the backfilling and compaction of utility trenches have not been performed properly, the Planning Board may refuse to release the applicable subdivision surety until such work has been performed to the satisfaction of the Planning Board.
- (5) An inspection shall be made of the compacted fill as specified herein and shall be required to bring the roadways to their proposed grades. The applicant shall certify the source of gravel for fill to the Planning Board's engineer as soon as this information is known, so that samples may be taken and analyzed by the Planning Board's engineer. The applicant shall not proceed with filling operations until such time as the fill is determined by the Planning Board's engineer, in writing, as acceptable. If the applicant proceeds with filling prior to such determination, it shall be at the applicant's risk that the applicant shall be ordered to remove and replace the fill. The applicant shall not use a gravel source other than the one designated without prior notice to the Planning Board's engineer.
- (6) An inspection shall be made of the first six-inch layer of compacted roadway foundation as specified herein. A gravel sample or samples may be taken at the option of the Planning Board's engineer.
- (7) An inspection shall be made of the final six-inch layer of compacted roadway foundation as specified herein and gravel samples may be taken by the Planning Board's engineer.
- (8) An inspection shall be made of the bituminous concrete pavement for the roadway surface. Samples of the mix may be taken by the Planning Board's engineer for purpose of performing an extraction test in order to compare samples with the job-mix formula provided on the trucker tickets.
- (9) An inspection shall be made of all work regarding sidewalks, curbing, grass plots, side slopes, monuments, bounds and street signs.
- (10) A final inspection shall be made to ensure that all work required by the endorsed definitive plan, the conditions of subdivision approval and the Regulations has been satisfactorily completed prior to final release of the subdivision surety.

- C. Backfilling. No water main, storm drain, catch basin, utility installation, road subgrade or foundation, or any other item of work designated for inspection shall be backfilled or paved over until inspected and approved by the Planning Board or its duly authorized representative.
- D. Excavation performed without authorization. Any work done, material used or excavation performed without authorization by the Planning Board or without the required inspection may be ordered removed and/or replaced at the applicant's expense.
- E. Failure to reject defective work or materials. Failure to reject defective work or materials at the point of installation shall not prevent later rejection of the work or materials when the defect is discovered, nor obligate the Planning Board to make final acceptance of the work or materials or subdivision.
- F. Work found to be defective. If the work or any part thereof shall be found defective by the Planning Board at any time before the final acceptance of the whole work, the Planning Board shall give written notice thereof to the applicant and the applicant shall, at the applicant's sole expense, cure such defect in a satisfactory and timely manner.
- G. Unauthorized work. Any work done beyond the lines and grades shown on the plans, except as herein provided, shall be considered as unauthorized and shall be removed at the expense of the applicant.
- H. Cost of unacceptable testing. The cost of inspection or testing required or requested and found to be not acceptable for any of the following reasons shall be borne by the applicant:
 - (1) Testing fails to pass minimum standards.
 - (2) Applicant requests testing but is not ready for the same at the appointed time.
- I. Inspection reports. Once an applicant indicates that a stage of work has been completed, the Planning Board's engineer will review the status of the work and prepare and submit a report to the Planning Board and the applicant and detail whether the work has been performed in accordance with the Regulations and the endorsed definitive plan or indicate the ways in which the work is not acceptable. At any time during the progress of the work, the Planning Board's engineer shall advise the Planning Board of any factors that may adversely affect the progress of the work.
- J. Field changes.
 - (1) The Planning Board's engineer may agree to minor field changes and shall notify the Planning Board in writing of such changes in a timely manner (i.e., forthwith). The Planning Board's engineer may not agree to major field changes. A major field change shall not proceed without the prior approval of the Planning Board. The applicant shall proceed at the applicant's own risk to perform work in accordance with a field change that has not received the Planning Board's prior approval. In the event that a field change is determined to be major, the applicant shall cease the relevant work and obtain the required approval and, if the necessary approval is not granted, shall remove the non-approved work at the applicant's expense. In any instance in which a proposed field change would alter

the drainage calculations previously relied upon, a subdivision modification shall be sought and obtained before the change may be implemented.

- (2) The Planning Board's engineer shall inspect work and materials; give direction pertaining to the work and the safety and convenience of the public; make measurements; and perform such other duties as may be designated by the Planning Board. In case of any dispute arising between the applicant and the Planning Board's engineer, as to materials furnished or the manner of performing the work, the Planning Board's engineer shall have the authority to reject the materials and to suspend that portion of the work until the question at issue can be referred to and decided by the Planning Board.
- K. Alteration of requirements. The Planning Board's engineer is not authorized to revoke, alter, enlarge, relax, or release any requirement of the Planning Board as shown on the endorsed definitive plan or required under the Regulations.
- L. Conduct. In no case shall the Planning Board's engineer act as foreperson or perform other such duties for the applicant.
- M. Final inspection. The final inspection shall take place after completion of roadways, permanent benchmarks, curbing, berming, walkways, grading, seeding and cleanup and following receipt by the Planning Board of the applicant's registered engineer's certification that all grades have been constructed in accordance with the endorsed plan and receipt of all as-built plans.

PLANNING BOARD

302 Attachment 1

Town of Norwell

**Appendix I
Forms**

Form A.	Application for Endorsement of a Plan Believed Not To Require Approval Under the Subdivision Control Law
Form A-1.	Determination That Subdivision Approval Is Not Required
Form A-2.	Determination That Subdivision Approval Is Required
Form B.	Application for Approval of Preliminary Plan
Form B-1.	Certificate of Approval of a Preliminary Plan
Form B-2.	Certificate of Disapproval of a Preliminary Plan
Form C.	Application for Approval of Definitive Plan
Form C-1.	Certificate of Approval of a Definitive Plan
Form C-2.	Certificate of Approval with Modifications of a Definitive Plan
Form C-3.	Certificate of Disapproval of a Definitive Plan
Form C-4.	Request for Extension of Time
Form D.	Assessor's Certified List of Abutters
Form E.	Surety Forms
Form E-1.	Performance Guaranteed by a Surety Covenant
Form E-2.	Performance Secured by Deposit of Money
Form E-3.	Performance Secured by Surety Bond
Form E-4.	Performance Secured by Lender's Agreement
Form E-5.	Release of Subdivision Covenant

PLANNING BOARD

Town of Norwell Planning Board

Form A

**Application for Endorsement of a Plan Believed Not To Require Approval
Under the Subdivision Control Law**

To the Norwell Planning Board:

1. Name of Applicant(s): _____
Address: _____
Telephone: _____
2. Name of Owner(s): _____
Address: _____
Telephone: _____
3. Name of Engineer
and/or Surveyor: _____
Address: _____
Telephone: _____
4. Location of Property
(Street Address): _____
5. Zoning District: _____
6. Assessing Information: _____
[Attach portion(s) of the Assessing Map showing the subject
land and abutting parcels and ways.]
7. Size of Property
(Both in Square Feet
and Acreage): _____
8. Registry References: _____
(Book/Page; Date)
(Plan Number, etc.)

The undersigned applicant(s) wish(es) to record the accompanying plan, submitted herewith, which is entitled: _____ and was prepared by _____ and is dated _____ (the "Plan"); and, based upon the information submitted with this application and representations made below, hereby requests a determination by and the endorsement of the Norwell Planning Board that approval of the Plan under the Subdivision Control Law is not required under MGL c. 41, §§ 81L and 81P.

NORWELL CODE

The undersigned assert(s) that approval of the Plan under the Subdivision Control Law is not required for the following specific reasons: (Circle reasons below as appropriate.)

1. The Plan does not require approval under the Subdivision Control Law because it does not show a division of a tract of land into two or more lots or a resubdivision.

2. The Plan does not require approval under the Subdivision Control Law because:

A. Every lot shown on the Plan has frontage of at least such distance as is presently required under Norwell Zoning Bylaw § _____, which requires a minimum of _____ feet of frontage for erection of a building in the zoning district in which the property is located.

And

B. Each lot shown on the Plan has the minimum required frontage on one of the following types of ways (Circle as appropriate):

i) A public way or a way (insert name of the way): _____, which the Norwell Town Clerk has certified is maintained and used as a public way. (Attach the Norwell Town Clerk's certificate that the way is public as an exhibit to this application.)

Or

ii) A way (insert name of the way): _____, which is shown on a plan previously approved and endorsed in accordance with the Subdivision Control Law and either has been built or is properly secured under MGL c. 41, § 81U, Paragraph 7. The definitive subdivision is entitled: _____ and was approved by the Planning Board on _____ and endorsed on: _____.

Or

iii) A private way (insert name of the way): _____, which was in existence prior to February 9, 1953, the date when the Subdivision Control Law took effect in the Town of Norwell, and that, in the opinion of the Norwell Planning Board, has sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. (Attach the evidence upon which the Applicant will rely to establish that the private way was in existence prior to February 9, 1953, as an exhibit to this application.)

3. The Plan does not require approval under the Subdivision Control Law because the division shown on the plan merely shows a proposed conveyance or other instrument which would merely add to, take away from or change the size and shape of the lots shown in such a manner as not to leave any lot so affected without the minimum required frontage.

PLANNING BOARD

4. The Plan does not require approval under the Subdivision Control Law because the land shown on the Plan has two or more buildings located on it that were standing on February 9, 1953 (i.e., when the Subdivision Control Law went into effect in the Town of Norwell) and the proposed division of land would create separate lots on each of which one of such buildings would remain standing. (Attach the evidence upon which the Applicant will rely to establish that each such building was standing prior to February 9, 1953, as an exhibit to this application.)

(NOTE: The division of land under the above Subsection 4 may not conform to current zoning requirements and may require further zoning relief before a lawful conveyance under the Plan may occur.)

I/We (circle one) hereby certify that the facts asserted above are true and accurate to the best of my/our (circle one) knowledge after having made a good faith investigation of the facts. I/We (circle one) hereby further certify that all of the owners of record of the land shown on the Plan have assented to this Application and have signed the Application below.

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS ____
DAY OF _____, 20__.

Signature of Applicant
Print Name: _____

Signature of Applicant
Print Name: _____

I/We (circle one) hereby certify that I/we are the record owners of the subject property shown on the Plan and that I/We (circle one) hereby assent to this application.

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS ____
DAY OF _____, 20__.

Signature of Owner
Print Name: _____

Signature of Owner
Print Name: _____

NORWELL CODE

Engineer's/Surveyor's Certificate

I hereby certify that I prepared the Plan, that I have reviewed the Norwell Planning Board's applicable Rules and Regulations, that the Plan was prepared based upon a ground survey performed on [insert date(s)]: _____ by _____, and that, to the best of my knowledge and belief, the Plan conforms to all of the requirements of the Norwell Planning Board Subdivision Rules and Regulations, regarding ANR Plan submissions. (In the event that the Plan does not conform to all requirements, the engineer or surveyor shall submit a letter indicating each way in which the Plan does not conform and why.)

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS _____ DAY OF _____, 20__.

Signature of Engineer or Surveyor

Print Name: _____

NOTE: If more than one person prepared the plan, then each such person should sign a certificate with the language set forth above and indicate which part or parts of the plan were prepared by him or her; otherwise the sole signatory shall take responsibility for the entire contents of the plan.

PLANNING BOARD

Form A
Application Filing Instructions

1. Submit one original Form A application (fully executed) and six copies thereof to the Planning Board.
2. In the event that the application is signed by a trustee of a trust, an officer of a corporation or limited liability corporation, or a partner of a partnership, then a proper affidavit or certificates signed under oath and notarized shall be provided to support each such signature.
3. Submit 12 copies of the ANR Plan to the Planning Board.
4. Submit a Mylar of the Plan to the Planning Board for endorsement.
5. Submit all evidence that is necessary to establish that the Plan does not require approval under the Subdivision Control Law.
6. Submit the required filing fee.

PLANNING BOARD

**Form A-1
Planning Board**

City/Town of _____, Massachusetts

**Determination That Subdivision
Approval Is Not Required**

_____, 20__

City/Town Clerk

City/Town of _____

_____, Massachusetts

Re: Application for endorsement of plan believed not to require subdivision approval.

Applicant _____

Applicant's address _____

You are hereby notified that the plan entitled _____ submitted by the above applicant on _____, 20__, accompanied by a Form A application for a determination by the Planning Board, dated _____, 20__, has been endorsed by the Planning Board as follows: "_____ Planning Board Approval under Subdivision Control Law not Required."

_____ PLANNING BOARD

By _____, Chairman

_____ Members

Duplicate copy sent to applicant:

Massachusetts Federation of Planning and Appeals Boards 1972
(Revised 1980, 1983, 1988)

PLANNING BOARD

**Form A-2
Planning Board**

City/Town of _____, Massachusetts

**Determination That Subdivision
Approval Is Required**

_____, 20__

City/Town Clerk

City/Town of _____
_____, Massachusetts

Re: Application for endorsement of plan believed not to require subdivision approval.

Applicant _____

Applicant's address _____

You are hereby notified that the Planning Board has determined that the plan entitled _____ submitted by the above applicant on _____, 20 __, accompanied by a Form A application for determination by the Planning Board dated _____, 20__, requires approval under the Subdivision Control Law and it has been determined that that plan shows a subdivision for the following reasons:

_____ PLANNING BOARD

By _____, Chairman

_____ Members

Duplicate copy sent to applicant:

Massachusetts Federation of Planning and Appeals Boards 1972
(Revised 1980, 1983, 1988)

PLANNING BOARD

Town of Norwell Planning Board

Form B
Application for Approval of Preliminary Plan

To the Planning Board:

1. Name of Applicant(s): _____
Address: _____
Telephone: _____
2. Name of Owner(s): _____
Address: _____
Telephone: _____
3. Name of Engineer
and/or Surveyor: _____
Address: _____
Telephone: _____
4. Location of Property
(Street Address): _____
5. Zoning District: _____
6. Assessing Information: _____
[Attach portion(s) of the Assessing Map showing the subject
land and abutting parcels and ways.]
7. Size of Property
(Both in Square Feet
and Acreage): _____
8. Registry References: _____
(Book/Page; Date)
(Plan Number, etc.)

The undersigned Applicant(s) submit(s) the accompanying plan, which is entitled _____ and was prepared by _____ and is dated _____ and is for the property described above (the "Preliminary Plan"), for preliminary subdivision approval, based upon the information submitted with this Application and representations made herein.

NORWELL CODE

I/We (circle one) hereby certify that the facts asserted above are true and accurate to the best of my/our (circle one) knowledge after having made a good faith investigation of the facts. I/We (circle one) hereby further certify that all of the owners of record of the land shown on the Plan have assented to this Application and have signed the Application below.

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS ____
DAY OF _____, 20__.

Signature of Applicant

Print Name: _____

Signature of Applicant

Print Name: _____

I/We (circle one) hereby certify that I/we are the record owners of the subject property shown on the Preliminary Plan and that I/We (circle one) hereby assent to this Application.

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS ____
DAY OF _____, 20__.

Signature of Owner

Print Name: _____

Signature of Owner

Print Name: _____

PLANNING BOARD

Form B
Application Filing Instructions

1. File one original Form B application (fully executed), together with six copies of the Application, with the Norwell Planning Board and one with the Board of Health.
2. In the event that the Application is signed by a trustee of a trust, an officer of a corporation or limited liability corporation, or a partner of a partnership, then a proper affidavit or certificates signed under oath and notarized shall be provided to support each such signature.
3. Submit 15 copies of the Preliminary Plan to the Planning Board with the Application.
4. Submit all evidence and documentation that is necessary to establish that the Preliminary Plan warrants preliminary approval under the Subdivision Control Law.
5. Submit the required filing fee.

PLANNING BOARD

**Form B-1
Planning Board**

City/Town of _____, Massachusetts

Certificate of Approval of a Preliminary Plan

_____, 20 ____

City/Town Clerk

City/Town of _____

_____, Massachusetts

It is hereby certified by the Planning Board of the City/Town of _____
Massachusetts, that at a duly called and properly posted meeting of said Planning Board, held
on _____, 20 __, it was voted to approve/approve with modification a
preliminary subdivision plan entitled: _____
by: (designer) _____ dated: _____ submitted by:
_____ address: _____ owned by:
_____ address: _____ originally
filed with the Planning Board on (date) _____ concerning the
property located _____ and
showing _____ proposed lots with the following modifications.

A true copy, attest:

Clerk, _____, Planning Board

_____ Planning Board

Duplicate copy sent to applicant:

PLANNING BOARD

**Form B-2
Planning Board**

City/Town of _____, Massachusetts

Certificate of Disapproval of a Preliminary Plan

_____, 20 ____

City/Town Clerk

City/Town of _____

_____, Massachusetts

It is hereby certified by the Planning Board of the City/Town of _____
Massachusetts, that at a duly called and properly posted meeting of said Planning Board, held
on _____, 20 __, it was voted to disapprove a preliminary subdivision plan
entitled: _____ by:

_____ dated: _____
submitted by: _____ address: _____
owned by: _____ address: _____
originally filed with the Planning Board on _____
concerning property located _____
and showing _____ proposed lots with the following reasons:

A true copy, attest:

Clerk, _____, Planning Board

_____ Planning Board

Duplicate copy sent to applicant:

PLANNING BOARD

Town of Norwell Planning Board

Form C

Application for Approval of Definitive Plan

To the Norwell Planning Board:

1. Name of Applicant(s): _____
Address: _____
Telephone: _____
E-mail Address: _____
2. Name of Owner(s): _____
Address: _____
Telephone: _____
E-mail Address: _____
3. Name of Engineer
and/or Surveyor: _____
Address: _____
Telephone: _____
E-mail Address: _____
4. Location of Property
(Street Address): _____
5. Zoning District: _____
6. Assessing Information: _____
7. Size of Property
(Both in Square Feet
and Acreage): _____
8. Registry References: _____
(Book/Page; Date)
(Plan Number, etc.)

The undersigned Applicant(s) hereby submit(s) the accompanying plan of land, entitled _____
_____ that was prepared by _____
and that is dated _____ (the "Plan"), for definitive subdivision approval under the
Subdivision Control Law and the Rules and Regulations, in the belief that the Plan conforms to
the Planning Board's Rules and Regulations as set forth below.

1. The land shown on the Plan is subject to the following easements and restrictions:

NORWELL CODE

2. There are appurtenances to the land shown on the Plan and easements and restrictions as follows: _____

3. The Plan has/has not (circle one) evolved from a preliminary plan submitted to the Norwell Planning Board on _____ (insert date) and approved/approved with modifications/disapproved (circle one) by the Norwell Planning Board on _____ (insert date if applicable).
4. A. Number of residential lots: _____
 B. Number of nonresidential lots: _____
5. Approximate length of each road: _____
6. The Applicant agrees, if the Plan is approved and endorsed, to perform and complete all work on the ground within the proposed subdivision as required by the Rules and Regulations of the Planning Board in force and effect on the date of this application (or, if applicable, on the date of the Preliminary Plan).
7. The Applicant agrees, if the Plan is approved and endorsed, to complete all required work within three years from the date of endorsement of the Definitive Plan by the Board, unless an application to extend such time period is filed with the Planning Board before the three-year time period expires and is thereafter approved by the Planning Board, otherwise subdivision approval shall be sought again.
8. The Application is accompanied by an original drawing of the Plan in accordance with the requirements of the Rules and Regulations of the Planning Board, and a certificate by the registered professional(s) who prepared the Plan that the Plan complies with said requirements.

I/We (circle one) hereby certify that the facts asserted above are true and accurate to the best of my/our (circle one) knowledge after having made a good faith investigation of the facts. I/We (circle one) hereby further certify that all of the owners of record of the land shown on the Plan have assented to this Application and have signed the Application below.

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS _____
 DAY OF _____, 20__.

 Signature of Applicant
 Print Name: _____

 Signature of Applicant
 Print Name: _____

PLANNING BOARD

I/We (circle one) hereby certify that I/we are the record owners of the subject property shown on the Plan and that I/We (circle one) hereby assent to this application.

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS _____
DAY OF _____, 20__.

Signature of Owner
Print Name: _____

Signature of Owner
Print Name: _____

NORWELL CODE

Engineer's Certificate

I hereby certify that I prepared the Plan, that I have reviewed the Norwell Planning Board's applicable Rules and Regulations, that the Plan was prepared based upon a ground survey performed on [insert date(s)]: _____ by _____, and that, to the best of my knowledge and belief, the Plan conforms to all of the requirements of the Norwell Planning Board Subdivision Rules and Regulations, regarding definitive subdivision plan submissions. (In the event that the Definitive Plan does not conform to all requirements, the engineer shall submit a letter indicating each way in which the Plan does not conform and why.)

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS _____
DAY OF _____, 20__.

Signature of Registered Engineer

Print Name: _____

Surveyor's Certificate

I hereby certify that I performed an on the ground survey on _____ [insert date(s) of the survey] upon which the Plan was based, that I have reviewed the Norwell Planning Board's applicable Rules and Regulations and that the Survey conformed to all applicable requirements of federal, state and local law and all applicable professional rules and regulations and the requirements of the Norwell Planning Board Subdivision Rules and Regulations, regarding definitive plan submissions.

(In the event that the Plan does not conform to all requirements, the engineer or surveyor shall submit a letter indicating each way in which the Plan does not conform and why.)

SIGNED UNDER OATH AND SUBJECT TO THE PENALTIES OF PERJURY THIS _____
DAY OF _____, 20__.

Signature of Registered Surveyor

Print Name: _____

PLANNING BOARD

Form C
Application Filing Instructions

1. Submit one original Form C application (fully executed) and six copies thereof to the Planning Board.
2. In the event that the application is signed by a trustee of a trust, an officer of a corporation or limited liability corporation, or a partner of a partnership, then a proper affidavit or certificates signed under oath and notarized shall be provided to support each such signature.
3. Submit 18 copies of the Definitive Plan to the Planning Board.
4. Submit a copy of the names and addresses of all owners of land abutting upon the land included in the Plan as appearing on the most recent tax list and as certified by the Tax Assessor.
5. Submit all evidence and documentation that is necessary to establish that the Definitive Plan is entitled to approval under the Subdivision Control Law and the Rules and Regulations.
6. Submit a Mylar of the Plan to the Planning Board for endorsement only after the definitive plan has been approved.
7. Submit the required filing fee.
8. Submit the required technical review fee, which shall be maintained in a separate review fee account, and shall have a minimum amount of \$5,000 at all times.

PLANNING BOARD

**Form C-1
Planning Board**

City/Town of _____, Massachusetts

Certificate of Approval of a Definitive Plan

_____, 20 ____

City/Town Clerk

City/Town of _____

_____, Massachusetts

It is hereby certified by the Planning Board of the City/Town of _____, Massachusetts, that at a duly called and properly posted meeting of said Planning Board, held on _____, 20 __, it was voted to approve a definitive subdivision plan entitled:

by: (designer) _____ dated: _____ submitted

by: _____ address: _____

_____ owned by: _____

address: _____

originally filed with the Planning Board on (date) _____ concerning the property located _____

and showing (No.) _____ proposed lots, with the following condition(s):

Endorsement of the approval is conditional upon the provision of a performance guarantee, in the form of a (Covenant/Agreement) _____ duly executed and approved, to be noted on the plan and recorded with the (county) _____ County Registry of Deeds, said form of guarantee may be varied from time to time by the applicant subject to agreement on the adequacy and amount of said guarantee by the Board.

NOTE TO PLANNING BOARD:

Conditions should be written on the endorsed plan which is recorded or should be set forth in a separate instrument, which could be a copy of the approval vote, and which should be referenced on the endorsed and recorded plan.

NORWELL CODE

NOTE TO CLERK:

The Planning Board should be notified immediately of any appeal to the Superior or Land Court on this subdivision approval made within the statutory twenty-day appeal period. If no appeal is filed with your office the Planning Board should be notified at the end of the twenty-day appeal period in order that the plan(s) may be endorsed.

A true copy, attest:

Clerk, _____, Planning Board

_____ Planning Board

Duplicate copy sent to applicant:

Massachusetts Federation of Planning and Appeals Boards 1972
(Revised 1980, 1983, 1988)

PLANNING BOARD

**Form C-2
Planning Board**

City/Town of _____, Massachusetts

Certificate of Approval with Modifications of a Definitive Plan

_____, 20 ____

City/Town Clerk

City/Town of _____

_____, Massachusetts

It is hereby certified by the Planning Board of the City/Town of _____
Massachusetts, that at a duly called and properly posted meeting of said Planning Board, held
on _____, 20__, it was voted to approve a definitive subdivision plan
entitled: _____

by: (designer) _____ dated: _____

submitted by: _____ address: _____

_____ owned by: _____

address: _____

originally filed with the Planning Board on (date) _____ concerning the
property located _____

and showing (No.) _____ proposed lots, with the following modifications:

and with the following conditions:

Endorsement of the approval is conditional upon the provision of a performance guarantee, in
the form of a (Covenant/Agreement) _____ duly executed and approved, to be
noted on the plan and recorded with the (county) _____ County Registry of
Deeds, said form of guarantee may be varied from time to time by the applicant subject to
agreement on the adequacy and amount of said guarantee by the Board. Modifications must
also be shown on the plan before its endorsement and recording.

NORWELL CODE

NOTE TO PLANNING BOARD:

Conditions should be written on the endorsed plan which is recorded or should be set forth in a separate instrument, which could be a copy of the approval vote, and which should be referenced on the endorsed and recorded plan.

NOTE TO CLERK:

The Planning Board should be notified immediately of any appeal to the Superior or Land Court on this subdivision approval made within the statutory twenty-day appeal period. If no appeal is filed with your office the Planning Board should be notified at the end of the twenty-day appeal period in order that the plan(s) may be endorsed.

A true copy, attest:

Clerk, _____, Planning Board

_____ Planning Board

Duplicate copy sent to applicant:

PLANNING BOARD

**Form C-3
Planning Board**

City/Town of _____, Massachusetts

Certificate of Disapproval of a Definitive Plan

_____, 20 ____

It is hereby certified by the Planning Board of the City/Town of _____, Massachusetts, that at a duly called and properly posted meeting of said Planning Board, held on _____, 20____, it was voted to disapprove a definitive subdivision plan entitled: _____

by: (designer) _____ dated: _____

submitted by: _____ address: _____

_____ owned by: _____

address: _____

originally filed with the Planning Board on (date) _____ concerning the property located _____

and showing (No.) _____ proposed lots because the plan fails to conform to the Planning Board's Rules and Regulations or the recommendations of the Board of Health in the following respects:

NOTE TO CLERK:

The Planning Board should be notified immediately of any appeal to the Superior or Land Court on this subdivision approval made within the statutory twenty-day appeal period.

A true copy, attest:

Clerk, _____, Planning Board

_____ Planning Board

Duplicate copy sent to applicant:

Massachusetts Federation of Planning and Appeals Boards 1972
(Revised 1980, 1983, 1988)

PLANNING BOARD

Form C-4
Planning Board
Request for Extension of Time

Date _____

TO: Norwell Planning Board

A request for an extension of the time in which the Planning Board must take final action on the definitive subdivision application for _____ Subdivision is hereby submitted.

Please extend the time for your final action from _____ to and including _____.

I hereby certify, under oath, that I am the applicant or the authorized representative of the applicant and have the authority to make this request.

Applicant or authorized representative

PLANNING BOARD

Town of Norwell Planning Board

**Form D
Assessor's Certified List of Abutters**

To the Norwell Tax Assessor:

The undersigned is an applicant for approval of a definitive subdivision plan, entitled _____ prepared by _____ (engineers or surveyor), dated _____, and hereby submits the attached sketch plan (Exhibit A), which shows the location of the land proposed to be subdivided, and the attached list of the names and addresses of all of the owners of land abutting upon the land included in the definitive plan, including owners separated from the subject land included in the subdivision by a way, based upon the most recent tax list (Exhibit B).

The undersigned hereby requests a certification from the Tax Assessor that the list of owners set forth in Exhibit B is accurate and shows all of the owners of land abutting upon the land included in the definitive plan, including owners separated from the subject land included in the subdivision by a way, based upon the most recent tax list.

WITNESS OUR HAND(S) AND SEAL(S) this _____ day of _____, 20__.

Signature of Applicant

Signature of Owner(s)

Printed Name of Applicant

Owner

Norwell, MA, _____, 20__.

To the Planning Board:

This is to certify that, based upon the most recent tax list, the names and addresses set forth in Exhibit B which I have/have not initialed (circle one) represents/does not represent (circle one) the names and addresses of all of the owners of land abutting upon the land included in the proposed subdivision plan.

Norwell Tax Assessor

[This form is not complete without the required attached sketch plan (Exhibit A), the list of owners (Exhibit B) and the signature of the Tax Assessor or Board of Assessors.]

PLANNING BOARD

Town of Norwell Planning Board

**Form E
Surety Forms**

**Form E-1
Performance Guaranteed by a Surety Covenant**

KNOW ALL PERSONS by these presents that the undersigned applicant(s) (the "Applicant") obtained approval from the Norwell Planning Board on _____ for a definitive subdivision plan (the "Plan"), which is entitled _____

_____ was prepared by _____, and is dated _____, as revised through _____, for land that is located _____ and known as Norwell Assessor's Parcel _____, and which depicts a total of _____ residential/nonresidential lots (circle one).

The undersigned Applicant has requested the Planning Board to endorse the approved Plan and accept a covenant form of surety to secure construction of the ways and the installation of the municipal services shown on the Plan under MGL c. 41, § 81U, Paragraph 7(3).

IN CONSIDERATION of said Norwell Planning Board's approval and endorsement of the Plan, the undersigned Applicant hereby certifies to and covenants and agrees with the inhabitants of the Town of Norwell, acting by and through the Planning Board, as follows:

1. That the undersigned Applicant is the sole owner in fee simple absolute of all the land included in the subdivision shown on the Plan. (Note: If there is more than one owner, all owners must sign.)
2. That there are no mortgages of record or otherwise on any of the land included in the subdivision shown on the Plan, except for those mortgage interests expressly and fully described below and for all of which the present holders of all said mortgages have assented to this Agreement by either duly signing this instrument or by providing a separate duly executed instrument, the original of is appended hereto as an exhibit.
3. That the undersigned shall not sell or convey any lot in the subdivision shown on the Plan or erect or place any permanent building on any such lot until the construction of the ways and the installation of the municipal services that are necessary to adequately serve such lot have been completed in accordance with the covenants, conditions, agreements, terms and provisions as specified in all of the following documents:
 - A. The Form C Application for Definitive Subdivision Approval of the Plan, which is dated _____.
 - B. The Subdivision Control Law (i.e., MGL c. 41, §§ 81K to 81GG).

NORWELL CODE

- C. The Norwell Planning Board's Subdivision Rules and Regulations, dated _____.
- D. The Certificate of Approval and Decision, including all conditions of approval contained therein, as issued by the Norwell Planning Board for the Plan and filed by the Planning Board with the Norwell Town Clerk on _____.
- E. The Definitive Plan, which is dated _____, as revised through _____, and as approved and qualified by the Planning Board's Certificate of Approval and Decision with Conditions.
- F. The following easements: _____

- G. The following covenants: _____

- H. The following Homeowners' Association Trust and its conditions and requirements (set forth the Book and Page and date of the Trust's recording at the Registry of Deeds):

- I. The Conservation Plan, dated _____, as revised through _____ and prepared by _____, and approved by the vote of the Norwell Planning Board taken on _____, 20__.
- J. Other Documents: _____

4. That this covenant shall be binding upon the undersigned and the assenting mortgagees and their respective executors, administrators, devisees, heirs, successors and assigns and shall constitute a covenant running with the land included in the subdivision shown on the Plan and shall operate as restrictions upon the land.
5. That a mortgagee, who acquires title to the mortgaged premises by foreclosure or otherwise, and any succeeding owner of such premises or part thereof may sell or convey any lot in the subdivision shown on the Plan, subject, however, to the restrictions set forth herein, including that no such lot shall be built upon until such ways and services have been

PLANNING BOARD

provided to serve such lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to this covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board.

6. That all of the lots or particular lots with the subdivision shown on the Plan shall be released from the condition of this covenant, which prohibits conveyance or building upon said lot or lots, upon the recording of a certificate of satisfactory completion of performance that has been duly executed by a majority of the Planning Board and that enumerates the specific lot or lots that are to be released.
7. That this covenant shall be duly executed before endorsement of approval of the Plan by the Planning Board (or release of the endorsed Plan by the Planning Board) and shall take effect upon endorsement.
8. That the undersigned Applicant agrees to duly record this fully and duly executed covenant with the Plymouth County Registry of Deeds or Land Court, as appropriate, at the undersigned's expense, forthwith, and to provide proper evidence of said recording to the Planning Board before the Plan is endorsed or before the endorsed Plan is released to the undersigned by the Planning Board.
9. That, upon final completion, satisfactory to the Norwell Planning Board, of the construction of the ways and installation of the municipal services shown on the Plan as specified herein, on or before _____, the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be specified by majority vote of the Planning Board, with the written concurrence of the applicant, shall result in automatic rescission of the approval of the Plan. Upon performance of this covenant, with respect to any particular lot, the Planning Board may release such particular lot from this covenant by an appropriate instrument duly acknowledged and recorded.
10. That nothing herein shall prohibit the Applicant or the Applicant's successor in interest from varying the method of securing the construction of ways and the installation of municipal services as required hereunder from time to time as described in MGL c. 41, § 81U, Paragraph 7.

SIGNED UNDER OATH AND SEAL THIS ____ DAY OF _____, 20__.

Applicant #1: _____
 Signature
 Print Name: _____
 Address: _____

NORWELL CODE

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who is personally known to me/who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

Applicant #2: _____
Signature
Print Name: _____
Address: _____

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who is personally known to me/who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

NOTE: In the event that any signatory is a trustee or an officer of a corporation or manager of a limited liability corporation or a partner in a partnership, each such signatory shall provide the appropriate certificates or affidavits evidencing that the undersigned has the present authority to execute this document.

Norwell Planning Board:

(Pursuant to an affirmative vote taken on: _____)

PLANNING BOARD

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named Norwell Planning Board members, who are personally known to me/who identified themselves to me to my satisfaction, and signed this document voluntarily as their free act and deed and for its stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

Description of Mortgage(s):
(List all Mortgagees and Registry of Deed references and dates.)

- 1.
- 2.
- 3.

Mortgagee Assents:

1. Name of First Mortgagee: _____
Address: _____

I, _____, on behalf of _____,
being duly authorized to do so, in accordance with the documentation provided herewith and
appended hereto as an exhibit, hereby assent to the above Covenant and subordinate the
mortgage interests of _____ thereto.

SIGNED UNDER THE PENALTIES OF PERJURY THIS _____ DAY OF _____, 20__.

Signature
Print Name: _____

NORWELL CODE

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who is personally known to me/who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

2. Name of Second Mortgagee: _____
Address: _____

I, _____, on behalf of _____, being duly authorized to do so, in accordance with the documentation provided herewith and appended hereto as an exhibit, hereby assent to the above Covenant and subordinate the mortgage interests of _____ thereto.

SIGNED UNDER OATH AND THE PENALTIES OF PERJURY THIS ____ DAY OF _____, 20__.

Signature
Print Name: _____

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who is personally known to me/who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

NOTE: Original certificates, affidavits and attorney-in-fact documents that properly evidence the authority of the above-referenced signatories to execute this document shall be duly executed and appended to this document before it shall be deemed to be complete.

PLANNING BOARD

Town of Norwell Planning Board

Form E-2

Performance Secured by Deposit of Money

AGREEMENT made this date _____, between the Town of Norwell, acting by and through the Norwell Planning Board, and _____, who has a usual place of business at _____ (the "Applicant"), to secure construction of ways and installation of municipal services and other improvements for the subdivision of land located _____ (Assessor's Parcel _____) and owned by _____ and shown on a plan entitled "_____", that was prepared by _____, dated _____, that depicts _____ residential building lots and was granted definitive subdivision approval by the Planning Board pursuant to a Certificate of Approval filed with the Norwell Town Clerk on _____.

KNOW ALL PERSONS by these presents that the Applicant hereby binds and obligates itself/himself/herself/themselves and the Applicant's executors, administrators, devisees, heirs, successors and assigns to the Town of Norwell, acting by and through the Norwell Planning Board, in the sum of \$ _____ dollars, and has secured this obligation by depositing with the Town of Norwell Treasurer a deposit of money in the aforementioned sum to be deposited in a subdivision escrow account in the name of the Town of Norwell. Said deposit shall be used to insure the performance by the Applicant of all covenants, conditions, agreements, terms and provisions contained in the following documents:

- 1) The Application for approval of the definitive plan, dated _____;
- 2) The Subdivision Control Law, MGL c. 41;
- 3) The Planning Board's applicable Subdivision Rules and Regulations;
- 4) The conditions set forth in the Certificate of Approval issued by the Planning Board and filed with the Norwell Town Clerk on _____ and recorded with the Plymouth County Registry of Deeds at Book _____, Page _____;
- 5) The definitive plan as qualified by the Certificate of Approval and as hereinafter endorsed and recorded; and
- 6) The following additional documents that set forth construction or installation requirements:
 - A. _____
 - B. _____
 - C. _____
 - D. _____
 - E. _____

This Agreement shall remain in full force and effect until the Applicant has fully and satisfactorily performed all of the obligations secured hereunder or has elected to provide another method of securing performance as provided for under MGL c. 41, § 81U, Paragraph 7

NORWELL CODE

et. seq. Furthermore, in the event that increased security is required to be posted, the Applicant agrees that the Applicant shall post said security in a timely manner.

Upon satisfactory and timely completion of all of the obligations secured hereunder, the deposit of money made hereunder, including all interest accrued thereon, shall be returned to the Applicant by the Town and this Agreement shall become void. The time for completion of said obligations shall be not later than March 1, 2006, or such later date as may be specified by formal vote of the Planning Board with the concurrence of the Applicant. The Planning Board shall have the right, but not the obligation, to seek to use the deposit of moneys made hereunder and said deposit shall remain in place unless and until all of the obligations secured hereunder are satisfactorily completed or the Planning Board seizes said funds and uses them to complete said obligations. Any unused portion of the deposited funds and interest accrued thereunder will be returned to the Applicant upon completion of the secured obligations by the Town.

The Applicant hereby grants a license to the Town of Norwell and the Norwell Planning Board and its agents to perform the obligations secured hereunder and agrees to grant any easement that the Town may deem necessary to perform said work.

In consideration of the terms and conditions of the above Agreement, the Town, acting by and through its Planning Board, hereby agrees to accept the aforesaid deposit of money in the amount specified in this Agreement as security for the performance of the obligations referenced above.

Any amendments to this Agreement or to the form of the surety provided shall be agreed upon in writing and executed by all parties to this Agreement.

IN WITNESS WHEREOF, we set our hands and seals in agreement hereto this _____ day of _____, 20__ and in consideration of an affirmative vote of the Planning Board duly taken on _____, 20__.

NORWELL PLANNING BOARD

PLANNING BOARD

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, a/the members of the Planning Board of the Town of Norwell, Massachusetts, personally known to me/who identified him/herself/themselves satisfactorily to me, and acknowledged the foregoing instrument to be his/her/their free act and deed and for the stated purpose.

Notary Public
My commission expires: _____

If the Applicant is a Trust:

IN WITNESS WHEREOF, I also set my hand and seal in agreement hereto this _____ day of _____, 20__ on behalf of the _____ Trust, being duly authorized to do as set forth in the documentation provided herein, and for consideration of good and valuable consideration, the receipt of which is hereby acknowledged.

Trustee
Print Name: _____

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, as Trustee of said Trust, who identified him/herself satisfactorily to me, and acknowledged the foregoing instrument to be his/her free act and deed and for the stated purpose.

Notary Public
My commission expires: _____

TRUSTEE'S CERTIFICATE

Norwell, Massachusetts _____, 20__

I, _____, hereby state under oath that I am a Trustee of the Trust (the "Trust"), that the Trust is in full force and effect, that I am the sole Trustee of the Trust or am duly authorized under the terms of the Trust to make this statement and that the above-referenced Trustee is authorized under the Trust to enter into this Agreement.

Trustee

NORWELL CODE

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS.

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, as Trustee of said Trust, who identified him/herself satisfactorily to me, and acknowledged the foregoing instrument to be his/her free act and deed and for the stated purpose.

Notary Public

My commission expires: _____

If the Applicant is a Corporation:

IN WITNESS WHEREOF, I also, on behalf of _____ (the "Corporation"), being duly authorized to do so in accordance with the documentation provided herewith, and for good and valuable consideration, the receipt of which is hereby acknowledged, hereby set my hand and seal in agreement hereto this ____ day of _____, 20__.

Name of Corporation

By: President/Treasurer (circle one)

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS.

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, who identified him/herself satisfactorily to me, and acknowledged the foregoing instrument to be his/her free act and deed and for the stated purpose.

Notary Public

My commission expires: _____

PLANNING BOARD

CORPORATE CLERK CERTIFICATE

, SS _____, 20__

I, _____, the duly appointed clerk of _____, (the "Corporation") hereby state, being under oath, hereby certify that I am the duly appointed clerk of the corporation and that the above named _____ is the president/treasurer of the Corporation or was authorized, by a proper vote of the Corporation taken on _____, 20 ____, at a meeting of the Corporation that was duly convened, to enter into this Agreement on behalf of the Corporation.

Clerk
Print Name: _____

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS.

On this _____ day of _____, 20__ before me, the undersigned notary public, personally appeared _____, as Clerk of the said Corporation, who identified him/herself satisfactorily to me, and acknowledged the foregoing instrument to be his/her free act and deed and for the stated purpose.

Notary Public
My commission expires: _____

TREASURER'S ACKNOWLEDGEMENT OF DEPOSIT

Norwell, Massachusetts

This is to certify that I, _____, Town Treasurer for the Town of Norwell, Massachusetts, received a deposit of money from the Applicant in the amount of \$_____ Dollars and deposited said monies in an interest bearing/noninterest bearing account with the following financial institution: _____ in account number _____ on the following date: _____.

Dated: _____

Town Treasurer

PLANNING BOARD

Town of Norwell Planning Board

Form E-3

Performance Secured by Surety Bond

AGREEMENT made this date by and between the following parties: (1) the Town of Norwell, Massachusetts, acting by and through its Planning Board; (2) _____ (the "Applicant"), who has a regular place of business at _____; and _____, a corporation duly organized and existing under the laws of the state of _____ and licensed to do business in Massachusetts, and which has a usual place of business at _____ (the "Surety"), for the purpose of securing the construction of the ways and the installation of the municipal services for the subdivision of land, consisting of _____ residential/nonresidential lots (circle one), as shown on a definitive plan (the "Plan") that is entitled "_____", and was prepared by _____ and dated _____, as revised through _____, and as required under the Planning Board's applicable Subdivision Rules and Regulations and its certificate of vote of definitive approval, filed with the Norwell Town Clerk on _____ and endorsed by the Planning Board on _____ and recorded at the Plymouth Registry of Deeds at Book _____, Page _____ (collectively, the "Improvements").

KNOW ALL PERSON by these presents that the Applicant and the Surety hereby bind and obligate themselves and their respective heirs, executors, administrators, successors, and assigns, both jointly and severally, to the Town of Norwell, a Massachusetts municipal corporation, acting by and through the Norwell Planning Board, In the sum of \$_____ Dollars, and have secured this obligation by depositing with the Norwell Town Treasurer a surety bond, dated _____ and without an expiration date, in order to secure the above sum of money, said surety bond to be used to insure the performance by the Applicant of the satisfactory and timely completion of the improvements and all covenants, conditions, agreements, terms and provisions contained in the following:

- 1) The Form C Application for Approval of the Plan, executed by the Applicant or the Applicant's predecessor in interest on _____;
- 2) The Subdivision Control Law, MGL c. 41;
- 3) The Planning Board's applicable Subdivision Rules and Regulations;
- 4) The conditions set forth in the Certificate of Approval issued by the Planning Board and filed with the Norwell Town Clerk on _____ and recorded with the Plymouth County Registry of Deeds at Book _____, Page _____;
- 5) The Plan as qualified by the Certificate of Approval and as thereafter endorsed and recorded; and

NORWELL CODE

6) The following additional documents that set forth construction or installation requirements:

- A. The Conservation and Construction Plan, dated _____;
- B. The Grading Plan, dated _____;
- C. The Operations and Maintenance Plan, dated _____;
- D. The Homeowners' Association Trust, dated _____;
- E. The Sight Distance Plan, dated _____;
- F. The following additional documents: _____;

The parties hereby agree that this Surety instrument shall insure completion of the Improvements and other above-numerated conditions to support: (circle one)

- (1) All of the lots shown on the Plan; or
- (2) The following enumerated lots on the Plan: _____.

This agreement shall remain in full force and effect until the Applicant has fully and satisfactorily performed all obligations stated hereunder or has elected to provide another method of securing said obligations as provided for under MGL c. 41, § 81U, Paragraph 7.

Upon completion of all of the obligations specified herein, on or before the following date: _____, or as may be extended by the formal vote of the Norwell Planning Board with the written concurrence of the Applicant and the Surety, then the interest of the Town, by and through the Planning Board, shall be released and the surety bond shall be returned to the Surety and this agreement shall become void.

In the event that the Applicant should fail to complete said obligations in a satisfactory and timely manner as specified in this Agreement, then said surety bond may be enforced, in whole or in part, by the Planning Board for the benefit of the Town of Norwell to the extent of the reasonable cost to the Town to complete said obligations as specified in this Agreement. The Planning Board shall have the right, but not the obligation, to demand and seize the bond proceeds. Any delay in the Planning Board in exercising such right shall not operate as a waiver of such rights. Any unused portion of the surety bond shall be released and returned to the Surety upon satisfactory completion of said obligations.

Any amendments to the Agreement and to the aforesaid surety bond that secures this Agreement shall be agreed upon in writing by all parties to this Agreement.

IN WITNESS WHEREOF I have hereunto set my hand and seal, for good and valuable consideration, the receipt of which is hereby acknowledged, and hereby certify under oath that I have the authority to do so on this _____ day of _____, 20__.

APPLICANT

Signature
Print Name: _____

PLANNING BOARD

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

IN WITNESS WHEREOF I have hereunto set my hand and seal, for good and valuable consideration, the receipt of which is hereby acknowledged, and hereby certify under oath that I have the authority to do so on behalf of the Surety, _____ on this ____ day of _____, 20__.

SURETY
By: _____
Signature
Print Name and Title: _____
Attorney-in-Fact

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

In the event that any signatory to this Agreement is a trustee or officer of a corporation or manager of a limited liability corporation or partner in a partnership, each such signatory shall provide the appropriate certificate or affidavit evidencing that signatory has the present and requisite authority to execute this document.

NORWELL CODE

IN WITNESS WHEREOF we hereunto set our hands and seals, for good and valuable consideration, the receipt of which is hereby acknowledged _____ on this _____ day of _____, 20__.

Norwell Planning Board:

(Vote of acceptance taken on: _____)

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this _____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____ Norwell Planning Board member(s) who are personally known to me/who identified him/herself/themselves to me to my satisfaction, and signed this document voluntarily as his/her/their free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

PLANNING BOARD

Town of Norwell Planning Board

Form E-4

Performance Secured by Lender's Agreement

Agreement made this ____ day of _____, 20__ by and between the following parties: (1) _____ (the "Applicant"), who has a usual place of business at _____; (2) _____ (the "Lender"), who has a usual place of business at _____; and (3) the Town of Norwell, acting by and through the Norwell Planning Board (the "Planning Board"), as set forth below.

KNOW ALL PERSONS by these presents that the Applicant and the Lender hereby bind themselves and their respective executors, administrators, devisees, heirs and successors and assigns, jointly and severally, to the Town of Norwell, acting by and through its Planning Board, in the sum of \$_____, in order to secure construction of the ways and installation of the municipal services as shown on a definitive subdivision plan entitled _____, as prepared by _____ and dated _____, 20__, as revised through _____ (the "Plan"), and as approved and modified by the Planning Board pursuant to a Certificate of Vote that was duly filed with the Norwell Town Clerk on _____, 20__ and recorded in the Plymouth Registry of Deeds at Book _____, Pages _____ on _____, 20__, and based upon and in consideration of the facts and circumstances described below.

1. The Planning Board approved the Plan and the Applicant either (circle one):
 - A. Has executed an instrument entitled "Performance Guaranteed By a Surety Covenant," dated _____, 20__, recorded in said Deeds Book _____, Page _____ and the Applicant desires a release or partial release of the Covenant in consideration of the Lender's Agreement; or
 - B. Desires the Planning Board now to endorse the Plan in consideration of this Lender's Agreement; and
2. The Applicant has granted to the Lender a mortgage dated _____, 20__, recorded in said Registry of Deeds at Book _____, Page _____ securing lots numbered _____ as shown on the Plan as security for the payment of a certain note in the principal sum of \$_____, and
3. The Lender has withheld \$_____ of said principal sum, which sum has been determined by the Planning Board to be sufficient to secure construction of the ways and installation of the municipal services, as shown on the Plan and modified by the Planning Board's Certificate of Vote and conditions thereto, and the Lender has agreed with the Applicant and the Lender hereby agrees with the Planning Board and the Applicant that said sum of \$_____ shall not be disbursed by the Lender to the Applicant unless and until construction of the ways and the installation the municipal services as shown on the Plan and required under the Planning Board's Rules and Regulations and Certificate of Approval, with conditions, is completed to the satisfaction of the Planning Board; and

NORWELL CODE

4. The parties hereby agree that the required construction of ways and installation of municipal services secured hereunder shall be subject to all of the covenants, agreements, conditions, terms and provisions contained in the following documents:
 - A. The Application for Approval of Definitive Plan, executed by the Applicant or the Applicant's predecessor, on _____;
 - B. The Subdivision Control Law;
 - C. The applicable Subdivision Rules and Regulations;
 - D. The Planning Board's Certificate of Vote and Conditions, filed with the Town Clerk on _____;
 - E. The Plan, as modified by the Certificate of Vote and Conditions and Rules and Regulations;
 - F. The following additional documents that set forth construction and installation requirements:
 - i) The Conservation and Construction Plan, as prepared by _____ and dated _____ and as revised through _____;
 - ii) The Grading Plan, entitled _____, as prepared by _____, and dated _____ and as revised through _____;
 - iii) The Sight Distance Plan, as prepared by _____ and dated _____ and as revised through _____; and
5. The Applicant and the Lender hereby further agree that the aforementioned withheld sum of \$_____ shall be made available to the Planning Board upon failure of performance by the Applicant of the construction of the ways and the installation of the municipal services in a manner that is required hereunder in a manner that conforms to all applicable professional standards and is satisfactory to the Planning Board and timely hereunder; and
6. The parties agree that the time for performance (i.e., completion of the construction of the ways and the installation the municipal services shown on the Plan and required under the Rules and Regulations and Certificate of Approval is completed to the satisfaction of the Planning Board) shall be not later than _____, 20__, unless said time for performance is extended by vote of the Planning Board with the written agreement of the Applicant and the Lender.
7. The parties agree that, if the Planning Board believes that the Applicant is in default of this agreement, the Planning Board shall provide timely written notice of any such determination to the Applicant and the Lender, at the addresses set forth hereunder, and shall allow the Lender a thirty-day opportunity to cure the nonperformance before the Lender shall be obligated to pay the withheld funds in the amount of \$_____ to the Planning Board; and

PLANNING BOARD

8. The parties agree that the Planning Board has the right, but not the obligation, to demand, seize and use the withheld funds in the amount of \$_____ to cure the Applicant's nonperformance hereunder and further agree that any delay by the Planning Board in exercising its rights hereunder shall not operate as a waiver of its rights; and
9. This agreement shall remain in full force and effect until the Applicant has fully and satisfactorily performed all obligations.
10. Upon satisfactory and timely completion of the obligations as specified herein and as approved by majority vote of the Planning Board, the Board shall permit disbursement by the Lender to the Applicant of the funds set forth in the following schedule:

Sum to be Retained by Lender	Stage of Construction or Installation to be Completed	Required Date for Completion
\$		
\$		
\$		
\$		
\$		

11. In the event that the performance herein is not completed within the required time as set forth herein or as properly extended or is not completed to the Planning Board's satisfaction, the funds retained by the Lender may be demanded by the Planning Board upon written notice of a determination of default and the Lender, forthwith, shall make said funds available to the Town, by and through the Planning Board, for performance of the work, and the Applicant shall be deemed to have authorized the release of said funds for said purpose.
12. The Applicant and the Applicant's executors, administrators, devisees, heirs and successors and assigns hereby grant to the Town of Norwell and its agents, servants, employees and other designees a license to enter upon the subject land described herein in the event of a default of performance of the secured work and for the purpose of making inspections and performing said work using the default funds.
13. In the event of a default and in the event that the Town of Norwell seizes the secured funds and performs the secured work, the Town agrees that, once all of the required work has been satisfactorily performed and fully completed, the Town shall return any excess funds to the Lender and give notice to the Applicant that it has done so.
14. The obligations of the parties hereunder are to be construed under Massachusetts law and no rights granted thereunder are waived.

NORWELL CODE

IN WITNESS WHEREOF, we set our hands and seals in agreement hereto this ____ day of _____, 20__ and for good and valuable consideration, the receipt of which is hereby acknowledged.

Norwell Planning Board:

Date of Acceptance Vote: _____

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS

_____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named Planning Board members, who are personally known to me/who identified themselves to me to my satisfaction, and signed this document as their free act and deed and for its stated purpose.

Notary Public

Print Name: _____

My commission expires: _____

NOTE: In the event that any signatory hereinafter is a trustee or an officer of a corporation or manager of a limited liability corporation or a partner in a partnership, each such signatory shall provide the appropriate certificates or affidavits evidencing that the undersigned has the present authority to execute this document.

2. Lender

IN WITNESS WHEREOF, I set my hand and seal in agreement hereto this ____ day of _____, 20__ and for good and valuable consideration, the receipt of which is hereby acknowledged.

I, _____, on behalf of the Lender _____, being duly authorized to do so, in accordance with the documentation provided herewith and appended hereto as an exhibit, hereby assent to and execute this Agreement.

SIGNED UNDER THE PENALTIES OF PERJURY THIS ____ DAY OF _____, 20__.

Signature

Print Name: _____

PLANNING BOARD

COMMONWEALTH OF MASSACHUSETTS

_____, SS _____, 20____
On this _____ day of _____, 20____, before me, the undersigned notary public,
personally appeared the above-named _____, who identified
him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act
and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

3) Applicant

IN WITNESS WHEREOF, I/We set our hands and seals in agreement hereto this _____ day of
_____, 20____ and for good and valuable consideration, the receipt of which is
hereby acknowledged.

Signature
Print Name: _____

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS _____, 20____

On this _____ day of _____, 20____, before me, the undersigned notary public,
personally appeared the above-named _____, who identified
him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act
and deed and for its stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

NORWELL CODE

Applicant #2

Signature

Print Name: _____

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for its stated purpose.

Notary Public

Print Name: _____

My commission expires: _____

PLANNING BOARD

Town of Norwell Planning Board

Form E-5

Release of Subdivision Covenant

The undersigned, being a majority of the members of the Norwell Planning Board, have determined, as to the construction of ways and installation of municipal services, as required under the definitive subdivision plan entitled _____, as prepared by _____, dated _____, as revised through _____ (the "Plan"), and as the Plan was modified by the Planning Board by its Certificate of Vote, with conditions, that was filed with the Town Clerk on _____ and recorded at the Plymouth Registry of Deeds at Book _____, Page _____, and as required under the Form C Application executed by the Applicant, the Planning Board's applicable Subdivision Rules and Regulations and the Grading Plan, dated _____, the Conservation and Construction Plan, dated _____, the Sight Distance Plan, dated _____, and the additional documents listed below:

- A.
- B.
- C.
- D.

The require improvements for the construction of the ways and installation of municipal services as set forth in the above plans and documents shall be collectively referred to as the "Improvements."

The Planning Board, after obtaining technical review of the status of the completion of the Improvements has determined the following:

1. All improvements have been fully and satisfactorily completed in accordance with all of the necessary requirements, warranting release of all of the lots from the Subdivision Covenant; or
2. The Improvements have been fully and satisfactorily completed in accordance with all of the necessary requirements to serve the following enumerated lots, which may now, therefore, be released from the Subdivision Covenant: _____; or
3. Sufficient alternate surety has been provided to the Planning Board, under MGL c. 41, § 81U, Paragraph 7, to ensure completion of the Improvements for the following enumerated lots, which may, therefore, be released from the Subdivision Covenant: _____; or

As a result, the Planning Board hereby releases the following enumerated lots from the restriction of the Subdivision Covenant that prohibits conveyance or building upon the lots until the Improvements are completed, which Covenant was made by the parties on and recorded in Plymouth County Registry of Deeds at Book _____, Page _____.

NORWELL CODE

This release shall not include the release or removal or elimination of easements, restrictions or conditions recorded with or set forth in said Covenant other than the restriction prohibiting construction and conveyance of said enumerated lot(s) until the required Improvements are completed.

WITNESS OUR HANDS AND SEALS this ____ day of _____, 20__, pursuant to an affirmative vote taken on said date.

NORWELL PLANNING BOARD

COMMONWEALTH OF MASSACHUSETTS

Plymouth, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____ Norwell Planning Board member(s) who are personally known to me/who identified him/herself/themselves to me to my satisfaction, and signed this document voluntarily as his/her/their free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

PLANNING BOARD

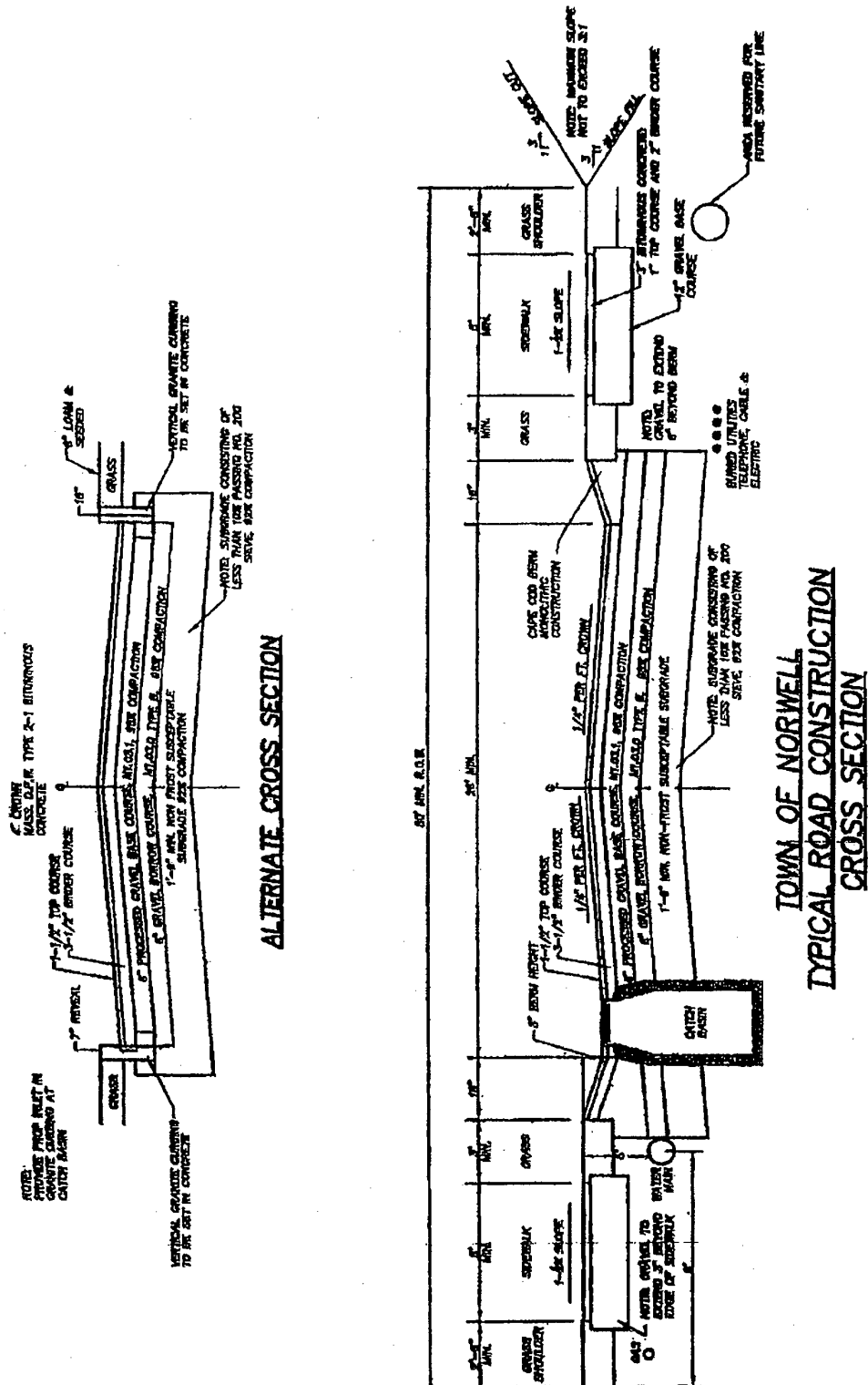
302 Attachment 2

Town of Norwell

**Appendix II
Typical Cross Sections**

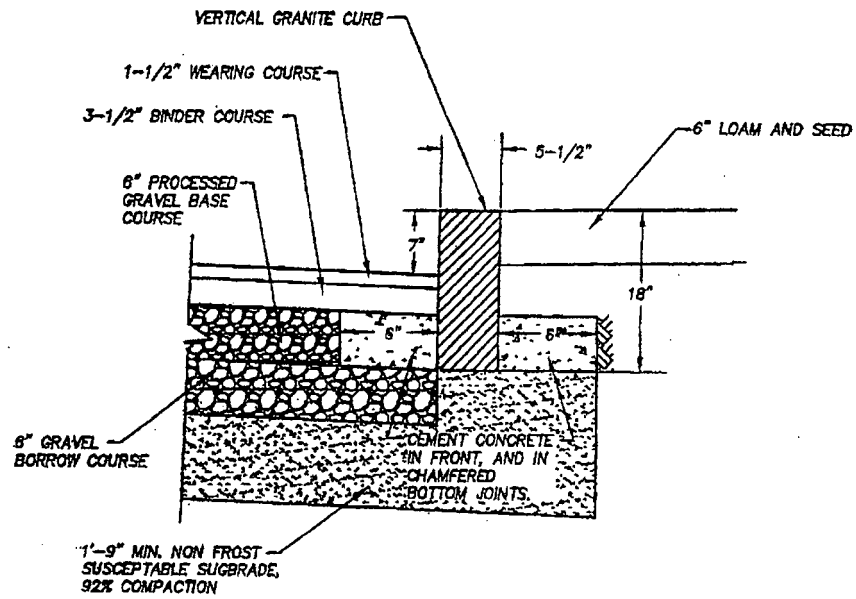
- Cross Section A. Typical Road Construction Cross Section (and Alternate Cross Section)
- Cross Section B. Typical Vertical Granite Curb Cross Section
- Cross Section C. Typical Fire Lane Cross Section
- Cross Section D. Typical Hay Bale/Silt Fence Cross Section

Cross Section A



PLANNING BOARD

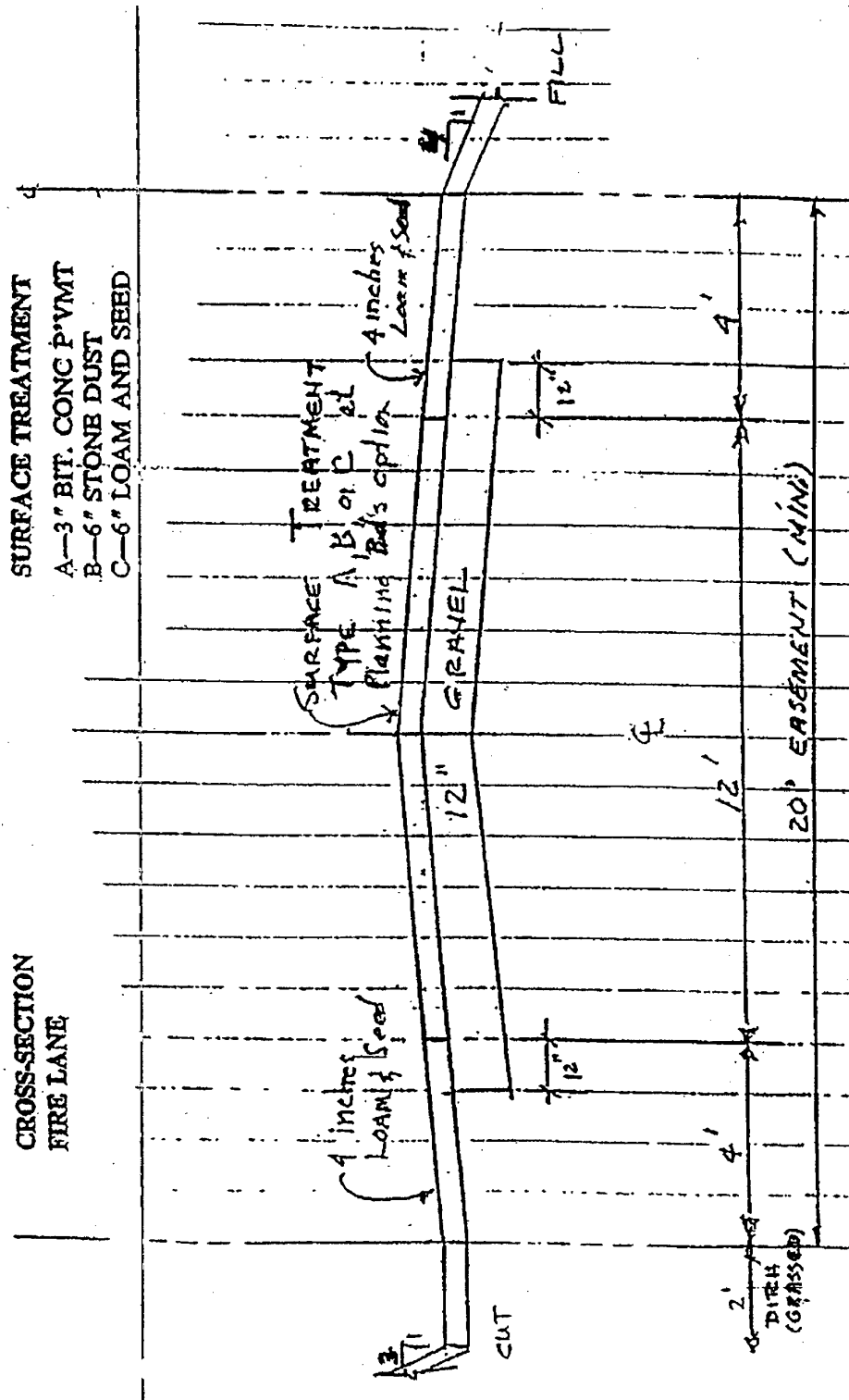
Cross Section B



VERTICAL GRANITE CURB

NORWELL CODE

Cross Section C

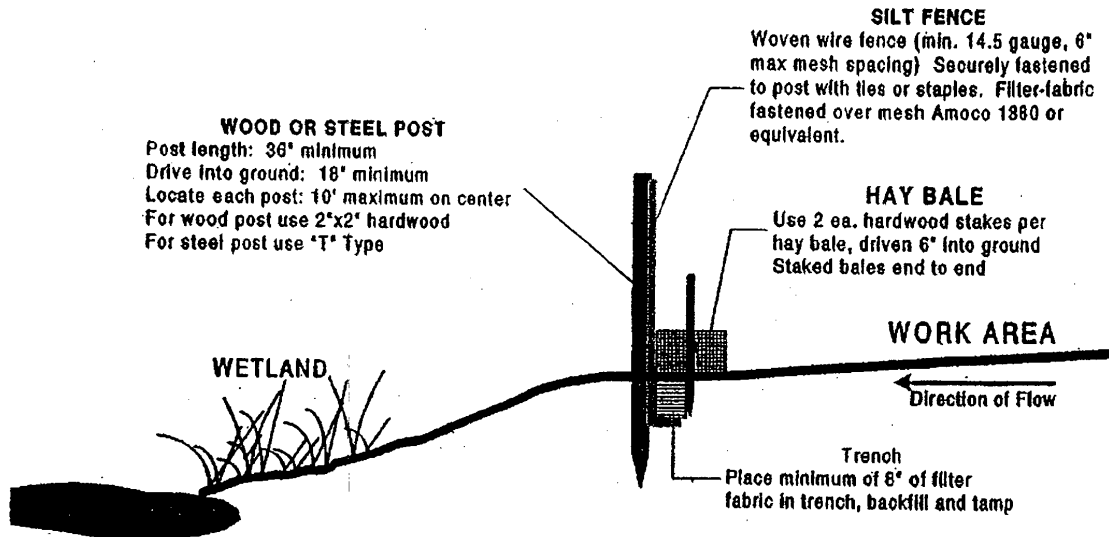


PLANNING BOARD

Cross Section D

Norwell Conservation Commission

Proper Installation
Hay Bales/Silt Fencing



PLANNING BOARD

302 Attachment 3

Town of Norwell

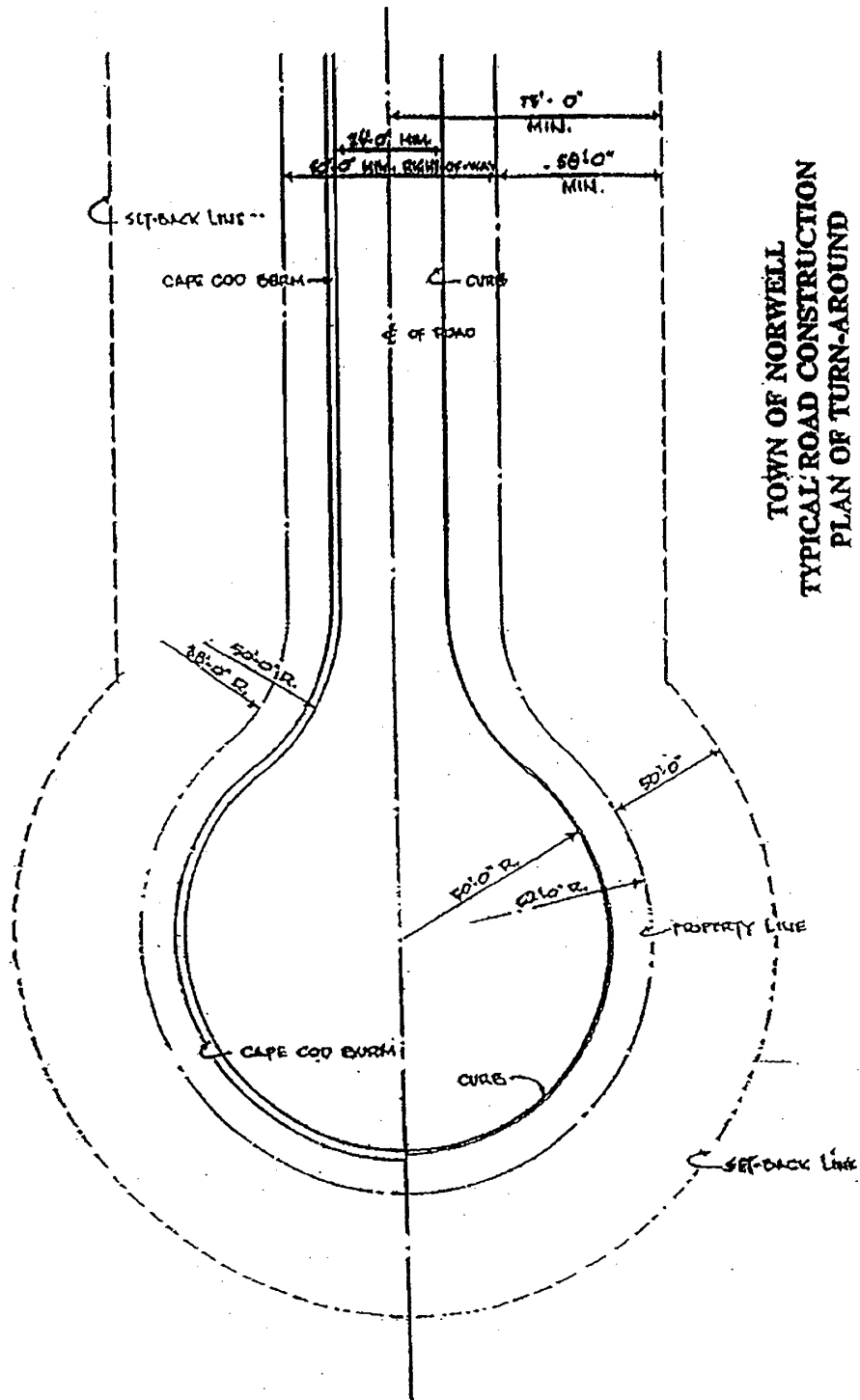
**Appendix III
Construction Detail Requirements**

- Detail A. Road Construction Plan for Cul-De-Sac Turnaround
- Detail B. Plant Materials Suitable for Screening

PLANNING BOARD

Detail A

There shall be an island in the cul-de-sac that shall have a minimum and maximum diameter of 50 feet.



TOWN OF NORWELL
TYPICAL ROAD CONSTRUCTION
PLAN OF TURN-AROUND

PLANNING BOARD

Detail B

Evergreen Trees

Abies concolor — White Fir
Cedrus libani — Cedar of Lebanon
Chamaecyparis lawsonia — Lawson Falsecypress
Chamaecyparis obtusa — Hinoki Falsecypress
Chamaecyparis pisifera — Sawara or Japanese Falsecypress
Cryptomeria japonica — Japanese Cryptomeria
Ilex opaca — American Holly
Juniperus chinensis — Chinese Juniper (sp)
Juniperus virginiana — Eastern Red Cedar
Picea abies — Norway Spruce
Picea omorika — Serbian Spruce
Picea pungens — Colorado Spruce
Pinus flexilis — Limber Pine
Pinus ponderosa — Ponderosa Pine
Pinus resinosa — Red Pine
Pinus strobus — Eastern White Pine
Pinus thunbergii — Japanese Black Pine
Psuedotsuga menziesii — Douglas Fir

Evergreen Shrubs

Azalea (sp)
Buxus microphylla var. *Koreana* — Korean Littleleaf Boxwood
Buxus sempervirens — Common Box or Boxwood
Ilex crenata — Japanese Holly
Ilex glabra — Inkberry Holly
Juniperus chinensis — Chinese Juniper
Juniperus conferta — Shore Juniper
Juniperus horizontalis — Creeping Juniper
Kalmia latifolia — Mountain Laurel
Leucothoe fontanesiana — Drooping Leucothoe
Pieris floribunda — Mountain Pieris
Pieris japonica — Japanese Pieris
Rhododendron catawbiense — Catawaba Rhododendron
Rhododendron maximum — Rosebay Rhododendron
Rhododendron — PJM — PJM Rhododendron
Taxus — Yew
Thuja occidentalis — White Cedar

Deciduous Shrubs

Clethra alnifolia — Summersweet
Comus alba — Tatarian Dogwood
Cornus amomum — Silky Dogwood
Cornus mas — Cornelian Cherry Dogwood

NORWELL CODE

Cornus racemosa — Gray Dogwood
Cornus stolonifera (serica) — Redosier Dogwood (serica)
Cotoneaster (sp) — Cotoneaster
Euonymus alatus — Winged Euonymus
Euonymus europaeus — European Euonymus
Forsythia x intermedia — Border Forsythia
Hamamelis virginiana — Common Witch Hazel
Ilex decidua — Possum Haw
Ilex verticillata — Winterberry
Ligustrum obtusifolium — Border Privet
Ligustrum vulgare — European Privet
Lindera benzoin — Spicebush
Myrica pensylvanica — Northern Bayberry
Philadelphus coronarius — Sweet Mock Orange
Vaccinium corymbosum — Highbush Blueberry
Viburnum x burkwoodii — Burkwood Viburnum
Viburnum cariesii — Korean Spike Viburnum
Viburnum dentatum — Arrowwood Viburnum
Viburnum dilatatum — Linden Viburnum
Viburnum lantana — Wayfaring Viburnum
Viburnum lentago — Nanny Berry Viburnum
Viburnum opulus — European Cranberry Bush Viburnum
Viburnum plicatum tomentosum — Doublefile Viburnum
Viburnum prunifolium — Blackhaw Viburnum
Viburnum sieboldi — Siebold Viburnum
Viburnum trilobum — American Cranberry Bush Viburnum
Weigela florida — Old Fashioned Weigela

Deciduous Trees

Acer campestre — Hedge Maple
Acer ginnala — Amur Maple
Acer rubrum — Red Maple
Amelanchier arborea — Downy Serviceberry
Amelanchier canadensis — Shadblow Serviceberry
Carpinus betulus — European Hornbeam
Carpinus caroliniana — American Hornbeam
Cercidiphyllum japonicum — Katsura Tree
Cercis canadensis — Eastern Redbud
Cornus florida — Flowering Dogwood
Cornus kousa — Kousa Dogwood
Fagus grandifolia — American Beech
Fagus sylvatica — European Beech
Fraxinus pennsylvanica — Green Ash
Gleditsia triacanthos var. *inermis* — Thornless Honey Locust
Larix decidua — European Larch
Larix laricina — Eastern or American Larch
Magnolia stellata — Star Magnolia
Malus (sp) — Crabapple

PLANNING BOARD

Metasequoia glyptostroboides — Dawn Redwood
Ostrya virginiana — American Hophornbeam
Pyrus calleryana “Bradford” — Bradford Callery Pear
Quercus imbricaria — Shingle Oak
Quercus palustris — Pin Oak
Quercus rubra — Red Oak
Sophora japonica — Japanese Pagoda Tree
Stewartia Korean — Korean Stewartia
Tilia cordata — Little Leaf Linden
Tilia tomentosa — Silver Linden
Zelkova serrata — Japanese Zelkova

PLANNING BOARD

302 Attachment 4

Town of Norwell

**Appendix IV
Typical Non-Surety Instruments**

Instrument A. Conservation Easement

Instrument B. Walkway Easement

Instrument C. Covenant To Prohibit Further Subdivision

PLANNING BOARD

Town of Norwell Planning Board

**Instrument A
Conservation Easement**

I/We, _____ of _____ County of Plymouth, Massachusetts, certify that I/we am/are the owner(s) of the land hereinafter described and do, for good and valuable consideration, the receipt of which is hereby acknowledged, hereby grant to the Town of Norwell, a municipal Corporation located in Plymouth County, Massachusetts, a conservation restriction as follows:

All as shown on a plan of land dated _____, as revised through _____ and prepared by _____ Engineers.

This restriction shall preserve and retain land or water areas predominately in their natural, scenic or open condition or in agriculture, farming or forest use. The grantors, their heirs and assigns shall not order or permit on said described land any of the following structures, activities or uses:

- A. Construction, erection or placing of buildings, structures, roads, walls, septic systems, wells, except for public drinking water purposes, drainage systems, signs, billboards or other advertising, utilities or other structures on or above the ground, except such limited boundary fencing as may be agreed to by the parties in advance;
- B. Dumping or placing or accumulating of trash, waste or unsightly or offensive materials;
- C. Removal or destruction of trees, shrubs or other vegetation, except that trees that represent a safety hazard may be pruned and, if necessary, removed;
- D. Excavation, regrading, dredging or removal of loam, peat, gravel, soil, rock or other mineral substances in such a manner as to affect the surface;
- E. Surface uses or activities of any kind, except for agricultural, farm, forestry or passive outdoor recreational uses which allow the land or water area to remain predominantly in its natural condition without the removal of trees without the prior consent of the parties and without the use of pesticides, insecticides, fertilizers or other chemicals;
- F. Any activity which would cause erosion or loss of water area.

The purpose of this restriction is for the protection of the natural and watershed resources of said Town under MGL c. 40, § 8C, and it shall be administered by the Norwell Conservation Commission.

We grant to the Town as a permanent easement to enter the premises, by its Conservation Commission and its other duly elected or appointed officers, employees and agents, or both, for the purpose of inspecting the premises, maintaining the flow of any brook located on said premises and enforcing the within restriction. The right hereby granted shall be in addition to

NORWELL CODE

any other remedies available to the Town for the enforcement of the foregoing covenant and restriction.

The within restriction shall run with the land and bind our successors or assigns in title to the premises and inure to the benefit of the general public and the inhabitants of said Town in perpetuity. We shall not be personally liable for any breach occurring unless we own the portion of the premises where the breach occurs. This instrument shall also constitute an agreement and covenant with the Town of Norwell, which shall run with the land.

(Optional: We grant to the said Town and its inhabitants an easement to pass and repass upon said land on foot for purposes of hunting, fishing, hiking or nature study, not including picnicking or camping or building fires, so long as the Town by its Conservation Commission enforces reasonable regulations as to such uses so as to prevent injury to persons or damage to said property.)

(Optional: All rights not expressly given herein are reserved to us including (select as needed) the right to conduct any type of agricultural or forestry activity thereon and this covenant is to be construed so as to not interfere therewith in any respect.)

(Optional — Should any portion of the premises be taken by or on behalf of the Town or any public authority, the rights hereby created shall terminate and we or our successors in title shall be entitled to damages measured by the full value of the property and also by the reduction in value of the remainder of our land, including but not limited to the premises.)

No documentary stamps are needed for this instrument.

IN WITNESS HEREOF we have hereto set our hands and seals, this _____ day of _____ 20__

Signature
Print Name: _____

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

PLANNING BOARD

NOTE: In the event that any signatory herein is a trustee or an officer of a corporation or manager of a limited liability corporation or a partner in a partnership, each such signatory shall provide the appropriate certificates or affidavits evidencing that the undersigned has the present authority to execute this document.

APPROVAL BY SELECTMEN AND CONSERVATION COMMISSION

We, the undersigned Norwell Board of Selectmen and Norwell Conservation Commission, hereby certify that we approve the receipt of the foregoing deed under MGL c. 40, § 8C, as it has been and may be amended as requested by vote of the Norwell Conservation Commission for the protection of the natural and watershed resources of the Town.

_____	_____
_____	_____
_____	_____
_____	Selectmen of Norwell

Conservation Commission of Norwell

NOTE: Use "for consideration paid," and documentary stamps and omit approval if the restriction is purchased.

APPROVAL BY COMMISSIONER

_____, 20__.

The Commissioner of the Department of Natural Resources, Commonwealth of Massachusetts, hereby certifies that he approves receipt of the within conservation restriction under MGL c. 184, § 32.

Commissioner
Department of Natural Resources

PLANNING BOARD

Town of Norwell Planning Board

**Instrument B
Walkway Easement**

KNOW ALL PERSONS BY THESE PRESENTS, that _____ of Norwell, Massachusetts, for good and valuable consideration, the receipt of which is hereby acknowledged, GRANT to the TOWN OF NORWELL, a municipal corporation, located in said Plymouth County, Massachusetts, with QUITCLAIM COVENANTS, the right and easement to construct, reconstruct, maintain and use a walkway and sidewalk for all purposes for which walkways and sidewalks are customarily used in the Town of Norwell, over, across and through the property owned by the Grantor(s), located on the _____ side of _____ in said Norwell, with said easement being bounded and described as follows:

Any walkway constructed under this easement by the Town of Norwell shall be kept in repair at the expense of the Town of Norwell so that it is reasonably safe and convenient for travelers at all seasons, provided that this easement is duly accepted by the Town of Norwell as required by law.

WITNESS _____ hand _____ and seal on this ____ Day of _____, 20__.

Signature of Owner

Print Name: _____

COMMONWEALTH OF MASSACHUSETTS

, SS

_____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public

Print Name: _____

My commission expires: _____

PLANNING BOARD

Town of Norwell Planning Board

**Instrument C
Covenant to Prohibit Further Subdivision**

I/We, _____ of _____
County of _____, Massachusetts, do on behalf of myself/ourselves and my/our
heirs and successors and assigns, certify that I/we am/are the owner(s) of the land hereinafter
described and do, for good and valuable consideration, the receipt of which is hereby
acknowledged, hereby covenant and agree and grant to the Town of Norwell, a municipal
Corporation located in Plymouth County, Massachusetts, by and through the Norwell
Conservation Commission, a permanent development restriction as follows:

1. The land shown on the definitive plan, entitled " _____ "
and prepared by _____ and dated _____ and as revised
through _____ and as approved by the Norwell Planning Board pursuant to a
Certificate of Vote and Conditions, which was filed with the Norwell Town Clerk on
_____ (the "Plan"), depicts a total of _____ residential lots.
2. I/we hereby covenant and agree that the land shown on the Plan shall not be further divided
or subdivided so as to create more than a total of _____ residential lots, either now or in
the future. This restriction shall prohibit further divisions of land that create parcels that
would be added to land outside of the subdivision. This restriction shall not prohibit
divisions of land within the subdivision so as to merely reconfigure the lot lines of the lots
approved under the Plan without creating any additional lots.
3. I/we further covenant and agree that the subdivision roadway(s) shown on the Plan shall
not be used, now or in the future, to serve more than _____ residential lots.
4. I/we further covenant and agree that the subdivision roadway(s) shown on the Plan shall
not be used to allow a further connection to additional roadway without seeking further
subdivision modification.

IN WITNESS HEREOF we have hereto set our hands and seals, this _____ day of
_____ 20__.

Signature

Print Name: _____

NORWELL CODE

COMMONWEALTH OF MASSACHUSETTS

, SS _____, 20__

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared the above-named _____, who identified him/herself to me to my satisfaction, and signed this document voluntarily as his/her free act and deed and for the stated purpose.

Notary Public
Print Name: _____
My commission expires: _____

NOTE: In the event that any signatory herein is a trustee or an officer of a corporation or manager of a limited liability corporation or a partner in a partnership, each such signatory shall provide the appropriate certificates or affidavits evidencing that the undersigned has the present authority to execute this document.

APPROVAL BY SELECTMEN AND CONSERVATION COMMISSION

We, the undersigned Norwell Board of Selectmen and Norwell Conservation Commission, hereby certify that we approve the receipt of the foregoing deed under MGL c. 40, § 8C, as it has been and may be amended as requested by vote of the Norwell Conservation Commission for the protection of the natural and watershed resources of the Town.

_____	_____
_____	_____
_____	_____
_____	Selectmen of Norwell

Conservation Commission of Norwell

NOTE: Use "for consideration paid," and documentary stamps and omit approval if the restriction is purchased.

PLANNING BOARD

APPROVAL BY COMMISSIONER

_____, 20__.

The Commissioner of the Department of Natural Resources, Commonwealth of Massachusetts, hereby certifies that he approves receipt of the within conservation restriction under MGL c. 184, § 32.

Commissioner
Department of Natural Resources

PLANNING BOARD

302 Attachment 5

Town of Norwell

**Appendix V
Schedule of Fees**

Schedule of Fees Adopted by the Norwell Planning Board

Shown as revised and voted on February 29, 2012

1. **Approval Not Required Plans (Form As):**
\$200 filing fee per application, plus \$250 for each new lot that meets ZBL frontage and size requirements and \$100 for all other lots* with altered lot lines.
2. **Preliminary Plans (Form Bs):**
\$550 filing fee per application, plus \$110 per proposed lot/unit*
3. **Open Space Residential Design Plans via Special Permit (Form Os):**
\$2,200 filing fee per application with no per lot charge
4. **Definitive Subdivision Plans (Form Cs):**
\$5,500 filing fee per application, plus \$1,100 per proposed lot/unit*

For large developments, as defined by plans with 20 or more lots/units* shown thereon, the filing fee is \$16,500 per application, plus \$1,100 per proposed lot/unit.*

5. **Surety Review Requests:**

A. Review of initial surety documents:	\$550
B. Review of substitution surety documents:	\$275
C. Release of each lot/unit* from surety provisions:	\$110
6. **Review Fees Under MGL c. 44, § 53G:**

The Planning Board hereby provides, under MGL c. 44, § 53G, and pursuant to MGL c. 41, § 81Q, that applicants shall pay reasonable fees for the employment of outside consultants to provide the Planning Board with technical and legal assistance and that applicants shall pay such fees in advance into a special review fee account or series of accounts to be established by the Norwell Town Treasurer. \$5,000 shall be paid by each definitive subdivision applicant in a special review fee account and shall be available for the Planning Board to pay for technical review while reviewing the subdivision for approval and, if the subdivision is approved, until all of the lots/units* have been finally released from subdivision surety. Said account shall be maintained by the applicant at a level of \$5,000 and shall be replenished as soon as the balance drops below \$3,000.

NORWELL CODE

For large developments, as defined by plans with 20 or more lots/units* shown thereon, the review fee deposit increases by \$15,000 to a total of \$20,000. Said account shall be maintained by the applicant at a level of \$20,000 and shall be replenished as soon as the balance drops below \$3,000.

*Per lot/unit fee applies to all drainage lots, conservation lots and non-buildable parcels proposed.

PLANNING BOARD

302 Attachment 6

Town of Norwell

**Appendix VI
Street Acceptance Procedures**

Acceptance of a private way as a Town way or a statutory private way is governed by:

MGL c. 41, § 81G;
MGL c. 41, § 81Y;
MGL c. 82, §§ 21 to 24; and
Chapter 81, Public Ways, §§ 81-1 to 81-5, of the Town Code.

A private way may be laid out by the Board of Selectmen (as the Road Commissioners) and then presented to and accepted by Town Meeting. MGL c. 82, §§ 21 and 23.

If a private citizen or group of citizens wishes to have a private way accepted by the Town, then the citizen or group shall follow the steps set forth in Exhibit 1, attached hereto.

In summary, a private citizen, under MGL c. 39, § 10, shall: (1) ask the Board of Selectmen to place an article for acceptance of the way on a Town Meeting warrant; and (2) file a formal layout petition with the Selectmen requesting that the private way be laid out under MGL c. 82, §§ 21 to 24, and MGL c. 41, § 81G and Chapter 81, Public Ways, of the Town Code. The petition shall: (a) include a metes and bounds description of the subject way; (b) satisfy the requirements of Chapter 81 of the Town Code; (c) be accompanied by a proposed grant of easement or other conveyance to the Town and its inhabitants of the necessary interest in the way; and the "persons upon which application such way is laid out," shall be required to provide the Town with security satisfactory to the Board of Selectmen that the petitioners will indemnify the Town for all damages and charges which the Town may be obligated to pay by reason of the layout and acceptance. MGL c. 82, § 24.

If the Board of Selectmen proposes that a private way should be laid out and accepted as a Town way (i.e., for the use of the Town), then the Selectmen should follow the steps set forth in Exhibit 2, attached hereto.

Please note that the acceptance process is procedurally complex and each required step must be carefully followed.

Private petitioners may wish to consult an attorney.

Exhibit 1: Procedures for a private petitioner to follow.

Exhibit 2: Procedures for the Board of Selectmen to follow if it is the petitioner.

Exhibit 3: Layout Petition Form.

Exhibit 4: Brief explanation of the relevant statutes and bylaws is set forth in Exhibit 4.

NORWELL CODE

Exhibit 1
Layout and Acceptance of a Private Way Initiated by Private Citizen(s)

The private citizen(s) shall:

- 1) Request the Board of Selectmen to include acceptance of the way on a Town Meeting warrant, under MGL c. 39, § 10. (Note signature requirement.)
- 2) Prepare a layout petition, with a metes and bounds description of the way and submit it to the Selectmen at least three months prior to Town Meeting. (See Exhibit 3.) MGL c. 82, § 23 and Chapter 81, § 81-5.
- 3) Request the Selectmen to satisfy the requirements of the applicable bylaw and statutory provisions:
 - (i) Chapter 81 of the Town Code. The Selectmen shall:
 - (a) Refer the layout petition to the Planning Board for preparation the report required under § 81-2;
 - (b) Refer the layout petition to the Drainage Committee for a report under § 81-4;
 - (c) Collect affidavits from six different Town agencies as to whether the way is satisfactory in width and acceptable in construction; and
 - (d) Determine and assess damage claims.
 - (ii) MGL c. 41, § 81G. The Selectmen shall refer the layout petition to the Planning Board and allow up to 45 days for the Planning Board to submit its report to the Selectmen.
 - (iii) MGL 82, § 22. The Selectmen shall provide written notice of the layout proceedings at least seven days in advance to all owners of the land which would be taken for the subject way. The written notice shall be delivered to each owner's usual abode or hand delivered. The written notice should be posted in the Town at least seven days in advance in a public place. It may be advertised as well.
 - (iv) MGL c. 82, §§ 21 and 23. The Selectmen shall vote to layout a private way by majority vote before it may be accepted.
 - (v) MGL c. 82, § 24. The Selectmen shall acquire the necessary interest in the way (e.g., an easement) by gift, purchase or eminent domain. If acquisition is to be by eminent domain, the Selectmen must follow the eminent domain process. The interest must be acquired within 120 days of the Town Meeting vote to accept the way.
- 4) The private citizen(s) shall indemnify the Town and provide security as required under MGL c. 82, § 24, for any damages that may occur.

PLANNING BOARD

Exhibit 2
Layout and Acceptance of a Private Way by Board of Selectmen

The Board of Selectmen shall:

- 1) Prepare a Town Meeting article to accept the way as a Town way, MGL c. 39; MGL c. 82, § 23.
- 2) Prepare a layout petition, with a metes and bounds description of the way. (See form petition attached as Exhibit 3.) MGL c. 82, § 23.
- 3) Satisfy the requirements of the applicable bylaw and statutory provisions:
 - (i) Chapter 81 of the Town Code. The Selectmen shall:
 - (a) Refer the layout petition to the Planning Board for the report required under § 81-2;
 - (b) Refer the layout petition to the Drainage Committee for a report under § 81-4;
 - (c) Collect affidavits from six different Town agencies as to whether the way is satisfactory in width and acceptable in construction; and
 - (d) Determine and assess damage claims.
 - (ii) MGL c. 41, § 81G. The Selectmen shall refer the layout petition to the Planning Board and allow up to 45 days for the Planning Board to issue and submit a layout report to the Selectmen.
 - (iii) MGL 82, § 22, The Selectmen shall provide written notice of its layout hearing for the proposed Town way at least seven days in advance to all owners of the land which would be taken for the subject way. The written notice shall be delivered to each owner's usual abode or hand delivered. The written notice should be posted in the Town at least seven days in advance in a public place.
 - (iv) MGL c. 82, §§ 21 and 23. The Selectmen shall vote to lay out a private way by majority vote before it may be accepted.
 - (v) MGL c. 82, § 24. The Selectmen shall make arrangements to acquire the necessary interest in the way (e.g., an easement) whether by gift, purchase or eminent domain. If the acquisition is to be by eminent domain, then the Board of Selectmen should follow the eminent domain process. The interest must be acquired within 120 days following the Town Meeting vote of to accept the way.

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Exhibit 3
Layout Petition Form

Petition to Board of Selectmen to Layout a Private Way:

We, the undersigned petitioners, hereby petition the Norwell Board of Selectmen (the Norwell Road Commissioners) to lay out the private way, known as [insert name of way here]: _____ and described as [insert metes and bounds description of the full right-of-way of said way below or attach separate sheet if necessary]:

as a way that shall be open to the public for use as a public way under MGL c. 82, § 21. In support of this petition, and as required under MGL c. 82, § 24, we herewith submit a grant of easement to the Town of Norwell for acceptance at Town Meeting to allow the Town and its inhabitants to use said way for all the purposes that a way is used as a public way, including the right of the general public to pass and repass, the right of Town agents and employees to enter to make repairs, perform maintenance and plow and deice the roadway. In further support of this petition, and as required under MGL c. 82, § 24, we submit the enclosed indemnification agreement pursuant to which the undersigned agree to indemnify and hold harmless the Town and its inhabitants from any and all damages that the Town may incur as a result of the lay out and acceptance of said way.

Respectfully submitted:

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Enclosures: Easement Grant
Release of Claims under MGL c. 79
Indemnification Agreement under MGL c. 81, § 24

PLANNING BOARD

Layout Petition Form Instructions

- I. Private individuals shall fill out and file the layout petition with the Selectmen (as Road Commissioners). The petitioner also must request a Town Meeting article.
 - A. The Petition shall be signed by all of the owners of the land that makes up the full right-of-way for the proposed way.
 - B. The Petition shall include the name of the way and an accurate metes and bounds description of the way.
 - C. The Petition shall be accompanied by a grant of an easement in the roadway from the owners of the right-of-way for the roadway to the Town and its inhabitants for use of the roadway for all purposes for which a public way may be used.
 - D. The Petition shall be accompanied by a release of damages under MGL c. 79 signed by all of the owners of the land that makes up the full right-of-way for the proposed way.
 - E. The Petition shall be accompanied by an agreement by the petitioners to jointly and severally indemnify the Town for any damages incurred by the Town as a result of acceptance of the roadway under MGL c. 82, § 24, and to post whatever security the Board of Selectmen deem proper.
 - F. The Petitioner shall take the necessary steps to request and obtain the affidavits required under § 81-5 and provide them to the Board of Selectmen.
- II. The Petition shall be filed with the Board of Selectmen at least three months prior to the Town Meeting at which acceptance shall be sought. (§ 81-5.)
- III. The Board of Selectmen shall:
 - A. Refer the Petition to the Planning Board for consideration and action, under MGL c. 41, § 81G, and Chapter 81 of the Town Code, and for issuance of a report as required under § 81-2.
 - B. Refer the Petition to the Drainage Committee for consideration and action, under § 81-4.
 - C. Once the Planning Board's written certifications are received, the Board of Selectmen shall notice a layout hearing, under MGL c. 82, § 22, at least seven days in advance of the hearing, as follows:
 - i) Notice of the layout hearing shall be provided to the Town Clerk and be posted at the Town Hall by the Town Clerk;

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- ii) Notice of the layout hearing shall be provided to the owners of the land that would be taken by the Town to accept the way, either by delivering a copy of the notice to each owner's usual place of abode or by hand delivery; and
 - iii) A public hearing may be advertised in a newspaper of general circulation at least seven days prior to the hearing. (This is not expressly required under the statute, but is recommended.)
- IV. The Board of Selectmen then shall hold the layout hearing and determine:
 - A. What, if any, damages would be caused by the layout.
 - B. Assess the damages that would be caused (assessing them at zero, if there are none). (§ 81-3.)
 - C. If there are damages, then an order of taking must be processed under MGL c. 82, § 24, and MGL c. 79.
- V. The Selectmen shall determine, during the layout hearing, whether the reports from the Planning Board and Drainage Committee required under §§ 81-2 and 81-4 and affidavits from the Planning Board, Drainage Committee, the Board of Health, the Water Commissioners and the Highway Surveyor under § 81-5 have been provided.
- VI. The Selectmen shall determine whether a proper indemnification agreement has been provided by the petitioners as required under MGL c. 82, § 24, and, if so, shall determine the amount and type of security that shall be required before a layout vote shall be taken.
- VII. The Selectmen, if the proper certifications have been received from the Planning Board under § 81-2, the Drainage Committee under § 81-4, the proper affidavits under § 81-5 and the indemnification agreement and security required under MGL c. 41, § 24, may review all of the available evidence and determine whether the way is satisfactory in width and constructed so as to be acceptable for laying out. If the way is determined by the Board of Selectmen to be satisfactory in width and constructed so as to be acceptable, the Board, by majority vote, may vote to approve the layout of the way to Town Meeting and recommend the acceptance of any available easement interest or take the necessary steps to issue the necessary orders of taking.
- VIII. If a favorable layout vote is ultimately taken under MGL c. 81, § 21, et seq., and Chapter 81 of the Town Code, then the petition and the favorable layout vote shall be forwarded to Town Meeting for action under an article on the Town Meeting warrant. Referral of the layout vote to the Town Clerk (together with the metes and bounds description) shall occur at least seven days prior to the Town Meeting. MGL c. 82, § 23.
- IX. The Town Meeting article should request Town Meeting either: (1) accept a grant of easement to support the acceptance; or (2) should authorize the necessary order(s) of taking to support acceptance and appropriate any damages that have been assessed. (Recording of the easement or order of taking must occur within 120 days after the termination of the Town Meeting at which acceptance is voted.)

PLANNING BOARD

Exhibit 4
Explanation of Applicable Requirements

Chapter 81, Public Ways, of the Town Code:

- § 1. New ways shall conform to the Planning Board's Rules and Regulations.
- § 2. No private way shall be accepted unless and until the Planning Board shall have certified in writing to the Selectmen that the way: (i) is well built and so constructed that it is at least equal to the average construction of existing highways of the Town; (ii) has proper grades in relation to abutting land and connecting streets; and (iii) conforms to the Planning Board's Rules and Regulations.
- § 3. No private way shall be laid out by the Selectmen until all claims for damage have been estimated.
- § 4. No private way shall be accepted unless drainage as may be required shall be installed as directed by the Drainage Committee.
- § 5. Each petition for layout of a way for acceptance by Town Meeting shall be presented to the Board of Selectmen at least three months before such meeting.
- § 5. The layout petitioner shall obtain affidavits from the Board of Selectmen, the Planning Board, the Drainage Committee, the Board of Health, the Water Commissioners and the Highway Surveyor. Each affidavit shall state whether the subject way "is or is not satisfactory in width and so constructed as to be acceptable." The affidavits must be attached to the petition.

MGL c. 41, § 81G:

After a town has adopted an official map (which Norwell has done):

(N)o public way shall be laid out... unless such laying out... has been referred to the planning board... and such board has reported thereon, or has allowed 45 days to elapse after such referral without submitting its report.

MGL c. 41, § 81Y:

A way may be accepted by town meeting by majority vote if the way is shown on an approved subdivision plan; otherwise, it requires a two-thirds vote.

MGL c. 82, §§ 21 and 23:

A private way cannot be established as a town way or a statutory private way until it has been laid out by the Board of Selectmen (by majority vote) and accepted by Town Meeting. N.B.: Approval by Town Meeting is by majority vote if the way is shown on an approved subdivision or two-thirds vote if it is not. MGL c. 41, § 81Y, Paragraph 1.

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MGL c. 82, § 22:

Notice of the Selectmen's layout proceedings shall be afforded to each owner of any land underlying the way that is to be taken. Notice shall be in writing and delivered to each owner's usual abode or hand delivered to the owner. Notice shall be left or given at least seven days prior to the layout proceeding. In addition, notice should be posted in a public place. Finally, while not expressly required by the statute, advertisement in a newspaper of general circulation is recommended.

MGL c. 82, § 23:

Even if the Selectmen vote to lay out the subject way, establishment of the way through acceptance by Town Meeting as a Town Way or a Statutory Public Way shall not occur unless the favorable lay out vote, together with the metes and bounds description of the way, is filed in the town clerk's office at least seven days before the Town Meeting at which the way is accepted.

MGL c. 82, § 24:

The necessary interest in the way shall be acquired by the Town within 120 days following termination of the vote of acceptance by Town Meeting or the status of the way will not be perfected.

In the case of a layout petition by the Board of Selectmen, the Town must:

- (1) Obtain the necessary interest in the subject way (i.e., by a voluntary grant or purchase of an easement from the owners of the land under the way); or
- (2) Accept liability for any damages that may occur as a result of the layout and acceptance of the roadway as a public way under MGL c. 79. To avoid claims for damages under MGL c. 79, the Town may accept releases of such claims for damages from potential claimants. Once a way is accepted as a Town way, it may be added to the linear footage of the Town ways that are included in the Town's MGL c. 90 calculations.

In the case of a layout petition by a private citizen(s), the private citizen(s) must provide the necessary easement interest in the way to the Town and releases of claims for damages under MGL c. 79 and indemnify the Town and provide security as required under MGL c. 82, § 24.

Chapter 303

CONSERVATION COMMISSION

ARTICLE I Wetlands Regulations

- | | |
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| <p>§ 303-1. General provisions.</p> <p>§ 303-2. Purpose; protected interests.</p> <p>§ 303-3. Jurisdiction; resource areas and buffer zones.</p> <p>§ 303-4. Regulated activities.</p> | <p>§ 303-5. Burden of proof.</p> <p>§ 303-6. Applications.</p> <p>§ 303-7. Definitions.</p> <p>§ 303-8. General performance standards.</p> <p>§ 303-9. Fees.</p> <p>§ 303-10. Other requirements.</p> |
|--|---|

[HISTORY: Adopted by the Conservation Commission of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

GENERAL REFERENCES

Wetlands protection — See Ch. 61, Art. I.

ARTICLE I Wetlands Regulations [Effective 5-5-2009]

§ 303-1. General provisions.

- A. These regulations were adopted under the provisions of the Norwell Wetlands Bylaw, Chapter 61, Article I, of the Town Code. These regulations set forth definitions, regulations and performance standards necessary to protect the interests and/or intent of the bylaw.
- B. These Norwell Wetlands Regulations are independent from, and in addition to, requirements in effect under the Massachusetts Wetlands Protection Act (WPA)¹ and associated regulations and policies.
- C. Following public notice and a public hearing thereon, these regulations may be amended and/or added to by a majority vote of the Town of Norwell Conservation Commission.
- D. Any term, condition, definition or other language contained herein which may later be deemed invalid by competent legal authority does not invalidate the validity, full force and effect of any other language contained herein.

¹ Editor's Note: See MGL c. 131, § 40.

§ 303-2. Purpose; protected interests.

- A. These regulations are promulgated in order to effectuate the purposes of the bylaw and contribute to the protection of the following wetland interests (hereinafter referred to as "protected interests") including but not limited to:
- (1) Groundwater.
 - (2) Wildlife habitats.
 - (3) Prevention of water pollution.
 - (4) Aesthetics.
 - (5) Sedimentation control.
 - (6) Fisheries.
 - (7) Flood control.
 - (8) Private water supply.
 - (9) Recreation.
 - (10) Water quality.
 - (11) Rare plant and animal species.
 - (12) Erosion control.
 - (13) Public water supply.
 - (14) Public safety.
 - (15) Prevention of storm damage.
 - (16) Wildlife.
 - (17) Fish/shellfish habitat.
- B. These interests are also known collectively as the "wetland values" protected under these regulations.

§ 303-3. Jurisdiction; resource areas and buffer zones.

- A. Resource areas and buffer zones adjacent to the resource areas which are associated with the protected interests are subject to protection under the bylaw and are any of the following:
- (1) Resource areas.
 - (a) Any freshwater or coastal wetland.
 - (b) Land under water bodies, including but not limited to ponds of any size, lakes, rivers, streams, creeks, springs, estuaries, and banks.

§ 303-3

CONSERVATION COMMISSION

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- (c) The ocean and land bordering on the ocean, including but not limited to tidal flats, coastal bank, dunes, beaches, salt marshes, and salt meadows.
- (d) Land subject to flooding or inundation by groundwater or surface water, including but not limited to freshwater wetlands, beaches, wet meadows, swamps, bogs, vernal pools (both certified by the Natural Heritage and Endangered Species Program or not certified), reservoirs or isolated wetlands.
- (e) Land subject to coastal storm flowage or flooding, including but not limited to the coastal floodplain as set forth on the Flood Insurance Rate Maps (FIRM).
- (f) Land within 200 feet of any river, stream, or creek continuously flowing throughout the year toward a body of water (hereinafter referred to as the "riparian zone") including the North River.

(2) Buffer zones.

- (a) Land within 100 feet of any of the aforementioned resource areas (hereinafter referred to as the "jurisdictional buffer zone").
- (b) Land within 50 feet of a bordering vegetated wetland or isolated vegetated wetland (hereinafter referred to as the "buffer strip" or "no build zone").
- (c) Land within 100 feet of a vernal pool (hereinafter referred to as the "vernal pool protection zone").

B. Said resource areas shall be protected whether or not they border surface waters.

§ 303-4. Regulated activities.

Activities subject to regulation under the bylaw include the following:

- A. Any activity proposed or undertaken within a resource area or buffer zone to a resource area described in § 303-3.
- B. Any activity deemed by the Conservation Commission as likely to have a significant or cumulative detrimental effect upon resource areas as defined herein.

§ 303-5. Burden of proof.

The applicant shall have the burden of proof by a preponderance of credible evidence that the work proposed will not have a significant or cumulative detrimental effect upon resource areas or interests protected herein. No project determined to have a significant or cumulative detrimental effect upon resource areas or interests protected herein shall be allowed, unless mitigation is provided as part of the proposed project. Failure to provide adequate evidence to the Commission supporting this burden of proof shall be sufficient cause for the Commission to deny the proposed project. In all instances herein, the Conservation Commission, after due deliberation, shall have the discretion to determine the relative importance of the information

presented or omitted. The Commission maintains the right to condition any project as it deems necessary to protect one or more of the interests set forth herein.

§ 303-6. Applications.

Activities that are proposed to take place within a resource area or buffer zone under the jurisdiction of the Norwell Conservation Commission require approval prior to disturbance of any area under the jurisdiction of the Commission. Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by the bylaw. The permit application shall include information and plans as are deemed necessary by the Commission to describe the proposed activities and their effects on the resource areas protected by the bylaw. No activities shall commence without receiving and complying with the permit issued pursuant to the bylaw.

A. Request for determination of applicability (RDA).

- (1) Any person desiring to know whether or not a proposed activity or an area is subject to the Norwell Wetlands Bylaw may in writing request a determination from the Commission. A request for determination of applicability (RDA) shall be filed with the Norwell Conservation Commission prior to altering existing conditions or conducting any work within any resource area or buffer zone. This submission shall be made on the form and according to instructions provided by the Town of Norwell, § 303-6 of these regulations, and required by 310 CMR 10.05(3)(a) and (b) with the following additions: the fifty-foot no build zone will also be shown. The Conservation Commission may hold a public meeting on requests under both Town and state regulations at the same time. The Conservation Commission will render a positive or negative determination of applicability.
- (2) The Commission shall have the authority to continue the meeting to a certain date announced at the meeting, for reasons stated at the meeting, which may include timely receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion to make a determination, including comments, recommendations, or action of the other Town boards and Town officials.
- (3) If a positive determination is made by the Conservation Commission upon a request for determination, a notice of intent under the Norwell Wetlands Bylaw must be filed if the applicant wishes to proceed with the project. If a negative determination is made by the Conservation Commission upon a request for determination, no notice of intent under the Norwell Wetlands Bylaw need be filed. In either case, the applicant shall not commence work until a determination has been issued by the Commission and all appeal periods have elapsed or, in the event of an appeal, all appeals have been finally concluded.

B. Approval of resource area delineation. Any person who wishes to gain Norwell Conservation Commission approval of a resource area delineation under the Norwell Wetlands Bylaw may submit a written request. This request shall be made according to instructions and the form provided by the Massachusetts Department of Environmental Protection for abbreviated notice of resource area delineation (ANRAD) with the fifty-

foot no build zone and vernal pools, as defined by the Norwell Wetland Bylaw, shown on the accompanying plan. The Conservation Commission may hold a public meeting on requests under both Town and state regulations at the same time. The Conservation Commission will approve, approve with modifications, or deny the delineation presented by the applicant. Approval of a wetland delineation shall be for only the referenced delineation on the plans approved by the Commission. It is not approval of, nor the determination of, the absence of wetlands on other portions of the property.

C. Notice of intent (NOI).

- (1) A notice of intent must be filed with the Norwell Conservation Commission for any activity proposed within the resource areas or buffer zones, defined herein, which involves expansion or change in use or significant excavation and/or alteration of existing grades, soils and vegetation. The notice shall be submitted on the form and according to instructions provided by the Town of Norwell Conservation Commission and required by 310 CMR 10.05(4), and a public hearing on requests under both Town and state regulations shall be held at the same time.
- (2) If required by the Commission, the applicant shall provide a copy of the application, by certified mail or hand delivery, to all appropriate Town officials, committees, or boards having joint jurisdiction over the proposed project. An affidavit of the person providing such notice shall be filed with the Commission. The Commission may seek written comments and/or recommendations from other boards and committees. The Commission, at its sole discretion, will allow adequate time for comments from other boards. The Commission may continue any project for which action by other Town boards or Town officials is required.

D. Application requirements. No hearing will be opened unless all required information is submitted to the Commission at least 10 business days in advance of the scheduled hearing date. In certain circumstances and at its sole discretion, the Commission may open a hearing when the applicant submits application materials in less than 10 days before the hearing.

E. Actions by the Commission.

- (1) If a proposed project meets the requirements of the Norwell Wetlands Bylaw and these regulations, the Commission will approve the project by issuing a Norwell wetlands permit. Such permit will include the conditions under which the project may proceed. The permit will be in effect for three years from the date of approval. A ten-day appeal period shall begin from the approval, during which time an applicant may not begin work on the approved project.
- (2) The Commission shall have the authority to deny any project for which:
 - (a) The application is incomplete and the Conservation Commission requires additional information not provided by the applicant; or
 - (b) The application for the proposed project does not protect the interests of the Norwell Wetlands Bylaw and/or does not meet the general performance standards set forth in § 303-8.

- (3) The Commission shall have the authority to continue hearings to a certain date announced at the hearing, for reasons stated at the hearing, which may include timely receipt of additional information from the applicant or others deemed necessary by the Commission in its discretion to make a determination, including comments, recommendations, or action of the boards and officials listed below.
- F. Authority to reopen a hearing. The Commission may reopen a hearing to review whether the wetlands permit issued for a project protects the resource areas. Such hearing may be reopened when new information concerning site conditions or the approved project becomes available to the Commission.
- G. Amended permit. An applicant or holder of a valid Norwell wetlands permit issued under the Norwell Wetlands Bylaw may request minor changes to a plan or previously imposed condition on a project by submitting an application with the requested change. The Commission will follow the standard procedure for a new application, including advertisement of a public hearing, notification of abutters, holding public hearing, and conditioning the amended project. The Commission may reduce the filing fee on small projects.
- H. Permit extensions. A permit holder or his successor may request the Commission to extend the effective period of a Norwell wetlands permit. The Commission may extend a permit when a project has not been completed during the three-year period that the permit is in effect, as long as the project has been started and the applicant defines a date certain when the project will be completed. In no case will the Commission extend a permit for more than three additional years.

§ 303-7. Definitions.

Definitions of resource areas are found in subsequent sections for each resource area. (This section is reserved for additional definitions.)

§ 303-8. General performance standards.

The Commission finds that regulations applicable to activities in the following resource areas are necessary and proper to protect the wetland interests stated in § 303-2 of these regulations.

- A. General provisions. All approved projects will be designed and executed so that stormwater is controlled and no direct discharge to a resource area is created. Stormwater will be controlled using the most current best management practices as defined by the DEP (Department of Environmental Protection), other regulatory bodies, relevant professional associations, or by additional standards which may be adopted by the Commission. In addition, all work will be conducted in such a way that there will be no adverse effect on other properties that are not considered part of the approved project.
- B. Land under inland water bodies and waterways: rivers, creeks, streams, ponds, ditches or flats.

- (1) Characteristics and definition: as defined in 310 CMR 10.56 with the following additions:
 - (a) A pond is the same as 310 CMR 10.56(2) with the following addition: The term "pond" shall include any open body of fresh water with a surface area observed or recorded within the last 10 years of at least 5,000 square feet. Ponds shall contain standing water except for periods of extended drought. For the purposes of this subsection, the definition of "extended drought" is the same as 310 CMR 10.58(2)(a)1f.
 - (b) The definition of stream in 310 CMR 10.04 is replaced with: "Stream" means a body of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient, and which flows within, into or out of an area subject to protection under MGL c. 131, § 40. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) is a stream regardless of topographic location.
- (2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon water bodies or the land beneath them, the Commission shall find that the water bodies and the land beneath them are significant to the protection of the following interests: groundwater, flood control, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, fish/shellfish habitat, fisheries, and erosion control. These findings may be overcome only upon a clear and convincing showing that the water body or the land beneath it does not play a role in protecting one or more of the interests given above and only upon a determination to that effect by the Commission.
- (3) Performance standards. When land under an inland water body or land within 100 feet of land under an inland water body is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:
 - (a) The Commission may impose such requirements as are necessary to protect the interests under the bylaw, including provision to minimize disturbance of buffer zone within 100 feet of a resource area when the pre-application condition is undisturbed.
 - (b) The fifty-foot no build zone applies to this resource area.

C. Salt marshes.

- (1) Characteristics and definition: same as 310 CMR 10.32(2).
- (2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon a salt marsh, the Commission shall find that the salt marsh is significant to the protection of the following interests: groundwater, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, fish/shellfish habitat, fisheries, and erosion control. These findings may

be overcome only upon a clear showing that the salt marsh does not play a role in protecting one or more of the interests given above and only upon determination to that effect by the Commission.

- (3) Performance standards. When a salt marsh or land within 100 feet of a salt marsh is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:
 - (a) The Commission may impose such requirements as are necessary to protect the interests protected by the bylaw, including minimizing the disturbance in the buffer zone when the pre-application condition is undisturbed.

D. Land subject to flooding (both bordering and isolated areas).

- (1) Characteristics and definition: same as CMR 310 CMR 10.57(2) with the following addition: The term "isolated land subject to flooding" shall include an area, depression, or basin that holds at minimum one-eighth acre-foot of water and at least six inches of standing water once a year. The jurisdictional buffer zone for isolated land subject to flooding shall extend 100 feet from the highest extent of flooding, defined as the mean annual high-water line.
- (2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon land subject to flooding, the Commission shall find that the land is significant to the protection of the following interests: groundwater, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, and erosion control. These findings may be overcome only upon a clear showing that land subject to flooding does not play a role in protecting one or more of the interests given above, and only upon a determination to that effect by the Commission.
- (3) Performance standards. When a land subject to flooding, bordering or isolated, or land within 100 feet of land subject to flooding, bordering or isolated, is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:
 - (a) Projects on land subject to flooding shall be permitted only in connection with such procedures determined by the Commission as not having the effect of reducing the ability of the land to absorb and contain floodwaters.
 - (b) The Commission may require compensating or greater flood storage capacity in the same watershed if it permits any filling of land subject to flooding, and all filling of areas subject to flooding shall be strictly minimized. Except as stated in the preceding sentence, no proposed project shall be permitted to displace or direct floodwaters, through fill or other means, to other areas.
 - (c) Project shall not have any effect on vernal pools, whether certified by the Massachusetts Division of Fisheries and Wildlife or uncertified.²

2. Editor's Note: Amendment pending.

- (d) A vernal pool protection zone, as defined under these regulations, is 100 feet.
- (e) The Commission may impose such additional requirements as are necessary to protect the interests protected by the bylaw.

E. Vernal pools.

(1) Characteristics and definition.

- (a) Vernal pools are a special type of land subject to flooding, which the Commission recognizes as having unique habitat functions. The term "vernal pool" shall include any confined basin or depression which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile, or vernal pool community species, regardless whether or not the site has been certified by the Massachusetts Division of Fisheries and Wildlife. This definition does not include vernal pools occurring in lawns, gardens, landscaped areas, or driveways that have existed for more than 10 years.³
- (b) The presumption of essential habitat value may be overcome by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide the habitat functions as specified in the bylaw regulations. Protection of the fifty-foot no build zone applies to vernal pools. In addition, a vernal pool protection zone shall extend 100 feet from the mean annual high-water line defining the depression.

- (2) Additional performance standard for vernal pools. In recognition of the ecological requirement for an undisturbed area around a vernal pool for it to maintain its habitat value, the Commission will encourage applicants to minimize disturbance in the one-hundred-foot vernal pool protection zone around a vernal pool.

F. Vegetated wetlands (meadows, marshes, swaps and bogs).

(1) Characteristics and definition.

- (a) Vegetated wetlands are freshwater wetlands which do or do not border on creeks, rivers, streams, ponds and lakes. The types of freshwater wetlands are wet meadows, marshes, swamps and bogs. Vegetated wetlands are areas where soils are saturated and/or inundated such that they support a predominance (greater than 50%, based on a standardized grid) of wetland indicator plants. The groundwater and surface water regime and the vegetational community which occur in each type of freshwater wetland are specified in MGL c. 131, § 40.
- (b) The boundary of vegetated wetlands is the line within which 50% or more of the vegetational community consists of wetland indicator plants and

3. Editor's Note: Amendment pending.

saturated or inundated conditions exist. Wetland indicator plants shall include but not necessarily be limited to those plant species identified in the Act. Wetland indicator plants are also those classified in the indicator categories of facultative, facultative+, facultative wetland-, facultative wetland, facultative wetland+, or obligate wetland in the National List of Plant Species that Occur in Wetlands: Massachusetts (Fish and Wildlife Service, United States Department of the Interior, 1988) or plants exhibiting physiological or morphological adaptations to life in saturated or inundated conditions.

- [1] Areas containing a predominance of wetland indicator plants are presumed to indicate the presence of saturated or inundated conditions. Therefore, the boundary as determined by 50% or more wetland indicator plants shall be presumed accurate when:
 - [a] All dominant species have an indicator status of obligate, facultative wetland+, facultative wetland, or facultative wetland- and the slope is distinct or abrupt between the upland plant community and the wetland plant community;
 - [b] The area where the work will occur is clearly limited to the buffer zone; or
 - [c] The Conservative Commission determines that the sole reliance on wetland plants will yield an accurate delineation.
- [2] When the boundary is not presumed accurate as described in 310 CMR 10.55(2)(c)1a through c or to overcome the presumption, credible evidence shall be submitted by a competent source demonstrating that the boundary of vegetated wetlands is the line within which 50% or more of the vegetational community consists of wetland indicator plants and saturated or inundated conditions exist. The Commission will evaluate vegetation and indicators of saturated or inundated conditions if submitted by a credible source or may require credible evidence of saturated or inundated conditions sufficient to support wetland indicator plants shall include one or more of the following:
 - [a] Groundwater, including the capillary fringe, within a major portion of the root zone.
 - [b] Observation of prolonged or frequent flowing or standing surface water.
 - [c] Characteristics of hydric soils.
- [3] Where an area has been disturbed (e.g., by cutting, filling, or cultivation), the boundary is the line within which there are indicators of saturated or inundated conditions sufficient to support a predominance of wetland indicator plants, or credible evidence from a competent source that the area supported or would support under

undisturbed conditions a predominance of wetland indicator plants prior to the disturbance.

- (2) Protected interests. Whenever a proposed project involves removing, filling, dredging, altering or building upon a vegetated wetland, the Commission shall find that the vegetated wetland is significant to the protection of the following interests: groundwater, flood control, public water supply, wildlife habitats, private water supply, public safety, prevention of water pollution, recreation, prevention of storm damage, aesthetics, water quality, wildlife, sedimentation control, rare plant and animal species, fish/shellfish habitat, fisheries and erosion control. These findings may be overcome only upon a clear showing that the vegetated wetland does not play a role in protecting one or more of the interests given above and only upon a determination to that effect by the Commission.
- (3) Performance standards. When vegetated wetlands or land within 100 feet of vegetated wetlands is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:
 - (a) The Commission may impose such requirements as are necessary to protect the interests protected under the bylaw.
 - (b) The fifty-foot no build buffer zone applies.

G. Riparian zone or riverfront area.

- (1) Characteristics and definition: same as defined at 310 CMR 10.58(1) and (2).
- (2) Protected interests. When a proposed activity involves work within the riparian zone/riverfront area, the Commission shall presume that the area is significant to the protection of the following interests: private or public water supply, groundwater, flood control, storm damage prevention, pollution prevention, land containing shellfish, wildlife habitat, fisheries, aesthetics, water quality, sedimentation control, rare plant and animal species and erosion control. These findings may be overcome upon a clear showing that the riparian zone/riverfront area does not play a role in protecting one or more of the interests given above and only upon a determination to that effect by the Commission.
- (3) Performance standards. When a riparian zone/riverfront area is determined to be significant to an interest protected by the bylaw, the following regulations shall apply:
 - (a) Except as stated below, the Commission hereby incorporates 310 CMR 10.58 in its regulations for land within 200 feet of rivers and perennial streams; the protection of these resources is extended to all rivers and perennial streams within the Town of Norwell including the North River.
 - (b) Notwithstanding the above, a river is any natural flowing body of water that empties to any ocean, lake, pond, other river, stream or wetland and which flows throughout the year. Perennial rivers, streams and creeks are rivers; intermittent streams are not. Notwithstanding 310 CMR 10.58, the burden of proof shall be on any applicant to show that a river, stream or creek is not perennial (i.e., is intermittent).

§ 303-9. Fees.

The Norwell Conservation Commission requires certain fees to be paid to the Town of Norwell when an applicant requests review and consideration of an application. The fees required under these regulations are in addition to those required by the Wetlands Protection Act (MGL c. 131, § 40) and regulations (310 CMR 10.00).

- A. Application fees. The Norwell Conservation Commission will post an application fee schedule approved by the Commission following a public hearing and approval by a majority of the Commission members. Following approval by the Commission, the fee schedule table is incorporated by reference into these regulations. At the time of an application, the applicant shall submit a filing fee specified in the filing fees table. The Commission may waive the filing fee, costs and expenses for a permit application filed by a government agency or nonprofit entity.
- B. Consultant fee.⁴
- (1) As provided by MGL c. 44, § 53G, the Norwell Conservation Commission may impose reasonable fees for the employment of outside consultants, engaged by the Conservation Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Conservation Commission pursuant to the requirements of the Wetlands Protection Act (MGL c. 131, § 40), the Norwell Wetlands Bylaw, Conservation Commission Act (MGL c. 40, § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted from time to time.
 - (2) Funds received by the Conservation Commission pursuant to these rules shall be deposited with the Norwell Town Treasurer-Collector who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.⁵
 - (3) Specific consultant services may include but are not limited to resource area survey and delineation, analysis of resource area values, hydrogeology and drainage analysis, impacts on municipal conservation lands, and environmental or land use law. The consultant shall be chosen by, and report only to, the Commission and/or its agent.
 - (4) The Conservation Commission shall give written notice to the applicant of the selection of an outside consultant, which notice shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed or delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

4. Note: Adopted by unanimous vote of the Norwell Conservation Commission on November 18, 2003, as rules for hiring outside consultants under MGL c. 44, § 53G.

5. Editor's Note: Amendment pending.

- (5) The fee must be received in its entirety prior to the initiation of consulting services. The Commission may request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within 10 business days of the request for payment shall be cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal). The Commission shall state such in a letter to the applicant, copied to the DEP. No additional review or action shall be taken on the permit request until the applicant has paid the requested fee.
- (6) The applicant may appeal the selection of the outside consultant to the Norwell Board of Selectmen, which may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue or a related field. Such an appeal must be in writing and received by the Norwell Board of Selectmen and a copy received by the Conservation Commission so as to be received within 10 days of the date consultant fees were requested by the Conservation Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

§ 303-10. Other requirements.

- A. Advertising public hearings and meetings. The Conservation Commission shall send notice of the public hearing to a newspaper of local circulation. The applicant is responsible for the cost of the legal notice.
- B. Statement of compliance. At the completion of a project, the Norwell wetlands permit holder, or his successor, shall request that the Commission terminate the wetlands permit by issuing a statement of compliance. The Commission will issue a statement of compliance following a review of the project, a site visit if deemed necessary, and a determination that the conditions in the permit were met. Expired permits can receive a statement of compliance if the requirements of the permit were met. If there are outstanding conditions that were not met, a permit extension may be necessary to complete the project before a statement of compliance is considered. In certain special circumstances, the Commission may issue a statement of compliance for a project that is not completed when the permit holder provides sufficient funds to complete the work in the event the permit holder fails to do so within a reasonable period of time. Funds received by the Conservation Commission for this purpose shall be deposited with the Norwell Town Treasurer-Collector who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Conservation Commission without further appropriation as provided in MGL c. 44, § 53G. Expenditures from this account shall be made only to complete the work in accordance with the order of conditions. The Commission will return unused funds to the permit holder when the required work has been completed to the satisfaction of the Commission or its agent.⁶

6. Editor's Note: Amendment pending.

- C. Recording with Registry of Deeds or Land Court. If the applicant fails to record any of the following documents (Norwell wetlands permit, notification of non-significance, extension permit, and statement of compliance) issued by the Commission within 20 business days of the date of issuance, the Commission is empowered to record them at the applicant's expense. As proof of recording, the applicant must deliver to the Commission the recording slip at the bottom of the document. If the Commission must record any document, the applicant will be charged the cost of registration plus a fee of \$150. The Commission may issue an enforcement order as a result of failure to record at the Registry.

Chapter 304

BOARD OF HEALTH

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Sewage Disposal; Private Water Supplies;
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ARTICLE IV

Groundwater Protection

§ 304-56. Purpose of regulation.

[HISTORY: Adopted by the Board of Health of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Body Art Establishments
[Adopted effective 2-5-2001]

§ 304-1. Purpose.

Whereas body art is becoming prevalent and popular throughout the Commonwealth; and whereas knowledge and practice of universal precautions, sanitation, personal hygiene, sterilization and aftercare requirements on the part of the practitioner should be demonstrated to prevent the transmission of disease or injury to the client and/or practitioner; now, therefore, the Board of Health of Norwell passes these rules and regulations for the practice of body art in the Town of Norwell as part of our mission to protect the health, safety and welfare of the public.

§ 304-2. Authority.

The Norwell Board of Health, acting under the authority conferred by MGL c. 111, § 31, has adopted the following regulations for body art establishments and practitioners. These regulations have been modeled after 105 CMR Section 124 of the Massachusetts Department of Public Health.

§ 304-3. Definitions.

As used in this article, the following terms shall have the meanings indicated:

AFTERCARE — Written instruction given to the client, specific to the body art procedure(s) rendered, about caring for the body art and surrounding area, including information about when to seek medical treatment, if necessary.

APPLICANT — Any person who applies to the Board of Health for either a body art establishment permit or practitioner permit.

AUTOCLAVE — An apparatus for sterilization utilizing steam pressure at a specific temperature over a period of time.

AUTOCLAVING — A process which results in the destruction of all forms of microbial life, including highly resistant spores, by the use of an autoclave for a minimum of 30 minutes at 20 pounds of pressure (PSI) at a temperature of 270° F.

BLOODBORNE PATHOGENS STANDARD — OSHA Regulations 29 CFR 1910.1030, entitled "Occupational Exposure to Bloodborne Pathogens."

BOARD OF HEALTH or BOARD — The Board of Health that has jurisdiction in the community in which a body art establishment is located including the board or officer having like powers and duties in towns where there is no Board of Health.

BODY ART — The practice of physical body adornment by permitted establishments and practitioners using the following techniques: body piercing, tattooing and cosmetic tattooing. Extreme forms of body art, such as, but not limited to, branding, cutting, braiding and scarification, shall not be permitted. This definition does not include practices that are considered medical procedures by the Board of Registration in Medicine, such as implants under the skin, which are prohibited.

BODY ART ESTABLISHMENT or ESTABLISHMENT — A specified location, place, or business that has been granted a permit by the Board, whether public or private, where the practices of body art are performed, whether or not for profit.

BODY ART PRACTITIONER or PRACTITIONER — A specifically identified individual who has been granted a permit by the Board to perform body art in an establishment that has been granted a permit by the Board.

BODY PIERCING — Puncturing or penetration of the skin of a person with presterilized single-use needles and the insertion of presterilized jewelry or other adornment into the opening. This definition excludes piercing of the earlobe with a presterilized single-use stud-and-clasp system manufactured exclusively for ear-piercing.

BRAIDING — The cutting of strips of skin of a person, which strips are then to be intertwined with one another and placed onto such person so as to cause or allow the incised and interwoven strips of skin to heal in such intertwined condition.

BRANDING — Inducing a pattern of scar tissue by use of a heated material (usually metal) to the skin, making a serious burn, which eventually becomes a scar.

CLIENT — A member of the public who requests a body art procedure at a body art establishment.

CONTAMINATED WASTE — Waste as defined in 105 CMR 480.000, Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waste, State Sanitary Code, Chapter VIII.

COSMETIC TATTOOING — Also known as permanent cosmetics, micropigment implantation or dermal pigmentation, the implantation of permanent pigment around the eyes, lips and cheeks of the face and hair limitation.

DEPARTMENT — The Department of Public Health or its authorized representatives.

DISINFECTANT — A product registered as a disinfectant by the United States Environmental Protection Agency (EPA).

DISINFECTION — The destruction of disease-causing microorganisms on inanimate objects or surfaces, thereby rendering these objects safe for use or handling.

EAR PIERCING — The puncturing of the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system following the manufacturer's instruction.

EQUIPMENT — All machinery, including fixtures, containers, vessels, tools, devices, implements, furniture, display and storage areas, sinks, and all other apparatus and appurtenances, used in connection with the operation of a body art establishment.

HAND SINK — A lavatory equipped with hot and cold running water under pressure, used solely for washing hands, arms, or other portions of the body.

HOT WATER — Water that attains and maintains a temperature of 110° to 130° F.

INSTRUMENTS USED FOR BODY ART — Hand pieces, needles, needle bars, and other instruments that may come in contact with a client's body or may be exposed to bodily fluids during any body art procedure.

INVASIVE — Entry into the client's body either by incision or insertion of any instruments into or through the skin or mucosa, or by any other means intended to puncture, break, or otherwise compromise the skin or mucosa.

JEWELRY — Any ornament inserted into a newly pierced area, which must be made of surgical implant-grade stainless steel; solid 14k or 18k white or yellow gold, niobium, titanium, or platinum; or a dense, low-porosity plastic, which is free of nicks, scratches, or irregular surfaces and has been properly sterilized prior to use.

MINOR — Any person under the age of 18 years.

MOBILE BODY ART ESTABLISHMENT — Any trailer, truck, car, van, camper or other motorized or nonmotorized vehicle, shed, tent, movable structure, bar, home or other facility wherein, or concert, fair, party or other event whereat, one desires to or actually does conduct body art procedures.

OPERATOR — Any person who individually, or jointly or severally with others, owns or controls an establishment, but is not a body art practitioner.

PERMIT — Board approval in writing to either operate a body art establishment or operate as a body art practitioner within a body art establishment. Board approval shall be granted solely for the practice of body art pursuant to these regulations. Said permit is exclusive of

the establishment's compliance with other licensing or permitting requirements that may exist within the Board's jurisdiction.

PERSON — An individual, any form of business or social organization or any other nongovernmental legal entity, including but not limited to corporations, partnerships, limited liability companies, associations, trusts or unincorporated organizations.

PHYSICIAN — An individual licensed as a qualified physician by the Board of Registration in Medicine pursuant to MGL c. 112, § 2.

PROCEDURE SURFACE — Any surface of an inanimate object that contacts the client's unclothed body during a body art procedure, skin preparation of the area adjacent to and including the body art procedure, or any associated work area which may require sanitizing.

SANITARY — Clean and free of agents of infection or disease.

SANITIZE — The application of a United States Environmental Protection Agency (EPA) registered sanitizer on a cleaned surface in accordance with the label instructions.

SCARIFICATION — Altering skin texture by cutting the skin and controlling the body's healing process in order to produce wounds which result in permanently raised wheals or bumps known as keloids.

SHARPS — Any object, sterile or contaminated, that may intentionally or accidentally cut or penetrate the skin or mucosa, including, but not limited to, needle devices, lancets, scalpel blades, razor blades, and broken glass.

SHARPS CONTAINER — A puncture-resistant, leakproof container that can be closed for handling, storage, transportation, and disposal and that is labeled with the International Biohazard Symbol.

SINGLE-USE ITEMS — Products or items that are intended for one-time, one-person use and are disposed of after use on each client, including, but not limited to, cotton swabs or balls, tissues or paper products, paper or plastic cups, gauze and sanitary coverings, razors, piercing needles, scalpel blades, stencils, ink cups, and protective gloves.

STERILIZE — The use of a physical or chemical procedure to destroy all microbial life including highly resistant bacterial endospores.

TATTOO — The indelible mark, figure or decorative design introduced by insertion of dyes or pigments into or under the subcutaneous portion of the skin.

TATTOOING — Any method of placing ink or other pigment into or under the skin or mucosa by the aid of needles or any other instrument used to puncture the skin, resulting in permanent coloration of the skin or mucosa. This term includes all forms of cosmetic tattooing.

TEMPORARY BODY ART ESTABLISHMENT — The same as "mobile body art establishment."

ULTRASONIC CLEANING UNIT — A unit approved by the Board, physically large enough to fully submerge instruments in liquid, which removes all foreign matter from the instruments by means of high-frequency oscillations transmitted through the contained liquid.

UNIVERSAL PRECAUTIONS — A set of guidelines and controls, published by the Centers for Disease Control and Prevention (CDC), as "Guidelines for Prevention of Transmission of Human Immunodeficiency Virus (HIV) and Hepatitis B Virus (HBV) to Health-Care and Public-Safety Workers" in Morbidity and Mortality Weekly Report (MMWR), June 23, 1989, Vol. 38, No. S-6, and as "Recommendations for Preventing Transmission of Human Immunodeficiency Virus and Hepatitis B Virus to Patients During Exposure-Prone Invasive Procedures" in MMWR, July 12, 1991, Vol. 40, No. RR-8. This method of infection control requires the employer and the employee to assume that all human blood and specified human body fluids are infectious for HIV, HBV, and other blood pathogens. Precautions include hand washing; gloving; personal protective equipment; injury prevention; and proper handling and disposal of needles, other sharp instruments, and blood- and body-fluid-contaminated products.

§ 304-4. Exemptions.

- A. Physicians licensed in accordance with MGL c. 112, § 2, who perform body art procedures as part of patient treatment are exempt from these regulations.
- B. Individuals who pierce only the lobe of the ear with a presterilized single-use stud-and-clasp ear-piercing system are exempt from these regulations.

§ 304-5. Restrictions.

- A. No practitioner shall perform any body art procedure upon a client under the age of 18 years.
- B. Extreme forms of body art, such as, but not limited to, branding, cutting, braiding and scarification, shall not be permitted.
- C. No body art shall be performed upon an animal.

§ 304-6. Operation of body art establishments.

Unless otherwise ordered or approved by the Board, each body art establishment shall be constructed, operated and maintained to meet the following minimum requirements:

- A. Location. Body art establishments will be allowed in any business-zoned district approved by the Board of Appeals/Planning Board.
- B. Physical plant.
 - (1) Walls, floors, ceilings, and procedure surfaces shall be smooth, durable, free of open holes or cracks, light-colored, washable, and in good repair. Walls, floors, and ceilings shall be maintained in a clean condition. All procedure surfaces, including client chairs/benches, shall be of such construction as to be easily cleaned and sanitized after each client.
 - (2) Solid partitions or walls extending from floor to ceiling shall separate the establishment's space from any other room used for human habitation, any food

establishment or room where food is prepared, any hair salon, any retail sales, or any other such activity that may cause potential contamination of work surfaces.

- (3) The establishment shall take all measures necessary to ensure against the presence or breeding of insects, vermin, and rodents within the establishment.
- (4) Each body art station shall have a minimum of 45 square feet of floor space for each practitioner. Each establishment shall have an area that may be screened from public view for clients requesting privacy. Multiple body art stations shall be separated by dividers or partition at a minimum.
- (5) The establishment shall be well ventilated and provided with an artificial light source equivalent to at least 20 footcandles three feet off the floor, except that at least 100 footcandles shall be provided at the level where the body art procedure is being performed, where instruments and sharps are assembled and all cleaning areas.
- (6) A separate, readily accessible hand sink with hot and cold running water under pressure shall be equipped with wrist- or foot-operated controls and supplied with liquid soap, and disposable paper towels stored in fixed dispensers shall be readily accessible within the establishment. Each operator area shall have a hand sink.
- (7) There shall be a sharps container in each operator area and each cleaning area.
- (8) There shall be a minimum of one toilet room containing a toilet and sink. The toilet room shall be provided with toilet paper, liquid hand soap and paper towels stored in a fixed dispenser.
- (9) At least one covered, foot-operated waste receptacle shall be provided in each operator area and each toilet room. Receptacles in the operator area shall be emptied daily. Solid waste shall be stored in covered, leakproof, rodent-resistant containers and shall be removed from the premises at least weekly.
- (10) At least one janitorial sink shall be provided in each body art establishment for use in cleaning the establishment and proper disposal of noncontaminated liquid wastes in accordance with all applicable federal, state and local laws. Said sink shall be of adequate size equipped with hot and cold running water under pressure and permit the cleaning of the establishment and any equipment used for cleaning.
- (11) All instruments and supplies shall be stored in clean, dry, and covered containers. Containers shall be kept in a secure area specifically dedicated to the storage of all instruments and supplies.
- (12) The establishment shall have a cleaning area. Every cleaning area shall have an area for the placement of an autoclave or other sterilization unit located or positioned a minimum of 36 inches from the required ultrasonic cleaning unit.
- (13) The establishment shall have a customer waiting area, exclusive and separate from any workstation, instrument storage area, cleaning area or any other area in the body art establishment used for body art activity.

- (14) No animals of any kind shall be allowed in a body art establishment except service animals used by persons with disabilities (e.g., Seeing Eye dogs).
- (15) Smoking, eating, or drinking is prohibited in the establishment where body art is performed, with the exception of nonalcoholic fluids being offered to a client during or after a body art procedure.

C. Requirements for single-use items including inks, dyes and pigments.

- (1) Single-use items shall not be used on more than one client for any reason. After use, all single-use sharps shall be immediately disposed of in approved sharps containers pursuant to 105 CMR 480.000.
- (2) All products applied to the skin, such as but not limited to body art stencils, applicators, gauze and razors, shall be single use and disposable.
- (3) All reusable needles are prohibited.
- (4) All inks, dyes, pigments, solid core needles, and equipment shall be specifically manufactured for performing body art procedures and shall be used according to manufacturer's instructions.
- (5) Inks, dyes or pigments may be mixed and may only be diluted with water from an approved potable source. Immediately before a tattoo is applied, the quantity of the dye to be used shall be transferred from the dye bottle and placed into single-use paper cups or plastic caps. Upon completion of the tattoo, these single-use cups or caps and their contents shall be discarded.

D. Sanitation and sterilization measures and procedures.

- (1) All nondisposable instruments used for body art, including all reusable solid core needles, pins and stylets, shall be cleaned thoroughly after each use by scrubbing with an appropriate soap or disinfectant solution and hot water (to remove blood and tissue residue) and shall be placed in an ultrasonic unit operated in accordance with manufacturer's instructions.
- (2) After being cleaned, all nondisposable instruments used for body art shall be packed individually in sterilizer packs and subsequently sterilized in a steam autoclave. All sterilizer packs shall contain either a sterilizer indicator or internal temperature indicator. Sterilizer packs must be dated with an expiration date not to exceed six months.
- (3) The autoclave shall be used, cleaned and maintained according to manufacturer's instruction. A copy of the manufacturer's recommended procedures for the operation of the autoclave must be available for inspection by the Board. Autoclaves shall be located away from workstations or areas frequented by the public.
- (4) Each holder of a permit to operate a body art establishment shall demonstrate that the autoclave used is capable of attaining sterilization by monthly spore destruction tests. These tests shall be verified through an independent laboratory. The permit shall not be issued or renewed until documentation of the autoclave's ability to destroy spores is received by the Board. These test records shall be

retained by the operator for a period of three years and made available to the Board upon request.

- (5) All instruments used for body art procedures shall remain stored in sterile packages until just prior to the performance of a body art procedure. After sterilization, the instruments used in body art procedures shall be stored in a dry, clean cabinet or other tightly covered container reserved for the storage of such instruments.
- (6) Sterile instruments may not be used if the package has been breached or after the expiration date without first repackaging and resterilizing.
- (7) If the body art establishment uses only sterile single-use, disposable instruments and products, and uses sterile supplies, an autoclave shall not be required.
- (8) When assembling instruments used for body art procedures, the operator shall wear disposable medical gloves and use medically recognized sterile techniques to ensure that the instruments and gloves are not contaminated.
- (9) Reusable cloth items shall be mechanically washed with detergent and mechanically dried after each use. The cloth items shall be stored in a dry, clean environment until used. Should such items become contaminated directly or indirectly with bodily fluids, the items shall be washed in accordance with standards applicable to hospitals and medical care facilities, at a temperature of 160° F. or temperature of 120° F. with the use of chlorine disinfectant.

E. Posting requirements. The following shall be prominently displayed:

- (1) A disclosure statement, a model of which shall be available from the Department. A disclosure statement shall also be given to each client, advising him/her of the risks and possible consequences of body art procedures.
- (2) The name, address and phone number of the Norwell Board of Health and the procedure for filing a complaint.
- (3) An emergency plan, including:
 - (a) A plan for the purpose of contacting police, fire or emergency medical services in the event of an emergency;
 - (b) A telephone in good working order shall be easily available and accessible to all employees and clients during all hours of operation; and
 - (c) A sign at or adjacent to the telephone indicating the correct emergency telephone numbers.
- (4) An occupancy and use permit as issued by the local building official.
- (5) A current establishment permit.
- (6) Each practitioner's permit.

F. Establishment recordkeeping. The establishment shall maintain the following records in a secure place for a minimum of three years, and such records shall be made available to the Board upon request:

- (1) Establishment information, which shall include:
 - (a) Establishment name;
 - (b) Hours of operation;
 - (c) Owner's name and address;
 - (d) A complete description of all body art procedures performed;
 - (e) An inventory of all instruments and body jewelry, all sharps, and all inks used for any and all body art procedures, including names of manufacturers and serial or lot numbers, if applicable. Invoices or packing slips shall satisfy this requirement;
 - (f) A Material Safety Data Sheet, when available, for each ink and dye used by the establishment;
 - (g) Copies of waste hauler manifests; and
 - (h) A copy of these regulations.
- (2) Employee information, which shall include:
 - (a) Full legal name and exact duties;
 - (b) Date of birth;
 - (c) Home address;
 - (d) Home/work phone numbers;
 - (e) Identification photograph;
 - (f) Dates of employment;
 - (g) Hepatitis B vaccination status or declination notification; and
 - (h) Training records.
- (3) Client information, which shall include:
 - (a) Name;
 - (b) Age and valid photo identification;
 - (c) Address of the client;
 - (d) Date of the procedure;
 - (e) Name of the practitioner who performed the procedure(s);
 - (f) Description of procedure(s) performed and the location on the body; and

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- (g) A signed consent form as specified by § 304-7D(2).
- (4) Client information shall be kept confidential at all times.
- G. The establishment shall require that all body art practitioners have either completed, or were offered and declined, in writing, the hepatitis B vaccination series. Records documenting compliance with this requirement shall be provided to the Board upon request.
- H. No person shall establish or operate a mobile or temporary body art establishment.

§ 304-7. Standard of practice.

Practitioners are required to comply with the following minimum health standards:

- A. A practitioner shall perform all body art procedures in accordance with Universal Precautions set forth by the United States Centers for Disease Control and Prevention.
- B. A practitioner shall refuse service to any person who may be under the influence of alcohol or drugs.
- C. Practitioners who use ear-piercing systems must conform to the manufacturer's directions for use and to applicable United States Food and Drug Administration requirements. No practitioner shall use an ear piercing system on any part of the client's body other than the lobe of the ear.
- D. Health history and client informed consent. Prior to performing a body art procedure on a client, the practitioner shall:
 - (1) Inform the client, verbally and in writing, that the following health conditions may increase health risks associated with receiving a body art procedure:
 - (a) History of diabetes;
 - (b) History of hemophilia (bleeding);
 - (c) History of skin diseases, skin lesions, or skin sensitivities to soaps, disinfectants, etc.;
 - (d) History of allergies or adverse reactions to pigments, dyes, or other sensitivities;
 - (e) History of epilepsy, seizures, fainting, or narcolepsy;
 - (f) Use of medications such as anticoagulants, which thin the blood and/or interfere with blood clotting; and
 - (g) Any other conditions such as hepatitis or HIV.
 - (2) Require that the client sign a form confirming that the above information was provided, that the client does not have a condition that prevents him/her from receiving body art, that the client consents to the performance of the body art procedure and that the client has been given the aftercare instructions as required by Subsection K.

- E. A practitioner shall maintain the highest degree of personal cleanliness, conform to best standard hygienic practices, and wear clean clothes when performing body art procedures. Before performing body art procedures, the practitioner must thoroughly wash his/her hands in hot running water with liquid soap, then rinse hands and dry with disposable paper towels. This shall be done as often as necessary to remove contaminants.
- F. In performing body art procedures, a practitioner shall wear disposable single-use gloves. Gloves shall be changed if they become pierced, torn, or otherwise contaminated by contact with any unclean surfaces or objects or by contact with a third person. The gloves shall be discarded, at a minimum, after the completion of each procedure on an individual client, and hands shall be washed in accordance with Subsection E before the next set of gloves is put on. Under no circumstances shall a single pair of gloves be used on more than one person. The use of disposable single-use gloves does not preclude or substitute for handwashing procedures as part of a good personal hygiene program.
- G. The skin of the practitioner shall be free of rash or infection. No practitioner affected with boils, infected wounds, open sores, abrasions, weeping dermatological lesions or acute respiratory infection shall work in any area of a body art establishment in any capacity in which there is a likelihood that that person could contaminate body art equipment, supplies, or working surfaces with body substances or pathogenic organisms.
- H. Any item or instrument used for body art that is contaminated during the procedure shall be discarded and replaced immediately with a new disposable item or a new sterilized instrument or item before the procedure resumes.
- I. Preparation and care of a client's skin area must comply with the following:
 - (1) Any skin or mucosa surface to receive a body art procedure shall be free of rash or any visible infection.
 - (2) Before a body art procedure is performed, the immediate skin area and the areas of skin surrounding where body art procedure is to be placed shall be washed with soap and water or any approved surgical skin preparation. If shaving is necessary, single-use disposable razors or safety razors with single-service blades shall be used. Blades shall be discarded after each use, and reusable holders shall be cleaned and autoclaved after use. Following shaving, the skin and surrounding area shall be washed with soap and water. The washing pad shall be discarded after a single use.
 - (3) In the event of bleeding, all products used to stop the bleeding or to absorb blood shall be single use, and discarded immediately after use in appropriate covered containers, and disposed of in accordance with 105 CMR 480.000.
- J. Petroleum jellies, soaps, and other products used in the application of stencils shall be dispensed and applied on the area to receive a body art procedure with sterile gauze or other sterile applicator to prevent contamination of the original container and its contents. The applicator or gauze shall be used once and then discarded.

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- K. The practitioner shall provide each client with verbal and written instructions on the aftercare of the body art site.
- (1) The written instructions shall advise the client:
 - (a) On the proper cleansing of the area which received the body art;
 - (b) To consult a health care provider for:
 - [1] Unexpected redness, tenderness or swelling at the site of the body art procedure;
 - [2] Any rash;
 - [3] Unexpected drainage at or from the site of the body art procedure; or
 - [4] A fever within 24 hours of the body art procedure; and
 - (c) Of the address and phone number of the establishment.
 - (2) A copy shall be provided to the client. A model set of aftercare instructions shall be made available by the Department.
- L. Contaminated waste shall be stored, treated and disposed in accordance with 105 CMR 480.000, Storage and Disposal of Infectious or Physically Dangerous Medical or Biological Waster, State Sanitary Code Chapter VIII.

§ 304-8. Injury and/or complication reports.

A written report of any injury, infection complication or disease as a result of a body art procedure, or complaint of injury, infection complication or disease, shall be forwarded by the operator to the Board which issued the permit, with a copy to the injured client within five working days of its occurrence or knowledge thereof. The report shall include:

- A. The name of the affected client;
- B. The name and location of the body art establishment involved;
- C. The nature of the injury, infection complication or disease;
- D. The name and address of the affected client's health care provider, if any; and
- E. Any other information considered relevant to the situation.

§ 304-9. Complaints.

- A. The Board shall investigate complaints received about an establishment or practitioner's practices or acts, which may violate any provision of the Board's regulations.
- B. If the Board finds that an investigation is not required because the alleged act or practice is not in violation of the Board's regulations, then the Board shall notify the complainant of this finding and the reasons on which it is based.

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- C. If the Board finds that an investigation is required, because the alleged act or practice may be in violation of the Board's regulations, the Board shall investigate and, if a finding is made that the act or practice is in violation of the Board's regulations, then the Board shall apply whatever enforcement action is appropriate to remedy the situation and shall notify the complainant of its action in this manner.

§ 304-10. Application for body art establishment permit.

- A. No person may operate a body art establishment except with a valid permit from the Board.
- B. Applications for a permit shall be made on forms prescribed by and available from the Board. An applicant shall submit all information required by the form and accompanying instructions. The term "application" as used herein shall include the original and renewal applications.
- C. An establishment permit shall be valid for one year from January 1 and shall automatically expire on December 31 of that year unless revoked sooner by the Board.
- D. The Board shall require that the applicant provide, at a minimum, the following information in order to be issued an establishment permit:
- (1) Name, address and telephone number of:
 - (a) The body art establishment;
 - (b) The operator of the establishment; and
 - (c) The body art practitioner(s) working at the establishment;
 - (2) The manufacturer, model number, model year, and serial number, where applicable, of the autoclave used in the establishment;
 - (3) A signed and dated acknowledgement that the applicant has received, read and understood the requirements of the Board's body art regulations;
 - (4) A drawing of the floor plan of the proposed establishment to scale for a plan review by the Board, as part of the permit application process; and
 - (5) Such additional information as the Board may reasonably require.
- E. The fee for such permit shall be \$200.
- F. A permit for a body art establishment shall not be transferable from one place or person to another.

§ 304-11. Application for body art practitioner permit.

- A. No person shall practice body art or perform any body art procedure without first obtaining a practitioner permit from the Board.
- B. The fee for such permit shall be \$100.

- C. A practitioner shall be a minimum of 18 years of age.
- D. A practitioner permit shall be valid for one year from January 1 and shall automatically expire on December 31 of that year unless revoked sooner by the Board.
- E. Application for a practitioner permit shall include:
- (1) Name;
 - (2) Date of birth;
 - (3) Residence address;
 - (4) Mailing address;
 - (5) Phone number;
 - (6) Place(s) of employment as a practitioner; and
 - (7) Training and/or experience as set out in Subsection F below.
- F. Practitioner training and experience.
- (1) In reviewing an application for a practitioner permit, the Board may consider experience, training and/or certification acquired in other states that regulate body art.
 - (2) Training for all practitioners shall be approved by the Board and, at a minimum, shall include the following:
 - (a) Bloodborne pathogen training program (or equivalent) which includes infectious disease control; waste disposal; handwashing techniques; sterilization equipment operation and methods; and sanitization, disinfection and sterilization methods and techniques; and
 - (b) Current certification in first aid and cardiopulmonary resuscitation (CPR). Examples of courses approved by the Board include "Preventing Disease Transmission" (American Red Cross) and "Bloodborne Pathogen Training" [United States Occupational Safety and Health Administration (OSHA)]. Training/courses provided by professional body art organizations or associations or by equipment manufacturers may also be submitted to the Board for approval.
 - (3) The applicant for a body piercing practitioner permit shall provide documentation, acceptable to the Board, that she/he completed a course on anatomy, completed an examination on anatomy, or possesses an equivalent combination of training and experience deemed acceptable to the Board.
 - (4) The applicant for a tattoo practitioner permit shall provide documentation, acceptable to the Board, that she/he completed a course on skin diseases, disorders and conditions, including diabetes, or completed an examination on skin diseases, disorder and conditions, including diabetes, or possesses a combination of training and experience deemed acceptable to the Board.

- G. A practitioner's permit shall be conditioned upon continued compliance with all applicable provisions of these rules and regulations.

§ 304-12. Grounds for suspension, denial, revocation or refusal to renew permit.

- A. The Board may suspend a permit, deny a permit, revoke a permit or refuse to renew a permit on the following grounds, each of which, in and of itself, shall constitute full and adequate grounds for suspension, denial, revocation or refusal to renew:
- (1) Any actions which would indicate that the health or safety of the public would be at risk;
 - (2) Fraud, deceit or misrepresentation in obtaining a permit, or its renewal;
 - (3) Criminal conduct which the Board determines to be of such a nature as to render the establishment, practitioner or applicant unfit to practice body art as evidenced by criminal proceedings resulting in a conviction, guilty plea, or plea of nolo contendere or an admission of sufficient facts;
 - (4) Any present or past violation of the Board's regulations governing the practice of body art;
 - (5) Practicing body art while the ability to practice is impaired by alcohol, drugs, physical disability or mental instability;
 - (6) Being habitually drunk or being dependent on, or a habitual user of, narcotics, barbiturates, amphetamines, hallucinogens, or other drugs having similar effects;
 - (7) Knowingly permitting, aiding or abetting an unauthorized person to perform activities requiring a permit;
 - (8) Continuing to practice while his/her permit is lapsed, suspended, or revoked;
 - (9) Having been disciplined in another jurisdiction in any way by the proper permitting authority for reasons substantially the same as those set forth in the Board's regulations; and
 - (10) Other just and sufficient cause which the Board may determine would render the establishment, practitioner or applicant unfit to practice body art.
- B. The Board shall notify an applicant, establishment or practitioner in writing of any violation of the Board's regulations, for which the Board intends to deny, revoke, or refuse to renew a permit. The applicant, establishment or practitioner shall have seven days after receipt of such written notice in which to comply with the Board's regulations. The Board may deny, revoke or refuse to renew a permit if the applicant, establishment or practitioner fails to comply after said seven days subject to procedure outlined in § 304-14.
- C. Applicants denied a permit may reapply after six months and be subject to a hearing before the Board.

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§ 304-13. Grounds for suspension of permit.

The Board may summarily suspend a permit pending a final hearing on the merits on the question of revocation if, based on the evidence before it, the Board determines that an establishment and/or a practitioner is an immediate and serious threat to the public health, safety or welfare. The suspension of a permit shall take effect immediately upon written notice of such suspension by the Board.

§ 304-14. Procedures for hearings.

The owner of the establishment or practitioner shall be given written notice of the Board's intent to hold a hearing for the purpose of suspension, revocation, denial or refusal to renew a permit. This written notice shall be served through a certified letter sent return receipt. The notice shall include the date, time and place of the hearing and the owner of the establishment or practitioner's right to be heard.

§ 304-15. Severability.

If any provision contained in these regulations is deemed invalid for any reason, it shall be severed and shall not affect the validity of the remaining provisions.

§ 304-16. Violations and penalties.

The fine for a violation of any provision of these rules and regulations shall be first offense, \$100; second offense, \$200; third offense, \$300. Each day that a violation continues shall be deemed to be a separate offense.

§ 304-17. Effective date.

These rules and regulations shall be effective as of February 5, 2001.

ARTICLE II**Massage and Baths****[Adopted effective 1-30-1985]****§ 304-18. License required and fee.**

- A. No person shall practice massage or conduct an establishment for the giving of massage or vapor, pool, shower, or other baths for hire or reward, or advertise or hold himself out as being engaged in the business of massage or the giving of said baths in the Town of Norwell, without receiving a license therefor from the Board. The license fee for each establishment shall be \$100 for the original application and \$100 for each annual renewal and for each masseur or masseuse shall be \$25 for the license and \$25 annually thereafter. A license issued to an establishment, masseur or masseuse is not transferable.

- B. No license or permit shall be issued hereunder to a person or a corporation or other applicant until after a public hearing has been held by the Board, which shall be based on the satisfaction that said use is appropriate, and that it will not create a nuisance or be dangerous to the public health.¹
- C. The license shall specify all the premises to be occupied by the licensee for the purpose of carrying on the licensed business.
- D. Permits for a change of situation of the licensed premises or for additions thereto may be granted at any time by the Board in writing, a copy of which shall be attached to the license.

§ 304-19. Definitions.

As used in this article, the following terms shall have the meanings indicated:

APPROVED — Approved by the Board of Health of the Town of Norwell in accordance with accepted standards.

APPROVED COURSE OF MASSAGE — A course on the art and science of massage which included both theory and practice and is approved by the Board of Health of the Town of Norwell in accordance with accepted standards.

ESTABLISHMENT FOR GIVING MASSAGE, VAPOR, POOL, SHOWER OR OTHER BATHS — The office, place of business, or premises where massage is practiced or where therapeutic or conditioning baths of water, vapor, or other substance are given.

MASSAGE — Manipulation or conditioning of part or parts of the body by manual, mechanical, or other means as a beauty treatment, for purported health or medical treatment, or for the purposes of invigoration.

MASSEUR — A male who practices massage.

MASSEUSE — A female who practices massage.

§ 304-20. Exceptions and exclusions.

For the purpose of these regulations:

- A. Persons excepted. Physicians, physical therapists, school athletic trainers, or chiropodists (podiatrists) registered in the Commonwealth are excluded. A person registered as a barber or an apprentice under the provisions of MGL c. 112, § 87H or 87I,² or as a hairdresser, operator, or a student under the provisions of MGL c. 112, § 87T or 87JJ, inclusive, may practice facial and scalp massage without taking out a license.
- B. Other persons excepted. A person licensed to practice massage or conduct an establishment in any other city or town in the Commonwealth may, on written orders of

1. Editor's Note: Amendment pending.

2. Editor's Note: Sections 87H and 87I of MGL c. 112 were repealed by St. 2014, c. 236.

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a physician, attend patients, specified by the physician. He shall, if requested, submit to the Board copies of his license from another community and the physician's orders.

- C. Establishment exceptions. Hospitals, nursing and convalescent homes, and other similar licensed institutions where massage and baths may be given are excluded from the definition of an establishment.

§ 304-21. Expiration date of license.

Licenses shall automatically expire on December 31 of each year. Applications for renewal must be submitted at least 30 days prior to expiration date.

§ 304-22. Requirements for personal licensing.

No person shall be licensed to practice or conduct an establishment for giving massage, vapor, pool, shower, or other baths unless he or she meets the following requirements:

- A. Be 21 years of age or older.
- B. Have completed a course of massage approved by the Board of Health or show equivalent training or experience.
- C. Submit a certificate of health signed by a physician with a negative tuberculin skin test or a chest x-ray.
- D. Submit to the Board a fully completed application form.

§ 304-23. Requirements for licensing of establishment.

- A. Every establishment which intends to give massage shall:
 - (1) Conform to Town and State Sanitary Code for sewage disposal systems.
 - (2) Be well lighted, ventilated and properly heated when seasonally indicated.
- B. No room used by the licensee in the conduct of his business shall be used as a bedroom.
- C. There shall be an adequate supply of hot and cold running water at all times.
- D. There shall be approved toilet and washing facilities within the premises, readily available to the patrons and affording sufficient privacy. Both men's and ladies' rooms shall be available at all times.
- E. Where patrons of both sexes are accommodated, adequate arrangements shall be made for separation of rooms, toilets, and washing facilities used by each sex.
- F. All rooms of the establishment and furniture and equipment therein shall be kept clean at all times.
- G. The door of each room or enclosure used for massage purposes shall have an unobstructed window large enough to permit visual observation of the entire room.

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- H. Each room or enclosure for the giving of massage services shall have at least one electric light.
- I. There shall be installed a heat and smoke detecting system in compliance with the Building Code.
- J. There shall be adequate facilities for the cleaning and sterilizing of all equipment.
- K. All rooms for reception and treatment of patrons shall be arranged so as to afford adequate fire protection and shall have satisfactory means of egress in case of fire as approved by the Building Inspector/Zoning Enforcement Officer and Fire Chief.³
- L. All equipment, instruments, devices, robes, sheets, blankets, pillow cases, wearing apparel, towels or other materials which may come in direct contact with the body shall be properly cleaned and sterilized.
- M. No food or alcoholic beverages shall be permitted on the premises.
- N. There shall be no locks on massage room doors.
- O. Each massage room shall have separate vent or window to outside.
- P. Every licensee shall keep a book on the licensed premises, in such form as shall be approved by the Board, in which, at the time of providing the services licensed hereunder, he shall list the full name and address of the recipient of said services.

§ 304-24. Direct application of instruments to skin prohibited.

No instruments or device designed or used for direct application to the skin shall be applied directly to the skin unless sterilized; the part of the body being treated shall be covered with a clean towel, or else the instrument shall be covered in a similar manner.

§ 304-25. Treatment of wounds prohibited.

No sponge, stick, alum, or other article liable to convey infection shall be used to make application directly to the skin or any cut or wound.

§ 304-26. Treatment of persons with skin disease prohibited.

No person licensed shall treat any person afflicted with any skin eruption or other disease unless such person shall have furnished a written certificate from a physician to the effect that the eruption of disease is not of a contagious transmissible character.

§ 304-27. Cleaning of hands.

Every person licensed to practice massage shall thoroughly cleanse his hands by washing with soap and hot water immediately before serving a patron.

3. Editor's Note: Amendment pending.

§ 304-28. Working hours.

An establishment for the practice of massage or baths as defined herein may be open between the hours of 9:00 a.m. and 8:00 p.m. No Sundays or holidays.

§ 304-29. Display of license.

All licenses must be displayed conspicuously.

§ 304-30. Use of x-ray prohibited.

No licensee may operate an x-ray, fluoroscope, or similar equipment or radioactive material for any purpose unless already licensed by the Commonwealth of Massachusetts to practice a profession requiring the use of radiation equipment. No licensed establishment may contain an x-ray, fluoroscope, or similar equipment unless this equipment is operated only by persons properly licensed to practice a profession requiring the use of such equipment.

§ 304-31. Restriction on form of massage or bath.

A license may be limited in the form of massage or type of bath given at the discretion of the Board.

§ 304-32. Change of address.

Every licensee shall notify the Board prior to any change of address, home or business, or name. Any new license or amendment to an existing license required because of the foregoing may be issued without charge at the discretion of the Board.

§ 304-33. Inspections.

Every licensee shall permit the Board or its agents to inspect his place of business and his work at any reasonable time.

§ 304-34. Revocation of license.

Said licenses may be revoked for such cause as the Board deems sufficient, and without a hearing, in accordance with MGL c. 140, § 51, and said licenses shall be subject to the provisions of MGL c. 111, § 143.

§ 304-35. Violations and penalties.

Whoever violates any provisions of MGL c. 140, § 51, or any of these rules or regulations or prevents or hinders any member of a police force from exercising the authority conferred upon him by MGL c. 140, § 52, shall be punished by a fine of not more than \$100 or imprisonment for not more than six months or both in accordance with MGL c. 140, § 53.

§ 304-36. Severability.

If any section, paragraph, sentence, clause or phrase of these rules and regulations shall be decided invalid for any reason whatsoever, such decision shall not affect the remaining portions of these regulations, which shall remain in full force and effect, and to this end the provisions of these regulations are hereby declared severable.

ARTICLE III

**Sale of Tobacco Products
[Adopted effective 3-31-2016]****§ 304-37. Authority.**

This regulation is promulgated pursuant to the authority granted to the Norwell Board of Health by MGL c. 111, § 31, which states "Boards of health may make reasonable health regulations."

§ 304-38. Definitions.

For the purpose of this regulation, the following words shall have the following meanings:

BLUNT WRAP — Any tobacco product manufactured or packaged as a wrap or as a hollow tube made wholly or in part from tobacco that is designed or intended to be filled by the consumer with loose tobacco or other fillers.

BUSINESS AGENT — An individual who has been designated by the owner or operator of any establishment to be the manager or otherwise in charge of said establishment.

CHARACTERIZING FLAVOR — A distinguishable taste or aroma, other than the taste or aroma of tobacco, menthol, mint or wintergreen, imparted or detectable either prior to or during consumption of a tobacco product or component part thereof, including, but not limited to, tastes or aromas relating to any fruit, chocolate, vanilla, honey, candy, cocoa, dessert, alcoholic beverage, herb or spice; provided, however, that no tobacco product shall be determined to have a characterizing flavor solely because of the provision of ingredient information or the use of additives or flavorings that do not contribute to the distinguishable taste or aroma of the product.

CIGAR — Any roll of tobacco that is wrapped in leaf tobacco or in any substance containing tobacco with or without a tip or mouthpiece not otherwise defined as a cigarette under MGL c. 64C, § 1, Paragraph 1.

COMPONENT PART — Any element of a tobacco product, including, but not limited to, the tobacco, filter and paper, but not including any constituent.

CONSTITUENT — Any ingredient, substance, chemical or compound, other than tobacco, water or reconstituted tobacco sheet, that is added by the manufacturer to a tobacco product during the processing, manufacturing or packaging of the tobacco product. Such term shall include a smoke constituent.

DISTINGUISHABLE — Perceivable by either the sense of smell or taste.

EDUCATIONAL INSTITUTION — Any public or private college, school, professional school, scientific or technical institution, university or other institution furnishing a program of higher education.

EMPLOYEE — Any individual who performs services for an employer.

EMPLOYER — Any individual, partnership, association, corporation, trust or other organized group of individuals that uses the services of one or more employees.

FLAVORED TOBACCO PRODUCT — Any tobacco product or component part thereof that contains a constituent that has or produces a characterizing flavor. A public statement, claim or indicia made or disseminated by the manufacturer of a tobacco product, or by any person authorized or permitted by the manufacturer to make or disseminate public statements concerning such tobacco product, that such tobacco product has or produces a characterizing flavor shall constitute presumptive evidence that the tobacco product is a flavored tobacco product.

HEALTH CARE INSTITUTION — An individual, partnership, association, corporation or trust or any person or group of persons that provides health care services and employs health care providers licensed, or subject to licensing, by the Massachusetts Department of Public Health under MGL c. 112 or a retail establishment that provides pharmaceutical goods and services and is subject to the provisions of 247 CMR 6.00. Health care institutions include, but are not limited to, hospitals, clinics, health centers, pharmacies, drugstores, doctor offices, optician/optometrist offices and dentist offices.

LIQUID NICOTINE CONTAINER — A bottle or other container of liquid nicotine or other substance containing nicotine that is sold, marketed, or intended for use in a tobacco product, as defined herein. The term does not include a container containing nicotine in a cartridge that is sold, marketed, or intended for use in a tobacco product, as defined herein, if the cartridge is prefilled and sealed by the manufacturer and not intended to be opened by the consumer or retailer.

MINIMUM LEGAL SALES AGE (MLSA) — The age an individual must be before that individual can be sold a tobacco product in the municipality.

NONRESIDENTIAL ROLL-YOUR-OWN (RYO) MACHINE — A mechanical device made available for use (including to an individual who produces cigars, cigarettes, smokeless tobacco, pipe tobacco, or roll-your-own tobacco solely for the individual's own personal consumption or use) that is capable of making cigarettes, cigars or other tobacco products. Roll-your-own (RYO) machines located in private homes used for solely personal consumption are not nonresidential RYO machines.

PERMIT HOLDER — Any person engaged in the sale or distribution of tobacco products who applies for and receives a tobacco product sales permit or any person who is required to apply for a tobacco product sales permit pursuant to these regulations, or his or her business agent.

PERSON — Any individual, firm, partnership, association, corporation, company or organization of any kind, including but not limited to an owner, operator, manager, proprietor or person in charge of any establishment, business or retail store.

RETAIL TOBACCO STORE — An establishment that is not required to possess a retail food permit whose primary purpose is to sell or offer for sale, but not for resale, tobacco

products and tobacco paraphernalia, in which the sale of other products is merely incidental, and in which the entry of persons under the minimum legal sales age is prohibited at all times, and maintains a valid permit for the retail sale of tobacco products as required to be issued by the Norwell Board of Health.

SCHOOLS — Public or private elementary or secondary schools.

SELF-SERVICE DISPLAY — Any display from which customers may select a tobacco product, as defined herein, without assistance from an employee or store personnel.

SMOKE CONSTITUENT — Any chemical or chemical compound in mainstream or sidestream tobacco smoke that either transfers from any component of the tobacco product to the smoke or that is formed by the combustion or heating of tobacco, additives or other component of the tobacco product.

SMOKING BAR — An establishment that primarily is engaged in the retail sale of tobacco products for consumption by customers on the premises and is required by MGL c. 270, § 22, to maintain a valid permit to operate a smoking bar issued by the Massachusetts Department of Revenue. "Smoking bar" shall include, but not be limited to, those establishments that are commonly known as "cigar bars" and "hookah bars."

TOBACCO PRODUCT — Any product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to: cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, snuff, or electronic cigarettes, electronic cigars, electronic pipes, electronic hookah, or other similar products, regardless of nicotine content, that rely on vaporization or aerosolization. "Tobacco product" includes any component or part of a tobacco product. "Tobacco product" does not include any product that has been approved by the United States Food and Drug Administration either as a tobacco use cessation product or for other medical purposes and which is being marketed and sold or prescribed solely for the approved purpose.

VENDING MACHINE — Any automated or mechanical self-service device which, upon insertion of money, tokens or any other form of payment, dispenses or makes cigarettes or any other tobacco products, as defined herein.

§ 304-39. Tobacco sales to persons under minimum legal sales age prohibited.

- A. No person shall sell tobacco products or permit tobacco products, as defined herein, to be sold to a person under the minimum legal sales age or, not being the individual's parent or legal guardian, give tobacco products, as defined herein, to a person under the minimum legal sales age. The minimum legal sales age in Norwell is 21.
- B. Required signage.
 - (1) In conformance with and in addition to MGL c. 270, § 7, a copy of MGL c. 270, § 6, shall be posted conspicuously by the owner or other person in charge thereof in the shop or other place used to sell tobacco products at retail. The notice shall be provided by the Massachusetts Department of Public Health and made available from the Norwell Board of Health. The notice shall be at least 48 square inches and shall be posted conspicuously by the permit holder in the retail

establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor. The owner or other person in charge of a shop or other place used to sell tobacco products at retail shall conspicuously post any additional signs required by the Massachusetts Department of Public Health.

- (2) The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post signage provided by the Norwell Board of Health that discloses current referral information about smoking cessation.
 - (3) The owner or other person in charge of a shop or other place used to sell tobacco products, as defined herein, at retail shall conspicuously post a sign stating that "The sale of tobacco products, including e-cigarettes, to someone under the minimum legal sales age of 21 years is prohibited." The notice shall be no smaller than 8.5 inches by 11 inches and shall be posted conspicuously in the retail establishment or other place in such a manner so that it may be readily seen by a person standing at or approaching the cash register. The notice shall directly face the purchaser and shall not be obstructed from view or placed at a height of less than four feet or greater than nine feet from the floor.
- C. Identification. Each person selling or distributing tobacco products, as defined herein, shall verify the age of the purchaser by means of a valid government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years old or older. Verification is required for any person under the age of 27.
 - D. All retail sales of tobacco products, as defined herein, must be face to face between the seller and the buyer and occur at the permitted location.

§ 304-40. Tobacco product sales permit.

- A. No person shall sell or otherwise distribute tobacco products, as defined herein, within the Town of Norwell without first obtaining a tobacco product sales permit issued annually by the Norwell Board of Health. Only owners of establishments with a permanent, non-mobile location in Norwell are eligible to apply for a permit and sell tobacco products, as defined herein, at the specified location in Norwell.
- B. As part of the tobacco product sales permit application process, the applicant will be provided with the Norwell regulation. Each applicant is required to sign a statement declaring that the applicant has read said regulation and that the applicant is responsible for instructing any and all employees who will be responsible for tobacco product sales regarding federal, state and local laws regarding the sale of tobacco and this regulation.
- C. Each applicant who sells tobacco products is required to provide proof of a current tobacco retailer license issued by the Massachusetts Department of Revenue, when required by state law, before a tobacco product sales permit can be issued.
- D. The fee for a tobacco product sales permit shall be determined by the Norwell Board of Health annually.

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- E. A separate permit is required for each retail establishment selling tobacco products, as defined herein.
- F. Each tobacco product sales permit shall be displayed at the retail establishment in a conspicuous place.
- G. A tobacco product sales permit is nontransferable. A new owner of an establishment that sells tobacco products, as defined herein, must apply for a new permit. No new permit will be issued unless and until all outstanding penalties incurred by the previous permit holder are satisfied in full.
- H. Issuance of a tobacco product sales permit shall be conditioned on an applicant's consent to unannounced, periodic inspections of his/her retail establishment to ensure compliance with this regulation.
- I. A tobacco product sales permit will not be renewed if the permit holder has failed to pay all fines issued and the time period to appeal the fines has expired and/or has not satisfied any outstanding permit suspensions.
- J. A tobacco product sales permit will not be renewed if the permit holder has sold a tobacco product to someone under the MLSA (§ 304-39A) three times within the previous permit year and the time period to appeal has expired and/or has not satisfied any outstanding permit suspensions. The violator may request a hearing in accordance with § 304-51D.
- K. A tobacco product sales permit shall not be issued to any new applicant for a retail location within 500 feet of a public or private elementary or secondary school as measured by a straight line from the nearest point of the property line of the school to the nearest point of the property line of the site of the applicant's business premises. Applicants who purchase an existing business that holds a current tobacco product sales permit at the time of the sale of said business may apply, within 60 days of such sale, for the permit held by the seller if the buyer intends to sell tobacco products, as defined herein.

§ 304-41. Cigar sales regulated.

- A. No person shall sell or distribute or cause to be sold or distributed a single cigar.
- B. No person shall sell or distribute or cause to be sold or distributed any original factory-wrapped package of two or more cigars, unless such package is priced for retail sale at \$5 or more.
- C. This section shall not apply to:
 - (1) The sale or distribution of any single cigar having a retail price of \$2.50 or more.
 - (2) A person or entity engaged in the business of selling or distributing cigars for commercial purposes to another person or entity engaged in the business of selling or distributing cigars for commercial purposes with the intent to sell or distribute outside the boundaries of Norwell.

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- D. The Norwell Board of Health may adjust from time to time the amounts specified in this section to reflect changes in the applicable Consumer Price Index by amendment of this regulation.

§ 304-42. Sale of flavored tobacco products prohibited.

No person shall sell or distribute or cause to be sold or distributed any flavored tobacco product, except in smoking bars and retail tobacco stores.

§ 304-43. Prohibition of the sale of blunt wraps.

No person or entity shall sell or distribute blunt wraps in Norwell.

§ 304-44. Free distribution and coupon redemption.

No person shall distribute, or cause to be distributed, any free samples of tobacco products, as defined herein. No means, instruments or devices that allow for the redemption of any tobacco products, as defined herein, for free or cigarettes at a price below the minimum retail price determined by the Massachusetts Department of Revenue shall be accepted by any permit holder.

§ 304-45. Out-of-package sales.

- A. The sale or distribution of tobacco products, as defined herein, in any form other than an original factory-wrapped package is prohibited, including the repackaging or dispensing of any tobacco product, as defined herein, for retail sale. No person may sell or cause to be sold or distribute or cause to be distributed any cigarette package that contains fewer than 20 cigarettes, including single cigarettes.
- B. A retailer of liquid nicotine containers, where liquid nicotine is an "acutely hazardous waste" as identified in 310 CMR 30.136, must comply with the provisions of 310 CMR 30.000, and must provide the Norwell Board of Health with a written plan for disposal of said product, including disposal plans for any breakage, spillage or expiration of the product.

§ 304-46. Self-service displays.

All self-service displays of tobacco products, as defined herein, are prohibited. All humidors, including, but not limited to, walk-in humidors, must be locked.

§ 304-47. Vending machines.

All vending machines containing tobacco products, as defined herein, are prohibited.

§ 304-48. Nonresidential roll-your-own machines.

All nonresidential roll-your-own machines are prohibited.

§ 304-49. Prohibition of sale of tobacco products by health care institutions.

No health care institution located in Norwell shall sell or cause to be sold tobacco products, as defined herein. No retail establishment that operates or has a health care institution within it, such as a pharmacy, optician/optometrist or drugstore, shall sell or cause to be sold tobacco products, as defined herein.

§ 304-50. Prohibition of sale of tobacco products by educational institutions.

No educational institution located in Norwell shall sell or cause to be sold tobacco products, as defined herein. This includes all educational institutions as well as any retail establishments that operate on the property of an educational institution.

§ 304-51. Violations and penalties.

- A. It shall be the responsibility of the establishment, permit holder and/or his or her business agent to ensure compliance with all sections of this regulation. The violator shall receive:
- (1) In the case of a first violation, a fine of \$300.
 - (2) In the case of a second violation within 36 months of the date of the current violation, a fine of \$300 and the tobacco product sales permit shall be suspended for seven consecutive business days.
 - (3) In the case of three or more violations within a thirty-six-month period, a fine of \$300 and the tobacco product sales permit shall be suspended for 30 consecutive business days.
 - (4) In the case of four violations or repeated, egregious violations of this regulation within a thirty-six-month period, the Board of Health shall hold a hearing in accordance with Subsection D and may permanently revoke a tobacco product sales permit.
- B. Refusal to cooperate with inspections pursuant to this regulation shall result in the suspension of the tobacco product sales permit for 30 consecutive business days.
- C. In addition to the monetary fines set above, any permit holder who engages in the sale or distribution of tobacco products while his or her permit is suspended shall be subject to the suspension of all Board of Health issued permits for 30 consecutive business days.
- D. The Norwell Board of Health shall provide notice of the intent to suspend or revoke a tobacco product sales permit, which notice shall contain the reasons therefor and establish a time and date for a hearing which date shall be no earlier than seven days after the date of said notice. The permit holder or its business agent shall have an

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opportunity to be heard at such hearing and shall be notified of the Board of Health's decision and the reasons therefor in writing. After a hearing, the Norwell Board of Health shall suspend or revoke the tobacco product sales permit if the Board of Health finds that a violation of this regulation occurred. For purposes of such suspensions or revocations, the Board shall make the determination notwithstanding any separate criminal or noncriminal proceedings brought in court hereunder or under the Massachusetts General Laws for the same offense. All tobacco products, as defined herein, shall be removed from the retail establishment upon suspension or revocation of the tobacco product sales permit. Failure to remove all tobacco products, as defined herein, shall constitute a separate violation of this regulation.

§ 304-52. Noncriminal disposition.

Whoever violates any provision of this regulation may be penalized by the noncriminal method of disposition as provided in MGL c. 40, § 21D, or by filing a criminal complaint at the appropriate venue. Each day any violation exists shall be deemed to be a separate offense.

§ 304-53. Enforcement.

Enforcement of this regulation shall be by the Norwell Board of Health or the Norwell police. Any resident who desires to register a complaint pursuant to the regulation may do so by contacting the Norwell Board of Health or its designated agent(s) and the Board shall investigate.

§ 304-54. Severability.

If any provision of this regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

§ 304-55. Effective date.

This regulation shall take effect on March 31, 2016.

ARTICLE IV

Groundwater Protection**[Adopted 7-19-2010]****§ 304-56. Purpose of regulation.**

Whereas excess nutrients, pathogens, bacteria and viruses contained in animal manure can contaminate drinking water supplies; whereas excess nutrients from commercial fertilizers can leach into groundwater and contaminate drinking water supplies; accidental discharges and improper storage of sludge and septage may lead to the release of pollutants into groundwater resources; and groundwater resources in the Town of Norwell contribute to the Town's drinking water supplies, the Town of Norwell Board of Health adopts the following regulation as a preventative measure for the purposes of protecting drinking water quality

from degradation or contamination and to minimize the risk to public health and the environment.

§ 304-57. Scope of authority.

- A. The Town of Norwell Board of Health adopts the following regulation pursuant to authorization granted by MGL c. 111, §§ 31 and 122. The regulation shall apply, as specified herein, to all applicable facilities located within Zone II areas delineated by the Town of Norwell.
- B. These regulations supersede all inconsistent regulations adopted by the Board of Health prior to the effective date. The effective date is the date of issuance, July 19, 2010.

§ 304-58. Definitions.

For the purposes of this regulation the following words and phrases shall have the following meanings:

COMMERCIAL FERTILIZERS — Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed by its manufacturer to have value in promoting plant growth. Commercial fertilizers do not include unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum.

MASSDEP — Massachusetts Department of Environmental Protection.

SEPTAGE — The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. Septage does not include any material which is a hazardous waste, pursuant to 310 CMR 30.000.

SLUDGE — The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment. Sludge does not include grit, screening, or grease and oil which are removed at the headworks of a facility.

ZONE II — The area of an aquifer whose boundaries have been approved by MassDEP and which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at approved yield, with no recharge from precipitation).

§ 304-59. Prohibitions.

The following activities are prohibited in Zone II areas delineated by the Town of Norwell:

- A. The storage of commercial fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- B. The storage of animal manure unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- C. Storage of sludge and septage unless such storage is in compliance with 310 CMR 32.00 as follows:

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- (1) Sludge or septage is stored in a manner that does not create or threaten to create a nuisance, or a threat to public health, or threat to the environment; and
- (2) Sludge or septage is not stored at any location where there is less than four feet of unsaturated soil between the lowest point of such storage and the maximum high groundwater table; and
- (3) Sludge or septage is not stored anywhere within a radius of 2,500 feet of an existing, planned or potential groundwater public water supply unless:
 - (a) A hydrogeologic study persuades the Norwell Board of Health that such storage will not result in contamination of such groundwater; or
 - (b) Storage is in watertight containers or by another comparable method which prevents leakage.
- (4) No person shall store sludge or septage for more than 42 days within any six-month period except if in compliance with the above-specified storage criteria and:
 - (a) Such storage shall not occur at a site without the prior express written approval of the Board of Health and except for storage of sludge at the site of a wastewater treatment facility which generated all of such sludge if such facility has a permit from MassDEP.
 - (b) Such storage shall not occur without MassDEP prior written approval of the plans for such storage. All such plans shall provide measures for controlling odors. If a storage facility receives or is intended to receive an average of 2,000 gallons or more of septage per day, the plans for such storage facility shall be prepared by a Massachusetts registered professional engineer.

§ 304-60. Effective date; compliance.

The effective date of this regulation is July 19, 2010, which shall be identical to the date of adoption of the regulation.

- A. As of the effective date of the regulation, all new construction and/or applicable change of use within a delineated Zone II of a water supply for the Town of Norwell shall comply with the provisions of this regulation.
- B. Certification of conformance with the provisions of this regulation by the Board of Health shall be required prior to issuance of construction permits and certificates of occupancy.⁴

§ 304-61. Violations and penalties.

- A. Penalties may be used as a means to achieve compliance with the Board of Health regulations. Effective 1992, maximum fines for health violations increased. Under MGL c. 111, § 31 (violation of health regulation), the maximum penalty has increased

4. Editor's Note: Amendment pending.

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from \$500 to \$1,000 and under § 122 (violation of nuisance regulations) the maximum penalty has increased from \$100 to \$1,000.

- B. Public education and training may make it unnecessary to institute a significant penalty program. If sufficient attention is given to education and training of those affected by the regulation and if enough lead time is provided for program implementation, it may be possible to avoid dependency on a penalty system for compliance. Nonetheless, local enforcement is an essential component of this regulation and it is necessary for effective groundwater protection.
- C. Failure to comply with provisions of this regulation will result in the levy of fines of not less than \$200 but no more than \$1,000. Each day's failure to comply with the provisions of this regulation shall constitute a separate violation.

§ 304-62. Severability.

Each provision of this regulation shall be construed as separate to the end that, if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of that section and all other sections shall continue in full force and effect.

ARTICLE V

Sewage Disposal; Private Water Supplies; Floor Drains

[Adopted effective 1-1-2004⁵]

§ 304-63. General provisions.

- A. Enforcement by approving authorities. Any violations of these rules and regulations or Title 5 is cause for the Board of Health to order a cease and desist on all septic system work in progress and to impose the cease and desist until a public hearing is held and/or the matter is resolved to the satisfaction of the Board of Health. Serious or repeat violations are considered cause for revocation or suspension of a disposal works installer's permit after a public hearing.
- B. Expert consultants. Applicants shall agree to pay the costs and expense of any mutually agreed upon expert consultant deemed necessary by the Board of Health to review applications, plans, or test results.
- C. Variance. The Board may, after a public hearing, grant a variance when, in its opinion, the enforcement thereof would do manifest injustice. If a variance is requested for any portion of these regulations, the applicant must demonstrate to the Board by clear and convincing evidence that there will be no adverse effect on the public health and safety or the environment if the variance is granted. All variances from both Title 5 and the Norwell Board of Health regulations must be recorded in the deed prior to the issuance of a certificate of compliance.
- D. Responsibility.

5. Editor's Note: The regulations regarding the sanitary disposal of sewage were originally adopted 8-13-1973. The private well regulations were originally adopted 6-3-1996. The floor drain regulations were originally adopted 10-1-1999.

- (1) The maintenance of a septic system, private drinking water well or irrigation well is the owner's responsibility. The Norwell Board of Health will enforce these regulations within the scope of its authority. However, the responsibility of future monitoring, maintenance, testing, treating and decommissioning remains with the owner.
 - (2) The issuance of a permit shall not be construed as a guarantee by the Board that the septic or water system will function satisfactorily, or that a water supply will be of sufficient quality or quantity for its intended use.
- E. Severability. If any provision of this regulation is declared invalid by a court of competent jurisdiction, such invalidity shall not affect any remaining provisions of this regulation. Any part of these regulations subsequently invalidated by a new state law or modification of an existing amended law shall automatically be brought into conformity with new or amended law and shall be deemed to be effective immediately, without recourse to a public hearing and customary procedures for amendment or repeal of such regulation.
- F. Validity. The validity of any part or provision of these rules and regulations shall not affect the validity of any part or provision otherwise valid, and these rules and regulations shall remain in effect as amended from time to time except for those parts or provisions which are determined to be invalid.

§ 304-64. Sanitary disposal of sewage.

In accordance with the provisions of 310 CMR 11.00, Title 1 of the State Environmental Code, and under the authority of MGL c. 111, § 31, the Town of Norwell Board of Health hereby adopts the following rules and regulations which supplement, clarify and/or make more stringent 310 CMR 15.00, Title 5, minimum requirements for the subsurface disposal of sanitary sewage. All sewage disposal systems must be in conformance with 310 CMR 15.00, Title 5 of the State Sanitary Code, and the rules and regulations of the Norwell Board of Health for the sanitary disposal of sewage.

- A. Notification and identification.
- (1) Installers must notify the Board of Health or its agent and the system designer at least 24 hours prior to starting any disposal works construction.
 - (2) Each new lot shall be identified by a minimum size sign of one square foot showing lot number and be legible from the street. The Board of Health's representative or agent may refuse to inspect any site that is not clearly identified with a lot or house number.
- B. Deep observation hole test. A minimum of four deep observation hole tests shall be evaluated, two in the proposed primary area and two in the proposed reserve area for all new construction.
- C. High groundwater elevation determination. Observation of actual high water table shall be made in March or April or as approved by the Board of Health and DEP. Evidence of soil mottling will be the controlling factor in determining high groundwater even during high groundwater season.

D. Percolation testing.

- (1) A minimum of four percolation tests shall be performed at the proposed disposal area, two in the proposed primary area and two in the proposed reserve area, unless it is determined by the Board of Health or its agent that due to the extreme permeability and consistency of the soil, the second percolation test in each area is not necessary. There will be no percolation testing done in the months of July, August and September for new construction.
- (2) A plot plan with wetlands identified must be submitted to the Board of Health and Conservation Commission prior to the percolation date.

E. Percolation/deep hole filings.

- (1) Percolation and soil evaluation reports must be submitted within 60 days, on a dimensional plan showing the location of the deep holes as well as the percolation test holes. The holes shall be located to within one foot horizontally and to 1/10 of a foot vertically.
- (2) Percolation and soil evaluation data shall be valid indefinitely, as long as a location plan as described above is on file in the Board of Health office within 60 days of the test date and the area has not been substantially altered.

F. Dewatered percolation testing.

- (1) Dewatered percolation tests are prohibited unless a special permit is issued by the Board of Health. A letter must be sent to the Board of Health requesting a special permit; a description of the land (topography) including on-site wetlands and type of vegetation shall be described in the request.
- (2) For each percolation hole a triangular area will be formed that will allow the edge of the percolation hole to be three feet from the edge of the dewatering trench. Dewatering will be done by removing soil to a depth at least two feet below the depth of the percolation hole. Water will then be pumped from the dewatering trench to a depth at least one foot below the elevation of the percolation hole in sandy soils and 1 1/2 feet below the percolation hole in silty soils. This water level will be maintained for at least 1/2 hour prior to commencement of the test and during the duration of the test.

G. Wetland setback distances.

- (1) The minimum setback distance of a soil absorption system from a wetland will be 100 feet for each soil absorption system (SAS). Septic tanks and all components of the system including the distribution pipes will be 50 feet.
- (2) The bordering vegetated wetland line must be established through the Norwell Conservation Commission. A letter from the Commission must accompany the submission.

H. Nitrogen sensitive district. Due to the number of on-site private water supplies both in and outside the Aquifer Protection District and other areas designated as nitrogen sensitive and based on the fact that a large portion of the Town lies within the watershed to the North River, for the purposes of septic system design the entire Town

will be considered nitrogen sensitive for new construction as defined and described in 310 CMR 15.214 through 15.217.

- I. Septic system constructed in fill. For septic systems to be constructed in fill a minimum of three inspections will be performed by the designer and the Board of Health:
 - (1) After excavation of all unsuitable soils from the leaching area.
 - (2) After placement of fill to grade.
 - (3) Prior to covering of the constructed leaching facility.
- J. Final inspections.
 - (1) A distribution box water flow test shall be conducted as part of all final inspections. It shall be the responsibility of the installer to conduct his own D-box flow test prior to calling for a final inspection by the health agent and designer. The installer shall fill the D-box with water and provide at least five gallons of water or a hose with running water for the test to ensure that there is no reverse flow from the distribution lines back into the D-box.
 - (2) The installer will also provide to the agent a copy of the No. 4 sieve analysis results as required in 310 CMR 15.255(3) at this time.
- K. Title 5 inspection requirements.
 - (1) For all Title 5 septic system inspections, groundwater will be determined by soil mottling techniques by a DEP-certified soil evaluator or by actual groundwater observation during the months of March and April in years that the United States Geological Survey (USGS) has determined groundwater levels to be normal or above normal, or a method approved by the Board of Health. At any site with dual septic systems, separate Title 5 inspection reports shall be filed for each system, including laundry pits and greywater systems.
 - (2) Title 5 inspections shall include the pumping of the septic tank following the evaluation of the sludge, scum and liquid levels in the tank.
 - (3) All pressure-dosed systems must be inspected by a professional engineer or a registered sanitarian.
 - (4) When a cesspool passes a Title 5 inspection, it will be considered a conditional pass. A septic tank of 1,500 gallons and a distribution box must be installed preceding the cesspool before the system is considered passed. This requirement does not apply to laundry pits.
 - (5) A system will also receive a conditional pass unless a tee filter is installed in the system as described in Subsection O.
- L. Mounded septic systems.
 - (1) Septic systems that must be mounded because of high groundwater conditions will be designed so that the toe of slope or the outside edge of a retaining wall is a minimum of five feet from the property line for each one foot in height required above the existing grade. The additional setback for these mounded systems will

be used to control stormwater drainage so that pre and post discharge are equal and in the same direction.

- (2) Variance from the above regulation is not required if the applicant can show by clear and convincing evidence to the Board of Health that post stormwater flows will not adversely impact abutters. If the applicant intends to utilize the provisions of this section as an alternative to variance, the applicant shall be expected to submit the evidence which he/she/it claims supports its burden in a duly noticed public hearing for which abutters have received prior written notice by certified mail posted at least seven days prior to the date of the public hearing. The abutters shall similarly have a right to be heard during this public meeting.
- (3) All systems mounded above natural grade must conduct a final drainage/grading plan certified and stamped by an engineer, sanitarian or a land surveyor, as required in Subsection S of this section.

M. Pump systems. All septic systems that require a pump must be pressure dosed.

N. Pressure dosing. All pressure-dosed systems must include an inspection port. The port shall be four inches PVC pipe perforated from the bottom of the pea stone to the bottom of the 3/4 inch to 1 1/2 inch stone. The top of the port shall have a tight-fitting removable cap. The port shall be enclosed in a covered seven-inch diameter riser, such as a landscaping type box, and must be brought to finished grade. If the port is installed in a paved area or an area subject to heavy traffic, an H20 valve box shall be used.

O. Septic tank filters and vents.

- (1) All septic tanks shall be equipped with a DEP-approved effluent filter, such as a Zabel, Polylok, Zoeller or other equivalent equal. Risers with cast-iron manhole covers flush with the final grade shall be provided to allow easy access to service the effluent filter. The filter shall be equipped with an extendable tee handle.
- (2) When an on-site septic system is inspected and a filter is not present, one shall be installed if possible. If it is not the reason for it not being installed must be clearly identified on the inspection form.
- (3) All septic systems equipped with vents shall utilize a vent filter to mask odors if any occupied building is located within 100 feet of the septic system. Each vent shall also be insectproof.

P. Effluent distribution lines. With the exception of pressure-dosing systems, the ends of all effluent distribution lines in trenches and fields are to be connected.

Q. Trees in leaching area. All trees located in the five-foot over-dig area or within the side slope of a mounded system must be removed. It is the designer's responsibility to locate the trees and include them in his design.

R. Waterline setbacks. It shall be the designer's responsibility to include the location of waterlines and subsurface utilities on all plans. When possible, the Norwell Water Department will assist in waterline location. A ten-foot setback must be maintained from a waterline to any part of the septic system. Wherever sewer lines must cross water supply lines or cannot meet the required ten-foot setback, either the sewer line or waterline must be encased in watertight concrete, global fill or double-sleeved in

schedule 40 piping sealed at both ends in watertight concrete, global fill or rubber booted. The encasement shall extend to a minimum of 10 feet from the encroached upon line.

- S. As-built grading plan. A certified final grading plan shall be required for all septic systems that have been mounded. These plans will show that adequate drainage from the system has been constructed in accordance with the approved plan. All components must have ties and elevations.
- T. Grease trap for commercial establishments. Appropriately designed grease traps for commercial enterprises will be required when in the opinion of the Board of Health the additional materials being discharged to the wastewater system may affect natural treatment processes in the septic tank or soil absorption system.
- U. Tight tanks and industrial waste holding tanks. All tight tanks approved by the Board of Health and DEP shall be subject to a twenty-four-hour test for determining that the tank is watertight. An agent of the Board of Health shall make inspections as required to ensure that the tank is watertight.
- V. Old system abandonment. Cesspools and seepage pits that have been abandoned because of system failure shall be pumped and filled with an appropriate fill material that will prevent structural collapse.
- W. Reserve area when subdividing existing lots. When subdividing land where an existing structure already exists it must be demonstrated that the structure has a sufficient reserve area to repair the system in accordance with current Title 5 and Norwell Board of Health regulations.
- X. Renovations. Renovations of more than 50% of the living space in an existing dwelling will be treated as new construction rather than an upgrade of an existing system.
- Y. Apartments. All apartments/in-law apartments shall have a septic design for minimum 220 gallons per day in addition to the design flows for the rest of the house.
- Z. Pump trucks. Sanitary pump truck operators shall sanitize all overflows as necessary. All pump trucks must carry a sanitizing agent. It shall be the pump truck operator's responsibility to clean any areas contaminated by sewage overflow or spillage. The pump truck operator shall not depart the premises until the area has been sanitized.
- AA. New construction when percolation rates are between 30 and 60 minutes per inch.
 - (1) On January 1, 2004, Title 5 was changed to allow new construction in areas that have a percolation rate of between 30 and 60 minutes per inch. On this date Title 5 considers any percolation rate greater than 60 minutes per inch impermeable. The lower percolation rates will require larger soil absorption systems.
 - (2) Therefore, when the percolation rate exceeds 30 minutes per inch, lot size shall increase. For each one acre lot, when the dwelling exceeds three bedrooms or six rooms, an additional 10,000 square feet is required for each bedroom.
 - (3) Pressure dosing is required on any system where the percolation rate is greater than 30 minutes per inch.

§ 304-65. Private water supply regulations.**A. Purpose.**

- (1) The purpose of this section of the regulations is to ensure the proper location and maintenance of wells in order to protect the health and welfare of the residents of the Town of Norwell. All private wells are subject to the approval of the Board of Health.
- (2) A fee of \$200 well must accompany each application for a private water for a private drinking water supply and \$50 for an irrigation well. Checks will be made payable to the Town of Norwell and submitted to the Board of Health with the completed application form along with a plot plan identifying the location of the well on the property.

B. Authority. In accordance with MGL c. 111, § 31, the State Sanitary Code, Chapter II, the minimum standards of human habitation,⁶ MGL c. 40, § 54, and any other powers thereto enabling, the Norwell Board of Health adopted the following regulations for private wells at its regularly scheduled meeting on June 3, 1996.**C. Definitions.** As used in this section, the following terms shall have the meanings indicated:

ABANDONED WELL — The discontinuance or non-use of a private drinking water well as a water supply with the intent to abandon for a period of one year or more.

BEDROCK WELL — Any well structure advanced into the bedrock surface and sealed by means of well casing from hydraulic influence or overlying unconsolidated soils.

IRRIGATION WELL — Well used for the sole purpose of watering or irrigation. These shall not be connected at any point in time to a dwelling or a building unless they meet the requirements of a private drinking water well and have the Board's written approval.

OVERBURDEN WELL (SHALLOW WELL) — A subsurface structure intended for the withdrawal of water, not advanced into the bedrock and is deeper than it is wide.

POTABLE WATER SUPPLY — A water supply of sufficient quantity and pressure to meet the needs of the occupants of the dwelling, lot, or building connected with a public water supply or with any other source that the Board or agent has determined, by requiring the water to be tested, does not endanger the health of any potential user and is fit for human consumption.

PRIVATE DRINKING WATER WELL — Any well supplying water for human consumption. Any pit, pipe, excavation, shaft spring, casing, hole or other source of water to be used for any purpose of supplying water to be used as a potable drinking water supply.

WELL DRILLER — Any person, association, partnership, company, corporation or trust that constructs a private well, who is licensed by the Water Resources Commission, established in Chapter 620 of the Acts of 1956.

6. Editor's Note: See 105 CMR 410.000: Minimum Standards of Fitness for Human Habitation (State Sanitary Code, Chapter II).

D. Application.

- (1) Prior to any private drinking water well being approved as a potable drinking water source or an abandoned well being placed into service in the Town of Norwell, an application must be filed with the Norwell Board of Health. This shall be done on a form provided by the Board of Health.
- (2) Submission of a plan prepared by a registered engineer, environmental consultant trained and experienced in water supply or a well driller shall be submitted with the application for the private water supply. This plan shall include, but not be limited to, a scaled drawing showing location of the proposed or present well on the lot, all septic systems and other sources of contamination within 200 feet.

E. Registration of well drillers.

- (1) No persons shall engage in the business of construction or repair of private water wells or irrigation wells within the Town of Norwell unless they are registered with the Water Resources Commission, Division of Water Resources, as required by the Well Drillers Registration Act, MGL c. 21G, § 20.⁷
- (2) Proof of such registration (registration number) must be submitted to the Norwell Board of Health when the application is filed and must also be recorded on the well driller's report. An approval letter for a private well will not be issued unless the proposed well driller is registered.

F. Well driller's report. Within 30 days after the completion of a productive private drinking water well or irrigation well, the well driller shall send a copy of the well driller's report to the Norwell Board of Health. This report must be received prior to approval of the well as a water supply.**G. Installation of the private drinking water well.** The private drinking water well shall be installed by a registered well driller who should take into consideration the method detailed in the Environmental Protection Agency's Manual of Water Well Construction Practices, Department of Environmental Protection's Private Well Guidelines and any other applicable requirements regarding well installation.**H. Well location.**

- (1) There shall be a separate private drinking water well for each new dwelling. The well serving the dwelling shall be located within the boundaries of the lot and not closer than 25 feet to the lot boundary. No private drinking water well shall be used to supply more than one dwelling.
- (2) In establishing the location of a private drinking water well, the plan submitted shall show potential sources of contamination. All private drinking water wells shall be located the required distances from potential sources of pollution unless the applicant demonstrates by clear and convincing evidence that no impact will occur.

7. Editor's Note: Amendment pending.

- (3) The installation of the private drinking water well closer than 150 feet for an overburden well, 100 feet for a bedrock well, or 50 feet for an irrigation well, to a leaching facility or reserve area will not be allowed unless the applicant can show that there will be no adverse effect to the health and/or safety of the occupants of any proposed or existing residence. In no case shall a variance for new construction be granted to allow the private drinking water well to be located less than 100 feet from the leaching facility or reserve area.
 - (4) Distances shall be measured from the top of the well, which is seen above the ground (the cap or seal), or in the case of a well below the ground, the distance shall be measured from the area directly over the well at ground level to the closest edge of the potential pollution source.
- I. Certification. All chemical and bacteriological testing shall be performed by a state-certified laboratory. A copy of the completed test results shall be forwarded to the Board of Health for review. Water samples shall be analyzed prior to the installation of water treatment devices.
- J. Testing parameters.
- (1) The following tests are required for a private drinking water well to be approved by the Board of Health as a potable water supply: alkalinity, hardness, coliform, color, arsenic, lead, manganese, nitrite, sulfate, pH, chloride, sodium, ammonia, iron, copper and nitrate.
 - (2) Other testing that may be required at the discretion of the Board or warranted by the location of the well includes volatile organics, semiorganic chemicals, radionuclides, pesticides, and herbicides.
 - (3) The cost of all water testing will be borne by the applicant. Failure to meet the current primary drinking water standards for the parameters tested constitutes a reason for disapproval of the private drinking water well. The Board may require that testing be repeated yearly after the well is approved and installed to serve a dwelling at the owner's expense if the Board feels a health hazard exists, the property on which the well is located changes ownership, or the well is to be used after one year of abandonment.
 - (4) All water quality parameters at a minimum will meet primary maximum contaminant levels (MCLs) set by the State Department of Environmental Protection.
- K. Approval.
- (1) All private drinking water wells shall be approved by the Board prior to issuance of a septic disposal permit. Site inspection by the Board's agent shall be made prior to approval by the Board. Final approval by the Board of Health shall be given in writing. No oral approvals shall be valid.

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- (2) No certificates of occupancy shall be issued with respect to any structure served by a private drinking water well until the Board has certified that the well is properly installed and operational.⁸

L. Irrigation wells.

- (1) Irrigation wells are for the sole purpose of irrigation and shall not be deemed or used as a potable water supply for human consumption.
- (2) Irrigation wells shall not be connected to any dwelling unless they are approved as a private drinking water well by the Board. There shall be no possibility for a cross-connection with a drinking water supply line due to the location of the line from the non-potable well. Each outlet should be valved with a removable handle. The handle should be removed except when the valve is in.
- (3) A plan must be submitted with the following setback distances maintained: 50 feet from all components of a septic system; 25 feet from all property lines.
- (4) All irrigation wells shall be posted with a placard stating "Irrigation Wells(s) Not a Drinking Water Supply." It is suggested that irrigation wells be tested periodically for fecal and total coliform.

M. Decommissioning requirements.

- (1) Abandoned wells, test holes, and borings shall be decommissioned in accordance with the private well guidelines so as to prevent the well from being a channel allowing vertical movement of water.
- (2) The owner of the private well shall decommission the well if the well meets any of the following criteria:
 - (a) Construction of the well is terminated prior to completion of the well.
 - (b) The use of the well is to be permanently discontinued.
 - (c) The well has, after extended use, been out of service for at least one year.
 - (d) The well is a potential hazard to public health or safety and the situation cannot be corrected.
 - (e) The well has the potential for transmitting contaminants from the land surface into an aquifer.
- (3) Shallow overburden wells may be abandoned by a Norwell licensed septic system installer if in the opinion of the Health Agent there is no threat to public health. The well will be abandoned in the same manner as a cesspool or other no longer used leaching structure.

N. No well for the purpose of injection shall be permitted.

8. Editor's Note: Amendment pending.

§ 304-66. Floor drain regulations.**A. Purpose of regulation.**

- (1) Floor drains in industrial and commercial facilities are often tied to a system leading to a leaching structure (e.g., dry well, cesspool, leach field) or septic system. Poor management practices and accidental and/or intentional discharges may lead petroleum and other toxic or hazardous materials into these drainage systems in facilities managing these products. Improper maintenance or inappropriate use of these systems may allow the passage of contaminants or pollutants entering the drain to discharge from the leaching structure or septic system to the ground.
- (2) Surface water and groundwater resources in the Town of Norwell contribute to the Town's drinking water supplies; the Town of Norwell adopts the following regulation, under its authority as specified in Subsection B, as a preventative measure for the purpose of preserving and protecting the Town of Norwell's drinking water resources from discharges of pollutants to the ground via floor drains, minimizing the threat of economic losses to the Town due to such discharges.

B. Scope of authority. The Town of Norwell Board of Health adopts the following regulation pursuant to authorization granted by MGL c. 111, §§ 31 and 122. The regulation shall apply, as specified herein, to all applicable facilities, old and new, within Zone II areas in the Town of Norwell.**C. Definitions.** For the purposes of this regulation, the following words and phrases shall have the following meanings:

COMMERCIAL AND INDUSTRIAL FACILITY — A public or private establishment where the principal use is the supply, sale, and/or manufacture of services, products, or information, including but not limited to manufacturing, processing, or other industrial operations; service or retail establishments; printing or publishing establishments; research and development facilities; small or large quantity generators of hazardous waste; laboratories; hospitals.

DEPARTMENT — The Massachusetts Department of Environmental Protection.

DISCHARGE — The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of toxic or hazardous material or waste upon or into any land or water so that such hazardous waste or any constituent thereof may enter the land or waters of the Commonwealth. "Discharge" includes, without limitation, leakage of such materials from failed or discarded containers or storage systems and disposal of such materials into any on-site leaching structure or sewage disposal system.

FLOOR DRAIN — An intended drainage point on a floor constructed to be otherwise impervious which serves as the point of entry into any subsurface drainage, treatment, disposal, containment, or other plumbing system.

LEACHING STRUCTURE — Any subsurface structure through which a fluid that is introduced will pass and enter the environment, including, but not limited to, dry wells,

leaching catch basins, cesspools, leach fields, and oil/water separators that are not watertight.

OIL/WATER SEPARATOR — A device designed and installed so as to separate and retain petroleum-based oil or grease, flammable wastes as well as sand and particles from normal wastes while permitting normal sewage or liquid wastes to discharge into the drainage system by gravity. Other common names for such systems include MDC traps, gasoline and sand traps, grit and oil separators, grease traps, and interceptors.

TOXIC OR HAZARDOUS MATERIAL — Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water of the Town of Norwell. Toxic or hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under MGL c. 21C and 21E or Massachusetts hazardous waste regulations (310 CMR 30.000), and also include such products as solvents, thinners, and pesticides in quantities greater than normal household use.

USE OF TOXIC OR HAZARDOUS MATERIAL — The handling, generation, treatment, storage, or management of toxic or hazardous materials.

- D. Prohibitions. With the exception of discharges that have received (or have applied for and will receive) a Department-issued permit prior to the effective date of this regulation, no floor drain(s) shall be allowed to discharge, with or without pretreatment (such as an oil/water separator), to the ground, a leaching structure, or septic system in any industrial or commercial facility if such floor drain is located in either:
- (1) An industrial or commercial process area;
 - (2) Petroleum, toxic, or hazardous materials and/or waste storage area; or
 - (3) A leased facility without either Subsection D(1) or (2) of this section, but in which the potential for a change of use of the property to use which does have either Subsection D(1) or (2) is, in the opinion of the Board of Health or its agent, sufficient to warrant the elimination of the ground discharge at the present.
- E. Requirements for existing facilities.
- (1) The owner of a facility in operation prior to the effective date of this regulation with a prohibited (as defined under Subsection D) floor drain system shall:
 - (a) Disconnect and plug all applicable inlets to and outlets from (where possible) applicable leaching structures, oil/water separators, and/or septic systems.
 - (b) Remove all existing sludge in oil/water separators, septic systems, and, where accessible, leaching structures. Any sludge determined to be a hazardous waste shall be disposed of in accordance with state hazardous waste regulations (310 CMR 30.000). Remedial activity involving any excavation and/or soil or groundwater sampling must be performed in accordance with appropriate Department policies.

- (c) Alter the floor drain system so that the floor drain shall be either:
 - [1] Connected to a holding tank that meets all applicable requirements of Department policies and regulations, with hauling records submitted to the Norwell Board of Health at the time of hauling;
 - [2] Connected to a municipal sanitary sewer line, if available, with all applicable Department and local permits; or
 - [3] Permanently sealed. Any facility sealing a drain shall be required to submit for approval to the Board of Health a hazardous waste management plan detailing the means of collecting, storing, and disposing any hazardous waste generated by the facility, including any spill or other discharge of hazardous materials or wastes.
 - (2) Any oil/water separator remaining in use shall be monitored weekly, cleaned not less than every 90 days, and restored to proper conditions after cleaning so as to ensure proper functioning. Records of the hauling of the removed contents of the separator shall be submitted to the Board of Health at the time of hauling.
 - (3) Compliance with all provisions of this regulation must be accomplished in a manner consistent with Massachusetts Plumbing, Building, and Fire Code requirements.
 - (4) Upon complying with one of the options listed under Subsection E(1)(c), the owner/operator of the facility shall notify the Department of the closure of said system by filing the Department's UIC Notification Form and sending a copy to the Norwell Board of Health.
- F. Effective dates for all facilities. The effective date of this regulation for all facilities is October 1, 1999.
- (1) Existing facilities.
 - (a) Owners/operators of a facility affected by this regulation shall comply with all of its provisions within 180 days of the effective date of May 1, 2000.
 - (b) All applicable discharges to the leaching structures and septic systems shall be discontinued by January 1, 2000, through temporary isolation or sealing of the floor drain.
 - (2) New facilities.
 - (a) As of the effective date of the regulation, all new construction and/or applicable change of use within the Town of Norwell shall comply with the provisions of this regulation.
 - (b) Certification of conformance with the provisions of this regulation by the Board of Health shall be required prior to issuance of construction permits and certificates of occupancy.⁹

9. Editor's Note: Amendment pending.

Chapter 305

BOARD OF WATER COMMISSIONERS

§ 305-1. New services.

§ 305-2. Water rates and standard charges.

§ 305-3. Rules and regulations for developers or private installers.

Procedures for Installation of Water Services

[HISTORY: Adopted by the Board of Water Commissioners of the Town of Norwell effective 5-1-1980. Amendments noted where applicable.]

§ 305-1. New services.

- A. The Water Department will install service piping from the water main in the street to the property line, furnishing and installing the corporation cock at the water main and a curb box and shutoff at the property line. The service piping from the property line to and into the building shall be installed by the owner, in accordance with the directions furnished by the Water Department, and under the supervision of the Water Department.
- B. No installation of work shall be started nor shall any water be used from a service until an application is signed and approved by the Water Board.
- C. The meters and meter valve shall be installed and sealed by the Water Department. Any unmetered service shall be restricted to "for an agreed period" and at an agreed charge.
 - (1) Meter connections. A drain-type service valve and two three-fourths-inch I.P.S. female fittings, 11 inches apart and on centers, must be installed near the point of entrance of the service pipe so a meter can be mounted in a horizontal position. An extra charge will be made if this work is done incorrectly and requires modification by the Water Department.
- D. Persons contracting for service shall state in the application all the purposes for which they intend to use water, and no other use thereof shall be made until a new application is made.
- E. All applications for shutting off and turning on water must be made in writing. In all cases, when a consumer requests water to be turned on, arrangements must be made for the consumer to be present when the water is turned on to avoid any accidental leakage, which would cause damage to the property, or a waste of water to the Town.
- F. The customer shall keep tight and in good condition all fixtures and pipes both inside his building and from the property line to the same and shall protect them from freezing. The user shall report to the Water Department any unusual condition in connection with the water system from the property line to and including the meter. The consumer shall have the responsibility of keeping the street shutoff located at the way line clear of obstructions, and not allow it to become buried, in order that this shutoff shall be readily accessible to the Water Department at all times. The charge for

repairing any street shutoff that is damaged or buried or made inaccessible to the Water Department may be billed to the consumer, at the discretion of the Board, for the necessary material and labor to rectify the condition.

- G. The Water Department may, from time to time, shut off the water for the purpose of making repairs or changes in the system or for any other necessary purpose. It may also shut off the water upon failure of the customer to observe its rules and regulations, or failure to pay charges within the time agreed. The Town and/or its Water Department shall not be liable for any damage caused by shutting off of the water for any variation in pressure, nor shall the customer be entitled to any rebate by reason thereof.
- H. The Water Commissioners and/or the employees of the Water Department may enter the premises of a customer at any reasonable time for the purpose of inspecting pipes, meters, fixtures or attachments used by the customer or to ascertain whether water is being used unreasonably or contrary to these rules and regulations.
- I. No persons, except under the supervision of the Water Commissioners and/or the employees of the Water Department and the Fire Department, shall open a hydrant or operate any other fixture or valve of the water system without the written consent of the Water Department.
- J. The owners of the property served shall be liable for all charges both for the use of water and the installation of services and connections. The Town of Norwell has accepted the Lien Act in accordance with the General Laws,¹ and unpaid water consumption charges and any other charges, when overdue, will be committed to the Assessors as a lien upon the real estate.
- K. All customers and property owners are warned to equip plumbing, pressure tanks, etc., with proper relief valves and safety appliances. The Water Department will not be responsible for any damage which may occur through the variation of water pressure or loss of water supply.
- L. The installation of a domestic water service line must be in land which is part of the legal lot approved for the dwelling house to be serviced by the line. Easements for such a line over the land of others must be approved, in writing, in each case.
- M. The size and type of line must meet with Water Board approval, obtained prior to installation.
- N. Exceptions to the above requirements can only be obtained by written request to the Board of Water Commissioners prior to installation.

§ 305-2. Water rates and standard charges. [Amended 1-1-2001; 1-1-2004; 11-16-2006; 5-4-2017]

Pursuant to the authority provided under MGL c. 41, § 69, the following rates shall be in effect May 4, 2017:

- A. Quarterly meter/service charge.

1. Editor's Note: See MGL c. 40, §§ 42A to 42F.

Meter Size (inches)	Charge
5/8, 3/4 and 1	\$15
1 1/4 and 1 1/2	\$30
2 and larger	\$65

B. Quarterly water usage rates.

Gallons of Usage	Rate per 1,000 Gallons
First 15,000	\$4.85
15,000 to 25,000	\$5.85
25,000 to 50,000	\$6.95
Over 50,000 (residential)	\$9.95

C. Water connection fee. *Existing residences with certificates of occupancy as of May 1, 2017, receive a discount of 25% on connection fees.²

Water Connection (inches)	Fee
1	\$4,000*
1.5	\$5,000*
2	\$6,000*
4	\$15,000
6	\$30,000
8	\$50,000
10	\$75,000
12	\$100,000

D. New fire service fee. Residential sprinkler service: \$2,000; commercial sprinkler service: \$5,000 (includes two-, four-, six- and eight-inch sprinkler services).

E. Meter pit fee: one-and-one-half-inch and two-inch pit: \$1,500 (required for services of 400 feet).

F. Backflow device testing: \$70 per device, \$70 per survey.

G. Minimum construction charge for unmetered service not to exceed six months: \$20.

2. Editor's Note: Amendment pending.

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- H. For a service requiring water to be turned off or on at a street connection, each call: \$10.
- I. For the resealing of a meter at the request of a customer for purposes of renovations, etc.: no charge.
- J. For the filling of swimming pools: \$10 per man hour, plus the water used at the above rates.
- K. For any meter found to be tampered with or removed without Water Department approval, the customer will be charged an amount equal to that of the average previous bills as well as a service charge of \$20.
- L. Semiannual sprinkler service fee: \$62.50 commencing with first billing after service has been installed a minimum of six months.
- M. Any installation larger than two inches shall be at the expense of the applicant, including a meter that meets the standards of the Board of Water Commissioners.
- N. All bills are payable 30 days from date of mailing. Bills unpaid after 30 days shall be subject to a penalty of 10% on the unpaid balance. All bills outstanding after due date shall be a lien upon the real estate.
- O. In case of nonpayment the Board of Water Commissioners may cause the supply to be shut off.
- P. Senior citizens shall be given a discount of 10% provided that they are a minimum of 60 years of age and that they are the resident owner of the property. This discount shall apply to the minimum charge and the water usage charge. No discounts shall apply to the water connection fees.

§ 305-3. Rules and regulations for developers or private installers.

- A. Installations.
 - (1) All developers must meet with the Board of Water Commissioners with their preliminary plans to discuss a proposed installation.
 - (2) Before any installations are started a complete plan of the proposed work must be submitted and approved by the Board of Water Commissioners in writing.
 - (3) Plan must show location of water mains, main valves, service valves, and curb boxes.
 - (4) A Water Board Supervisor shall be on the premises while mains and hydrants are being installed and a fee of \$10 per hour will be charged for this supervision.
 - (5) Total installation shall be made in accordance with the American Water Works Association.
 - (6) No meters will be installed in garages, breezeways, sheds, manholes, etc.

- (7) Dead-end water mains will require a special hearing with the Board of Water Commissioners.
- B. Water mains. Rules and regulations for developers or private installers of new water mains designed for use as part of the Norwell system must be in accordance with the following:
 - (1) Pipe: cement asbestos or other pipe approved by the Board of Water Commissioners.
 - (2) Pipe bury: four feet six inches minimum to top of pipe.
 - (3) Joints, type: rubber ring gasket or joint approved by the Water Department.
 - (4) Pipe to be installed in accordance with the specifications of the manufacturer and/or the American Water Works Association.
- C. Hydrants. A.P. Smith five-inch V.O. Standard Protectop Hydrant, Mueller and/or Eddy.
- D. Services.
 - (1) Service pipe.
 - (a) Three-fourths-inch approved plastic rating 160 psi working pressure, copper tubing, size O.D.
 - (b) Plastic pipe to be extended to meter valve inside building.
 - (2) Connection to main to be made according to the specifications of the Water Department.
 - (3) Curb valve: 3/4 inch with drain. Type must be approved.
 - (4) Curb box: three-inch cast-iron, telescopic type, cap to be fastened by a pentagon headed cap screw.
 - (5) House or service valve: 3/4 inch minimum size with drain on house side. Type must be approved.
 - (6) Meter connections: connection and temporary spacer to be furnished and installed by the Water Department.
 - (a) One connector to be connected to house or service valve.
 - (b) A second valve must be connected to the meter outlet connection on the house side of the meter.
 - (c) The connection for the meter installation must be securely and permanently fastened not more than 12 inches from the meter.
 - (7) All copper tubing flares must be made by an approved flaring tool.
 - (8) Curb boxes must be placed on the property line.
 - (9) A service pipe must be installed at a right angle to the water mains.

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- (10) All services installed in a development must be installed under the supervision of the Water Department for which the Town shall be paid a fee of \$10 per hour for the inspection of the installation of such services. No services can be installed in a development until approved and a date set for the installation by the Board of Water Commissioners.
 - (11) No service pipe shall be installed under a driveway.
 - (12) No service pipe, water main or any part of the water system can be installed through any part of a sewage disposal system, or within 20 feet of such system.
- E. Easements. All easements for the installation of water mains in a development shall be not less than 50 feet in width to be acceptable to the Board of Water Commissioners.

BOARD OF WATER COMMISSIONERS

305 Attachment 1

Town of Norwell

Procedures for Installation of Water Services

Water Service Installation Notification:

- Once the water service application and plans are approved, the Water Department requires a twenty-four-hour notice prior to installation. Phone 781-659-8076 to schedule.
- Only Water Department personnel are authorized to operate or make any connections to the curb stop.
- Water Department personnel must inspect the trench and approve all water service materials before backfilling can occur.
- All work must be conducted between the hours of 7:00 a.m. and 3:30 p.m. Monday through Friday with proper notice.
- Water services must enter through the floor of the structure.
- A minimum five-foot horizontal offset is to be maintained at all points from other utilities.
- A minimum ten-foot horizontal offset is to be maintained at all points from any component of the septic system.
- Water services that are relocated for septic repair must be replaced entirely.

Materials:

- Service tubing: 200 psi test minimum, CTS, PE or PB plastic water service tubing with appropriately sized inserts.
- Service brass: Ford with compression connections
- Trench depth: five feet with clean material or sand used for a minimum of six-inch pipe bedding and a minimum one-foot pipe cover, metallic indicator tape to be placed one foot from final grade during backfilling for locational purpose.
- All water services of 400 feet in length or greater will require a meter pit at the property line at an additional expense.
- Water Department provides meter with all necessary connections.
- Contractor/homeowner provides service line from property line to foundation, through foundation wall to meter shutoff and all plumbing after meter.

Chapter 306

BOARD OF SELECTMEN

ARTICLE I

Taxi Rules and Regulations

§ 306-1. Rates and charges.

§ 306-2. Meters.

§ 306-3. Licenses.

ARTICLE II

Traffic Rules and Orders

§ 306-4. Definitions.

§ 306-5. Authority and duties of police.

§ 306-6. Traffic signs, signals, markings and zones.

§ 306-7. Parking.

§ 306-8. One-way streets.

§ 306-9. Operation of vehicles.

§ 306-10. Violations and penalties.

§ 306-11. Interpretation; repeal.

Speed Regulations

[HISTORY: Adopted by the Board of Selectmen of the Town of Norwell as indicated in article histories. Amendments noted where applicable.]

ARTICLE I

Taxi Rules and Regulations

[Adopted 5-18-1959; amended 11-7-1972; 10-9-1973; 9-24-1974; 12-5-1978]

§ 306-1. Rates and charges.

- A. Minimum charge: a minimum charge of \$0.75 for any call.
- B. Mileage rates: a maximum of \$1 for the first mile; \$0.10 per each additional 1/8 of a mile, or fraction thereof.
- C. Waiting time: maximum charge of \$1.25 per fifteen-minute period, or total of \$5 per hour.

§ 306-2. Meters.

Use of meters shall be optional with operators provided the charges do not exceed the above rates.

§ 306-3. Licenses.

- A. Every person or corporation licensed by the Board of Selectmen (hereinafter referred to as a "licensee") to operate taxicabs shall have a regular place of business approved by the Board. Notice in writing shall be given immediately to the Board by the licensee of any change in place of business, or upon any change in the certificates of registration, as issued by the Registrar of Motor Vehicles.

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- B. An applicant for a license to operate a taxicab shall present a valid license to operate motor vehicles, issued by the Registrar of Motor Vehicles, for each person who shall be employed as a driver of said taxicabs.
- C. Notice in writing shall be given to the Board of Selectmen by licensees of any changes in their driver personnel or changes in addresses of such personnel.
- D. No taxicab company shall have an outside signal or other sound device except those approved by the Board of Selectmen.
- E. The Board of Selectmen may assign any licensee a place as a special stand. Licensees shall not trespass upon parking spaces to which they have not been assigned.
- F. The license to operate a taxicab, one of which shall be issued for each vehicle, shall be displayed in a conspicuous place above the vehicle and every driver shall display upon the request of any passenger his license to operate motor vehicles.
- G. Every driver shall, immediately after delivering a passenger, search said cab for any property which may have been left therein, and any such property found therein shall be forthwith delivered to the Police Department.
- H. If the driver of any taxicab shall give information or service to any person seeking immoral entertainment, or continues to carry from place to place a person who is noisy or disorderly, or carries an intoxicated person not in the custody of a responsible person to any place other than his home, the Board may revoke the license under which such taxicabs are operated.
- I. Licenses to operate taxicabs shall expire one year from date of issue and shall not be transferred without the consent of the Board of Selectmen endorsed thereon. For each license the sum of \$35 (\$45 effective January 1, 1990) shall be paid to the Town Treasurer-Collector for the use of the Town. A license so granted shall become void if the applicant neglects or refuses to take out and pay for his license within 10 days after notice that it has been granted.¹

ARTICLE II

Traffic Rules and Orders

[Adopted 12-3-1956; last amended April 1998]

§ 306-4. Definitions.

For the purpose of these rules and orders, the words and phrases used herein shall have the following meanings except in those instances where the context clearly indicates a different meaning:

EMERGENCY VEHICLES — Vehicles of the Fire Department, police vehicles, ambulances and emergency vehicles of federal, state and municipal departments or public service corporations when the latter are responding to an emergency in relation to the Police or Fire Department.

1. Editor's Note: Amendment pending.

§ 306-4

BOARD OF SELECTMEN

§ 306-5

LANE — A longitudinal division of a roadway into a strip of sufficient width to accommodate the passage of a single line of vehicles.

LOADING ZONES — No person shall park a vehicle upon any street in any loading zone for a period of time longer than 30 minutes and except while actually engaged in loading or unloading.

OFFICIAL STREET MARKING — Any painted line, legend, marking or marker of any description painted or placed upon any way which purports to direct or regulate traffic and which has been authorized by the Board of Selectmen and which has the written approval of the Department of Public Works, Commonwealth of Massachusetts.

OFFICIAL TRAFFIC SIGNS — All signs, markings and devices other than signals, not inconsistent with these rules and orders, and which conform to the standards prescribed by the Department of Public Works of the Commonwealth of Massachusetts and placed or erected by authority of a public body or official having jurisdiction, for the purpose of guiding, directing, warning or regulating traffic.

PARKING — The stopping or standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading, or in obedience to an officer or traffic signs or signals, or while making emergency repairs or, if disabled, while arrangements are being made to move such vehicle.

POLICE OFFICER — For the purpose of these rules and orders a police officer shall be construed to mean any police officer, any constable or special officer, provided he has his badge of office displayed over his left breast and upon his outer garment.

ROADWAY — That portion of a street or highway between the regularly established curblines or that part, exclusive of shoulders, improved and intended to be used for vehicular traffic.

STREET or HIGHWAY — The entire width between property lines of every way open to the use of the public for the purpose of travel.

U-TURN PROHIBITED — No operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is headed or traveling on the following streets.

VEHICLE — Every device in, upon or by which any person or property is or may be transported or drawn upon any street or highway, except devices moved by human power.

§ 306-5. Authority and duties of police.

- A. Police to direct traffic. It shall be the duty of the police officers to enforce the provisions of these rules and orders. Police officers are hereby authorized to direct all traffic either in person or by means of visible or audible signal in conformance with the provisions of these rules and orders, provided that in the event of a fire or other emergency, to expedite traffic or safeguard pedestrians, officers of the Police or Fire Department may direct traffic, as conditions may require, notwithstanding the provisions of these rules and orders.
- B. Police may close streets temporarily. The Chief of Police may close temporarily any street or highway in an impending or existing emergency, or for any lawful assemblage,

demonstration or procession, provided there is reasonable justification for the closing of such street, and in connection therewith, where the public convenience and necessity require, the Chief of Police may authorize and direct the temporary placement of detour signs.

- C. Police may prohibit parking temporarily. The Chief of Police may prohibit, temporarily, parking on any street or highway or part thereof in an impending or existing emergency, or for a lawful assemblage, demonstration or procession, provided there is reasonable justification for such prohibition. Vehicles parked in places where parking is prohibited temporarily may be moved by or under the direction of an officer.
- D. Exemptions. The provisions of these rules and orders shall not apply to operators actually engaged in work upon a street or highway closed to travel or under construction or repair, to officers when engaged in the performance of public duties nor to drivers of emergency vehicles while operating in an emergency and in performance of public duties when the nature of the work of any of these necessitates a departure from any part of these rules and orders. These exemptions shall not, however, protect the driver of any vehicle from consequences of a reckless disregard of the safety of others.

§ 306-6. Traffic signs, signals, markings and zones.

- A. Interference with signs, signals and markings prohibited. It shall be unlawful for any persons to willfully deface, injure, move or obstruct or interfere with any official traffic sign, signal or marking.
- B. No driver of any vehicle shall disobey the instructions of any official traffic control signal, sign, marking, marker or legend, unless otherwise directed by a police officer.

§ 306-7. Parking.

- A. General prohibitions. No person shall park a vehicle in any of the following places, and vehicles found parked in violation of the provisions of this subsection may be moved by or under the direction of an officer and at the expense of the owner to a place where parking is permitted:
 - (1) Within an intersection.
 - (2) Upon any sidewalk.
 - (3) Upon any crosswalk.
 - (4) Upon the roadway in a rural or sparsely settled district.
 - (5) Upon a roadway where parking is permitted unless both wheels on the right side of the vehicle are within 12 inches of the curb or edge of the roadway. This shall not apply to streets or parts of streets where angle parking is required by these regulations.
 - (6) Upon any roadway where the parking of a vehicle will not leave a clear and unobstructed lane at least 12 feet wide for passing traffic.

- (7) Upon any street or highway within 10 feet of a fire hydrant.
 - (8) In front of any private road or driveway, without the consent of the property owner.
 - (9) Upon any street or highway within 20 feet of an intersecting way, except alleys.
 - (10) Upon any street or highway within 20 feet of a firehouse driveway.
- B. Prohibited on certain streets. Upon the following streets or highways or parts thereof parking is hereby prohibited as set forth below, during the hours stated:
- (1) Grove Street, northeast for a distance of 100 feet from Washington Street, on both sides of the street.
 - (2) High Street, southerly for a distance of 100 feet from Washington Street, on both sides of the street and triangle.
 - (3) Westerly side of Bridge Street for its entire length, 1,972 feet.
 - (4) Easterly side of Dover Street from River Street to 100 yards beyond the entrance of the Albert Norris Reservation, 700 feet.
 - (5) Bowker Street (bounded southerly by Main Street, northerly by Grove Street) for its entire length of 6,336 feet, with the exception of allowing three spaces* between the telephone poles in front of Meadowcroft Day Camp at 260 Bowker Street. *To allow parking for three vehicles for nurses and an emergency camp van not to exceed a total area of 45 feet in length.
 - (6) Oak Street (bounded easterly by High Street, westerly by Washington Street, southerly by Ridge Hill Road) for its entire length of 965 feet.
- C. Time limited in designated areas. No person shall park a vehicle in the following described areas for a period of time longer than hereafter specified:
- (1) One-hour angle parking upon the southerly side of Main Street, from River Street to the northwesterly property line of the First Parish Cemetery.
 - (2) One-hour parking parallel to curb upon the northerly side of Main Street from Central Street, in an easterly direction, for a distance of 500 feet.
- D. Angle parking.
- (1) The Board of Selectmen shall determine upon what streets angle parking shall be permitted and shall mark and sign such streets, or cause the same to be marked and signed. Vehicles shall be parked with the right front wheel within 12 inches of the curb or edge of roadway and at the angle to the curb indicated by marks and signs.
 - (2) Angle parking shall be required on the following streets or parts thereof which have been marked and signed for angle parking:
 - (a) One-hour angle parking upon the southerly side of Main Street, from River Street to the northwesterly property line of the First Parish Cemetery excluding 690 Main Street.

E. Loading zones. A loading zone is established at the following location:

- (1) Main Street, south side, from River Street (40 linear feet) westerly.

§ 306-8. One-way streets.

A. Upon the following streets or parts of streets vehicular traffic shall move only in the direction indicated below, provided that official traffic signs are erected at each exit at each one-way street:

- (1) Forest Street: westerly, from River Street to Forest Avenue.
- (2) Forest Avenue: easterly, from Forest Street to River Street.

§ 306-9. Operation of vehicles.

A. Obedience to isolated stop signs.

- (1) Every driver of a vehicle, or other conveyance, approaching an intersection of ways where there exists facing him an official sign, bearing the word "Stop" and authorized by this section, said sign having, apart from this regulation, the written approval of the Department of Public Works, Commonwealth of Massachusetts, and such approval being in effect, shall, before proceeding through the intersection, bring such vehicle or other conveyance to a complete stop at such point as may be clearly marked by a sign or line, or if a point is not so marked, then at a place between the said "Stop" sign and the nearer line of the street intersection. In the case of a line of two or more vehicles approaching such "Stop" sign, the drivers of the second and third vehicles in line in any group shall not be required to stop more than once before proceeding through the intersection. This section shall not apply when the traffic is otherwise directed by an officer or by a lawful traffic regulating sign, signal or device.
- (2) In accordance with the foregoing, the erection and maintenance of an official "Stop" sign or signs are authorized so as to face:

Traffic on	Direction of Travel
Barque Hill Drive at intersection of Stetson Road	Westbound
Central Street at Main Street	Southbound
Church Street at River Street	Southeastbound
Common Street at River Street	Eastbound
Cross Street at Main Street	Eastbound
Cross Street at Old Oaken Bucket Road	Northwestbound
Cross Street at Winter Street	Eastbound
Dover Street at Main Street	Eastbound

Traffic on	Direction of Travel
Dover Street at River Street	Southbound
Franklin Road at intersection of Grove Street	Northbound
Gerard Road at intersection of Grove Street	Northbound
Green Street at Pine Street	Westbound
Green Street at River Street	Eastbound
Hall Drive at High Street	Westbound
Jacobs Lane at Main Street	Southbound
Jacobs Lane at intersection of Prospect Street	Northbound
Lincoln Street at Grove Street	Southbound
Mt. Blue Street at Old Oaken Bucket Road	Southeastbound
Neal Gate Street at Main Street	Westbound
Oak Street at intersection of Rte. 53 (Washington Street)	Eastbound
Old Oaken Bucket Road (east leg) at Central Street and Norwell Avenue	Southbound
Parker Street at Main Street	Southbound
Pine Street at intersection of Circuit Street	Northbound
Pleasant Street at intersection of Circuit Street	Eastbound
Pleasant Street at intersection of South Street	Westbound
Prospect Street at Grove Street	Southbound
Prospect Street at intersection of Main Street	Southbound
Ridge Hill Road at Oak Street	Northbound
River Street at Main Street	Northbound
School Street at intersection of Grove Street	Southeastbound
School Street, yield at intersection of Grove Street	Southwestbound
School Street at Mount Blue Street	Northbound
South Street at Main Street	Northbound
Stetson Road at River Street, opposite Church Street	Northwestbound
Summer Street at Old Oaken Bucket Road	Southbound
Wildcat Lane at Pine Street	Eastbound

Traffic on	Direction of Travel
Wilder Road at intersection of Grove Street	Northbound
Winter Street at Main Street	Southbound

- (3) In accordance with Chapter 689 of the Acts of 1986, the Norwell Board of Selectmen has voted to amend Norwell's Traffic Rules and Regulations by adding the following stop signs. These signs will be in compliance with the Manual on Uniform Traffic Control Devices.

Central Street/Mill Lane
 Circuit Street/Forest Street
 Circuit Street/Main Street
 Common Street/Common Avenue
 Common Street/Leonard Avenue
 Doris Avenue/Jacobs Trail
 Grove Street/Bowker Street
 Grove Street/Franklin Road
 Grove Street/Otis Hill Road
 Grove Street/Prospect Street
 Grove Street/Stanley Road
 Hall Drive/Christopher Road East from High Street
 Hall Drive/Christopher Road West from Rte. 53
 Hall Drive/Germaine Road
 High Street/Longwater Drive
 Lincoln Street/Grove Street
 Lincoln Street/Hemlock Drive
 Lincoln Street/Main Street
 Lincoln Street/Mt. Blue Street
 Longwater Drive/Longwater Circle
 Main Street/Arrowhead
 Main Street/Bowker Street
 Main Street/Bridge Street
 Main Street/Circuit Street
 Main Street/Cushing Hill
 Main Street/Harbor Lane
 Main Street/Homestead Farm Drive
 Main Street/Jacobs Lane
 Main Street/Lincoln Street
 Main Street/May Elm
 Main Street/Milton Lane

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Main Street/Old Meeting House
Main Street/Paradise Drive
Main Street/Roubound
Main Street/Simon Hill
Main Street/West Street
Mt. Blue/Lincoln Street
Mt. Blue/Old Oaken Bucket
Mt. Blue/Old Oaken Bucket (right cor.)
Mt. Hope/Mt. Blue Street
Norwell Avenue/Trout Brook
Norwell Avenue/Trout Brook Lane
Oak Street/High Street
Old Oaken Bucket/Cranberry Lane
Old Oaken Bucket/Samuel Woodworth
Parker Street/Winter Street
Pine Street/Tara Drive
Pleasant Street/Circuit Street
Pleasant Street/E.A. Joseph Drive
Pleasant Street/South Street
Pleasant Street/Wildcat Lane
Prospect Street/R.F. Higgins Drive
Prospect Street/Walnut Road
River Street/Chittenden Lane
River Street/Common Avenue
River Street/Forest Avenue
River Street/Meadowbrook Road
River Street/Pine Street
River Street/Riverside Drive
River Street/Stetson Road
River Street/Stetson Shrine Lane
River Street/Tara Drive
River Street/Tiffany Road
South Street/Main Street
South Street/Mill Street
South Street/School Drive
Summer Street/Black Pond Hill Road
Summer Street/First Parish Road
Stetson Road/Barstow Avenue
Stetson Road/Masthead Drive
Stetson Road/Till Rock

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Tiffany Road/Church Street
 Tiffany Road/Common Street
 West Street/Dover Street
 West Street/River Street
 Winter Street/Cross Street
 Winter Street/Main Street

- B. Operation at under and overpasses and at intersections with islands. At any junction or crossing of ways where the roadway grades have been separated and where the ways are connected by ramps and at any intersection of ways in which there are traffic islands, drivers of vehicles shall proceed only as indicated by official signs, signals or markings.
- C. U-turn prohibited central fire station. No operator shall back or turn a vehicle so as to proceed in the direction opposite to that in which said vehicle is headed or traveling on Main Street (Route 123).

§ 306-10. Violations and penalties.

- A. Owner prima facie responsible for violations. If any vehicle is found upon any street or highway in violation of any provisions of these rules and orders and the identity of the driver cannot be determined, the owner or the person in whose name such vehicle is registered shall be held prima facie responsible for such violation.
- B. Penalties. Any person convicted of a violation of any rule, regulation or order made hereunder, except as otherwise provided, shall be punished by a fine not exceeding \$20 for each offense.

§ 306-11. Interpretation; repeal.

- A. These rules are adopted with the intent that each of them shall have force and effect separately and independently of every other except insofar as by express reference or necessary implication any rule or any part of a rule is made dependent upon another rule or part thereof.
- B. The provisions of these rules so far as they are the same in effect as those of any valid existing rules, orders or regulations heretofore made by the Selectmen of Norwell relative to or in connection with official signs, lights, markings, signal systems or devices shall be construed as a continuation thereof, but all other existing rules, orders and regulations so made for the regulation of vehicles are hereby expressly repealed. This repeal, however, shall not affect any punishment or penalty imposed or complaint or prosecution pending at the time of the passage hereof for an offense committed under any of the valid rules, orders or regulations hereby repealed.

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306 Attachment 1

Town of Norwell

Speed Regulations

Highway Location: Town of Norwell

Authority in Control: Town of Norwell (unless otherwise indicated)

In accordance with the provisions of Chapter 90, Section 18, of the General Laws (Ter. Ed.) as amended, the following special speed regulations are hereby adopted by the Board of Selectmen of the Town of Norwell.

The following speed limits are established at which motor vehicles may be operated in the areas described:

1. Special Speed Regulation No. 345. Posted: July 19, 1966.

Old Oaken Bucket Road - Eastbound

Beginning at a point 250 feet east of Norwell Avenue, thence easterly
0.48 miles at 30 miles per hour
thence 0.56 miles at 35 miles per hour
thence 0.42 miles at 40 miles per hour
ending at the Scituate Town Line. The total distance being 1.46 miles.

Old Oaken Bucket Road - Westbound

Beginning at the Scituate Town Line, thence westerly in Norwell
0.42 miles at 40 miles per hour
thence 0.56 miles at 35 miles per hour
thence 0.48 miles at 30 miles per hour
thence 0.05 miles at 25 miles per hour
ending at Norwell Avenue. The total distance being 1.51 miles.

Grove Street and Norwell Avenue - Eastbound

Beginning at a point 140 feet east of Washington Street (Route 53), thence
easterly 0.56 miles at 35 miles per hour
thence 0.89 miles at 40 miles per hour
thence 0.09 miles at 35 miles per hour
thence 0.98 miles at 40 miles per hour
thence 0.14 miles at 25 miles per hour
thence 0.65 miles at 35 miles per hour
thence 0.53 miles at 30 miles per hour
thence 0.35 miles at 35 miles per hour
ending at Old Oaken Bucket Road. The total distance being 4.19 miles.

Norwell Avenue and Grove Street - Westbound

Beginning at Old Oaken Bucket Road, thence westerly
0.35 miles at 35 miles per hour
thence 0.53 miles at 30 miles per hour
thence 0.65 miles at 35 miles per hour

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thence 0.14 miles at 25 miles per hour
thence 0.98 miles at 40 miles per hour
thence 0.09 miles at 35 miles per hour
thence 0.89 miles at 40 miles per hour
thence 0.51 miles at 35 miles per hour
thence 0.08 miles at 25 miles per hour
ending at Washington Street (Route 53). The total distance being 4.22 miles.

High Street - Northbound

Beginning at the Hanover Town Line, thence northerly in Norwell
0.39 miles at 40 miles per hour
thence 0.35 miles at 35 miles per hour
thence 0.29 miles at 30 miles per hour
thence 0.25 miles at 35 miles per hour
ending at Washington Street (Route 53). The total distance being 1.28 miles.

High Street - Southbound

Beginning at a point 200 feet south of Washington Street (Route 53), thence southerly
0.21 miles at 35 miles per hour
thence 0.29 miles at 30 miles per hour
thence 0.35 miles at 35 miles per hour
thence 0.39 miles at 40 miles per hour
ending at the Hanover Town Line. The total distance being 1.24 miles.

1.a. Special Speed Regulation No. 345-A. Posted: April 8, 1971.

Old Oaken Bucket Road - Eastbound

By striking out clauses reading
0.48 miles at 30 miles per hour
0.56 miles at 35 miles per hour
and inserting in place thereof
0.44 miles at 30 miles per hour
0.60 miles at 35 miles per hour

Old Oaken Bucket Road - Westbound

By striking out the clauses reading
0.56 miles at 35 miles per hour
0.48 miles at 30 miles per hour
and inserting in place thereof
0.52 miles at 35 miles per hour
0.52 miles at 30 miles per hour

High Street - Northbound

By striking out the clauses reading
0.29 miles at 30 miles per hour
0.25 miles at 35 miles per hour
and inserting in place thereof
0.54 miles at 30 miles per hour

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High Street - Southbound

By striking out the clauses reading

0.21 miles at 35 miles per hour

0.29 miles at 30 miles per hour

and inserting in place thereof

0.50 miles at 30 miles per hour

2. Special Speed Regulation No. 548. Posted: April 8, 1971.

Main Street (Route 123) - Eastbound

Beginning at the Hanover-Norwell line, thence easterly on Main Street (Route 123)

1.09 miles at 45 miles per hour

1.71 miles at 40 miles per hour

0.69 miles at 30 miles per hour

1.44 miles at 40 miles per hour

ending at the Norwell-Scituate line. The total distance being 4.93 miles.

Main Street (Route 123) - Westbound

Beginning at the Scituate-Norwell line, thence westerly on Main Street (Route 123)

1.45 miles at 40 miles per hour

0.67 miles at 30 miles per hour

1.72 miles at 40 miles per hour

1.09 miles at 45 miles per hour

ending at the Norwell-Hanover line. The total distance being 4.93 miles.

2.a. Special Speed Regulation No. 548-A. Posted: September 24, 1976.

Main Street (Route 123) - Eastbound

By striking out the clause reading

0.69 miles at 30 miles per hour

and inserting in place thereof

0.69 miles at 25 miles per hour

Main Street (Route 123) - Westbound

By striking out the clause reading

0.67 miles at 30 miles per hour

and inserting in place thereof

0.67 miles at 25 miles per hour

3. Special Speed Regulation No. 592. Posted: April 8, 1971.

Stetson Road - Eastbound.

Beginning at River Street, thence easterly on Stetson Road

0.47 miles at 30 miles per hour

0.10 miles at 20 miles per hour

0.26 miles at 30 miles per hour

0.13 miles at 25 miles per hour

0.36 miles at 45 miles per hour

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0.06 miles at 25 miles per hour
ending at River Street. The total distance being 1.38 miles.

Stetson Road - Westbound

Beginning at River Street, thence westerly on Stetson Road
0.42 miles at 45 miles per hour
0.13 miles at 25 miles per hour
0.26 miles at 30 miles per hour
0.10 miles at 20 miles per hour
0.47 miles at 30 miles per hour
ending at River Street. The total distance being 1.38 miles.

River Street - Northbound

Beginning at the Hanover-Norwell line, thence northerly on River Street
0.36 miles at 25 miles per hour
1.70 miles at 35 miles per hour
1.01 miles at 40 miles per hour
0.35 miles at 30 miles per hour
ending on Main Street. The total distance being 3.42 miles.

River Street - Southbound

Beginning at Main Street, thence southerly on River Street
0.35 miles at 30 miles per hour
1.01 miles at 40 miles per hour
1.70 miles at 35 miles per hour
0.36 miles at 25 miles per hour
ending at the Norwell-Hanover line. The total distance being 3.42 miles.

4. Special Speed Regulation No. 607. Posted: April 8, 1971.

Bridge Street - Northbound

Beginning at the Marshfield-Norwell line, thence northerly on Bridge Street
0.32 miles at 35 miles per hour
0.05 miles at 25 miles per hour
ending at Main Street (Route 123). The total distance being 0.37 miles.

Bridge Street - Southbound.

Beginning at Main Street (Route 123), thence southerly on Bridge Street
0.37 miles at 35 miles per hour
ending at the Norwell-Marshfield line. The total distance being 0.37 miles

Central Street - Northbound

Beginning at Main Street (Route 123), thence northerly on Central Street
0.35 miles at 25 miles per hour
0.56 miles at 35 miles per hour
ending at Old Oaken Bucket Road and Norwell Avenue
The total distance being 0.91 miles

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Central Street - Southbound

Beginning at a point 100 feet south of Norwell Avenue and Old Oaken Bucket Road,
thence southerly on Central Street

0.54 miles at 35 miles per hour

0.35 miles at 25 miles per hour

ending at Main Street (Route 123). The total distance being 0.89 miles.

Winter Street - Northbound

Beginning at Main Street (Route 123), thence northerly on Winter Street

1.21 miles at 35 miles per hour

0.15 miles at 30 miles per hour

0.30 miles at 35 miles per hour

ending at the Norwell-Scituate line. The total distance being 1.66 miles.

Winter Street - Southbound

Beginning at the Scituate-Norwell line, thence southerly on Winter Street

0.30 miles at 35 miles per hour

0.15 miles at 30 miles per hour

1.16 miles at 35 miles per hour

0.05 miles at 25 miles per hour

ending on Main Street (Route 123). The total distance being 1.66 miles.

5. Special Speed Regulation No. 678. Posted: January 21, 1972.

Authority in control: Commonwealth of Massachusetts Department of Public Works

Route 53 State Highway - Northbound

Beginning at the Hanover-Norwell Town line, thence northerly in Norwell

0.94 miles at 35 miles per hour

1.10 miles at 40 miles per hour

0.10 miles at 35 miles per hour

ending at the Hingham-Norwell Town line. The distance being 2.14 miles.

Route 53 State Highway - Southbound

Beginning at the Hingham-Norwell Town line, thence southerly in Norwell

0.10 miles at 35 miles per hour

1.10 miles at 40 miles per hour

0.94 miles at 35 miles per hour

ending at the Hanover-Norwell Town line. The total distance being 2.14 miles.

6. Special Speed Regulation No. 645. Posted: April 11, 1973.

South Street - Northbound

Beginning at the Hanover-Norwell line, thence northerly on South Street

0.54 miles at 35 miles per hour

0.11 miles at 20 miles per hour

0.21 miles at 35 miles per hour

0.09 miles at 20 miles per hour

0.65 miles at 35 miles per hour

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0.06 miles at 25 miles per hour
ending at Main Street. The total distance being 1.66 miles.

South Street - Southbound

Beginning at a point 200 feet south of Main Street, thence southerly on South Street
0.67 miles at 35 miles per hour
0.09 miles at 20 miles per hour
0.21 miles at 35 miles per hour
0.11 miles at 20 miles per hour
0.54 miles at 35 miles per hour
ending at the Norwell-Hanover line. The total distance being 1.62 miles.

Tiffany Road - Northbound

Beginning at River Street, thence northerly on Tiffany Road
0.95 miles at 25 miles per hour
ending at the Norwell-Hanover line. The total distance being 0.95 miles.

Tiffany Road - Southbound

Beginning at the Hanover-Norwell line, thence on southerly Tiffany Road
0.95 miles at 25 miles per hour
ending at River Street. The total distance being 0.95 miles

Prospect Street - Northbound

Beginning at Main Street, thence northerly on Prospect Street
0.36 miles at 35 miles per hour
0.23 miles at 25 miles per hour
0.86 miles at 35 miles per hour
0.14 miles at 20 miles per hour
0.78 miles at 30 miles per hour
ending at the Norwell-Hingham line. The total distance being 2.37 miles.

Prospect Street - Southbound

Beginning at the Hingham-Norwell line, thence southerly on Prospect Street
0.78 miles at 30 miles per hour
0.14 miles at 20 miles per hour
0.86 miles at 35 miles per hour
0.23 miles at 25 miles per hour
0.31 miles at 35 miles per hour
0.05 miles at 25 miles per hour
ending at Main Street. The total distance being 2.37 miles.

Pond Street - Northbound

Beginning at the Rockland-Norwell line, thence northerly on Pond Street
0.32 miles at 40 miles per hour
0.22 miles at 30 miles per hour
ending at Washington Street. The total distance being 0.54 miles.

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Pond Street - Southbound

Beginning at a point 100 feet south of Washington Street, thence southerly on Pond Street
0.20 miles at 30 miles per hour
0.32 miles at 40 miles per hour
ending at the Norwell-Rockland line. The total distance being 0.52 miles.

Lincoln Street - Northbound

Beginning at a point 100 feet north of Main Street, thence northerly on Lincoln Street
0.94 miles at 30 miles per hour
0.56 miles at 25 miles per hour
0.05 miles at 15 miles per hour
ending at Mt. Blue Street. The total distance being 1.55 miles.

Lincoln Street - Southbound

Beginning at a point 100 feet south of Mt. Blue Street, thence southerly on Lincoln Street.
0.59 miles at 25 miles per hour
0.90 miles at 30 miles per hour
0.06 miles at 20 miles per hour
ending at Main Street; the total distance being 1.55 miles.

7. Special Speed Regulation No. 754. Posted: April 11, 1973.

Summer Street - Northbound

Beginning at Old Oaken Bucket Road, thence northerly on Summer Street
1.40 miles at 35 miles per hour
0.12 miles at 25 miles per hour
ending at the Scituate line. The total distance being 1.52 miles.

Summer Street - Southbound

Beginning at the Scituate line, thence southerly on Summer Street
0.12 miles at 25 miles per hour
1.34 miles at 35 miles per hour
0.06 miles at 25 miles per hour
ending at Old Oaken Bucket Road. The total distance being 1.52 miles.

8. Special Speed Regulation No. 895. Posted: July 30, 1974.

Forest Street - Eastbound

Beginning at a point 150 feet east of Circuit Street, thence easterly on Forest Street
0.66 miles at 30 miles per hour
0.25 miles at 25 miles per hour
ending at Forest Avenue The total distance being 0.91 miles.

Forest Street - Westbound

Beginning at River Street, thence westerly on Forest Street
0.46 miles at 25 miles per hour

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0.69 miles at 30 miles per hour
ending at Circuit Street. The total distance being 1.15 miles.

Circuit Street - Northbound

Beginning at a point 100 feet east of Forest Street, thence northerly on Circuit Street
0.37 miles at 30 miles per hour
0.46 miles at 20 miles per hour
1.06 miles at 30 miles per hour
ending at Rte. 123. The total distance being 1.89 miles.

Circuit Street - Southbound

Beginning at a point 100 feet south of Rte. 123, thence southerly on Circuit Street
1.04 miles at 30 miles per hour
0.46 miles at 20 miles per hour
0.39 miles at 30 miles per hour
ending at Forest Street. The total distance being 1.89 miles.

School Street - Northbound

Beginning at a point 270 feet north of Grove Street, thence northerly on School Street
0.46 miles at 35 miles per hour
0.06 miles at 25 miles per hour
ending at Mount Blue Street. The total distance being 0.52 miles.

School Street - Southbound

Beginning at a point 100 feet south of Mount Blue Street, thence southerly on School Street
0.48 miles at 35 miles per hour
0.07 miles at 25 miles per hour
ending at Grove Street. The total distance being 0.55 miles.

Cross Street - Northbound

Beginning at the Scituate Town line, thence northerly on Cross Street
1.03 miles at 30 miles per hour
0.74 miles at 35 miles per hour
0.06 miles at 25 miles per hour
ending at Old Oaken Bucket Road. The total distance being 1.83 miles.

Cross Street - Southbound

Beginning at a point 100 feet south of Old Oaken Bucket Road, thence southerly on Cross Street
0.78 miles at 35 miles per hour
1.03 miles at 30 miles per hour
ending at the Scituate Town line. The total distance being 1.81 miles.

Pine Street - Northbound

Beginning at a point 100 feet north of River Street, thence northerly on Pine Street
0.28 miles at 30 miles per hour
1.04 miles at 35 miles per hour

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0.05 miles at 25 miles per hour
ending at Circuit Street. The total distance being 1.37 miles.

Pine Street - Southbound

Beginning at a point 100 feet south of Circuit Street, thence southerly on Pine Street
1.07 miles at 35 miles per hour
0.30 miles at 30 miles per hour
ending at River Street. The total distance being 1.37 miles.

9. Special Speed Regulation No. 1099. Posted: June 14, 1977.

Pleasant Street - Eastbound

Beginning at a point 150 feet east of South Street, thence easterly on Pleasant Street
1.17 miles at 30 miles per hour
ending at Circuit Street. The total distance being 1.17 miles.

Pleasant Street - Westbound

Beginning at a point 150 feet west of Circuit Street, thence westerly on Pleasant Street
1.17 miles at 30 miles per hour
ending at South Street. The total distance being 1.17 miles.

Mt. Blue Street - Eastbound

Beginning at Mt. Hope Street, thence easterly on Mt. Blue Street
0.24 miles at 25 miles per hour
0.11 miles at 20 miles per hour
0.90 miles at 25 miles per hour
1.15 miles at 30 miles per hour
ending at Old Oaken Bucket Road. The total distance being 2.40 miles.

Mt. Blue Street - Westbound

Beginning at a point 300 feet west of Old Oaken Bucket Road, thence westerly on Mt. Blue Street
1.09 miles at 30 miles per hour
0.90 miles at 25 miles per hour
0.11 miles at 20 miles per hour
0.24 miles at 25 miles per hour
ending at Mt. Hope Street. The total distance being 2.34 miles.

Mt. Hope Street - Eastbound.

Beginning at a point 100 feet east of Mt. Blue Street, thence easterly on Mt. Hope Street.
0.57 miles at 30 miles per hour.
ending at Scituate Town line. The total distance being 0.57 miles.

Mt. Hope Street - Westbound.

Beginning at the Scituate Town line, thence westerly on Mt. Hope Street.
0.59 miles at 30 miles per hour
ending at Mt. Blue Street. The total distance being 0.59 miles.

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Operation of a motor vehicle at a rate of speed in excess of these limits shall be prima facie evidence that such speed is greater than is reasonable and proper.

The provisions of this regulation shall not, however, abrogate in any sense Chapter 90, Section 14, of the General Laws (Ter. Ed.).

/s/ Board of Selectmen

Attest: Notary Public

COMMONWEALTH OF MASSACHUSETTS
Department of Public Works

The Department of Public Works and the Registrar of Motor Vehicles, acting jointly, do hereby certify that these regulations are consistent with public interests. Standard signs must be erected at the beginning of each zone.

/s/ Commissioner for Highway Engineering
/s/ Registrar of Motor Vehicles

Printed with most recent amendments: May 1979

Chapter 307

CEMETERY COMMITTEE

- | | |
|--|---|
| <p>§ 307-1. Purpose; definitions.</p> <p>§ 307-2. Lot purchase procedures.</p> <p>§ 307-3. Burial rights.</p> <p>§ 307-4. Burials.</p> <p>§ 307-5. Perpetual care.</p> | <p>§ 307-6. Monuments and foundations.</p> <p>§ 307-7. Flowers and shrubs.</p> <p>§ 307-8. Flags and decorations.</p> <p>§ 307-9. General rules.</p> <p style="text-align: center;">Schedule of Charges</p> |
|--|---|

[HISTORY: Adopted by the Cemetery Committee of the Town of Norwell 3-28-2018. Amendments noted where applicable.]

§ 307-1. Purpose; definitions.

- A. These rules and regulations have been adopted for the mutual benefit of all lot owners. All owners and visitors to Norwell cemeteries and all lots sold in Norwell cemeteries shall be subject to the following rules and regulations. Amendments or alterations to these rules and regulations may be made by the Town of Norwell Cemetery Committee.
- B. As used in these rules and regulations, the following terms shall have the meanings indicated:

BURIAL RIGHTS — The right to a burial in a grave or lot held by the licensee of the grave or lot. The deed to the lot is not equivalent to title to the property. Burial rights to the entire lot or individual grave may be granted or transferred by the licensee with the approval of the Norwell Cemetery Committee.

CEMETERY COMMITTEE — A five-member board of Norwell residents duly appointed by the Board of Selectmen to establish rules and regulations and recommend rates to the Board of Selectman, sell lots, arrange burials, keep records of all owners and burials, pay bills, and oversee maintenance of Town-owned Norwell cemeteries.

CEMETERY LIAISON — A Town of Norwell employee appointed by the Town Administrator to oversee the daily operation, arrangements, and everything pertaining to Town-owned Norwell cemeteries.

CREMATION BURIAL — The burial of an urn with cremated remains of a deceased person inside of it.

DEED — A document that provides burial rights in a lot (or lots) in a Norwell cemetery, purchased by someone whose name is on the document. A deed to a cemetery lot does not constitute ownership of the land.

FLAT MARKER — A flat stone flush with the ground to designate where a deceased is buried.

FULL BURIAL — The burial of a casket and vault of a deceased person.

GRAVE —

- (1) Washington Street Cemetery. A grave space measures four feet by 10 feet and accommodates space for one monument foundation, one monument, one full burial, and three cremations or one monument foundation, one monument, and four cremations.
- (2) Stetson Meadows Cemetery (monument section). Grave spaces at Stetson Meadows that are already provided with a bar foundation measure three feet eight inches wide by nine feet long, and the monument goes on top of the bar foundation accommodating one full burial.
- (3) Stetson Meadows Cemetery (flat marker section). Grave spaces measure three feet eight inches wide by nine feet long accommodating one full burial.
- (4) Stetson Meadows Cemetery (Garden of Angels). Grave spaces measure three feet by three feet accommodating one infant burial. Flat, flush markers only.
- (5) Stetson Meadows Cemetery (cremation garden and walk). Grave spaces measure three feet six inches by five feet, accommodating one cremation burial. Flat, flush markers only.

INTERMENT —

- (1) A cremation and inurnment, an entombment (in a mausoleum), or a burial of a casket and vault of a deceased person.
- (2) The permanent placement of the remains of a deceased person in a casket and vault, or the placement of ashes in an urn, and the subsequent burial of these remains.

LINER/VAULT — The container (completely made of concrete) in which the casket is placed. Burials require a colonial vault, defined as an unlined, top-seal outer burial container where the concrete meets or exceeds a pressure test of 5,000 psf.

LOT — The numbered space as shown on the cemetery recorded plan.

LOT MARKER — A small marker with a section and number placed on the lot to identify the space.

MAUSOLEUM — A secured stone building, approved by the Town of Norwell Cemetery Committee, to house caskets or urns for the deceased.

MEMORIAL — A monument, flat marker, tablet, object, mausoleum, or niche to designate where a deceased is buried.

MONUMENT — An upright stone no higher than three feet placed on a cement foundation at the head of a grave.

OWNER — The person whose name is on the cemetery lot deed.

PERPETUAL CARE FUND — A portion of the deed purchase price is placed into an expendable Perpetual Care Fund. The expendable Perpetual Care Fund is used for the maintenance of the grounds in the cemetery, but does not include care of any kind for the monument or markers.

URN — Weather-tight metal or stone vessel used to hold cremated remains and suitable for in-ground burial. Burial urn protective vaults are allowed.

§ 307-2. Lot purchase procedures.

- A. Cemetery lots may be obtained by contacting the Cemetery Liaison at (781) 659-8009 or via e-mail at NorwellCemetery@townofnorwell.net.
- B. Full payment is expected at the time a lot is selected, including a filing fee of \$10.
- C. Checks shall be made out to the "Town of Norwell."
- D. A rate sheet is available upon request from the Cemetery Liaison.

§ 307-3. Burial rights.

- A. Upon the death of any owner of any lot, tomb or monument, his or her heirs-at-law shall inherit the rights and succeed to the privileges set forth in the instrument of conveyance with the same restrictions, limitations, and conditions in accordance with MGL c. 114, §§ 28 and 29.
- B. Please notify the Cemetery Committee via e-mail (NorwellCemetery@townofnorwell.net) or by letter of any new change of address. Notice of transfer of ownership due to a death or transfer to a family member must be communicated by letter. Please write to Norwell Cemetery Committee at 345 Main Street, Norwell, MA 02061.
- C. Re-use of an occupied grave (e.g., cremation interment on top of the grave of a casket burial) will not be permitted except with the consent of the owner of the grave lot or his/her heirs-at-law. Re-use is only permitted if cemetery personnel determine that there is sufficient space to accomplish this.
- D. The Town may take over the ownership of an unoccupied and unmarked grave in accordance with the provisions of MGL c. 114, § 10A, after a minimum of 100 years has elapsed and provided the Town cannot locate the owner or the owner's successor after a diligent search. If the ownership of the lot or tomb is ascertained after such a takeover occurs, then the Town shall pay the fair value of the lot at the time of its takeover to the owner. (MGL c. 114, § 10A, Municipality ownership of unclaimed graves; reuse of occupied graves.) Graves will not be considered unoccupied if they are a part of a multiple abutting lot purchase by one owner and at least one of those lots is occupied.
- E. No lot may be sold privately by the owner. If a lot is no longer desired, it shall be purchased by the Cemetery Committee for the original purchase price.

§ 307-4. Burials.

- A. At least 48 hours' notice must be given to cemetery personnel to prepare for a burial. All graves will be prepared by the Tree and Grounds Department for a fee (see rates).

Winter burial, from December 1 through April 1, may include additional charges (see rates).¹

- B. If a burial must be postponed due to weather, the funeral director and family will be immediately notified.
- C. Cemeteries will be open for interments between 9:00 a.m. and 2:00 p.m., Monday through Saturday. Funerals that enter the cemetery after these hours may be subject to extra hourly fees (see rates).
- D. The Cemetery Committee reserves the right to refuse any interment.
- E. A Cemetery Committee member or Town-approved witness must be present at all burials from grave opening until closing.
- F. No full burial can be allowed without a proper death certificate. No cremation burial can be allowed without a crematory certificate or cremation affidavit. All paperwork must be accompanied by full payment for the burial. Please give payment to the Cemetery Committee member or witness present.
- G. A liner/vault must be provided for all casket burials. The Town does not provide this item.
- H. As original cemetery record-keeping has been determined to have an occasional error, the Cemetery Committee reserves the right to correct any past record-keeping errors regarding interments, disinterment, or removals, regarding the description, transfer, or conveyance of any interment property (either by cancelling such conveyance and substituting any conveyance in lieu thereof other property of equal value and similar locations as possible), or by refunding the amount of money paid on account of said purchase. In the event such an error shall involve the disinterment of the remains of any person in such property, the Cemetery Committee reserves the right to remove or transfer such remains so interred to another lot of equal value and similar location in which case the new lot shall be conveyed and the owner shall re-convey the former lot.
- I. Burials on any day that the Town of Norwell considers a holiday, on Saturday after 2:00 p.m., or on Sundays may not be possible (depending on staff availability) and will incur additional fees (see rates).

§ 307-5. Perpetual care.

- A. Perpetual care includes, but is not limited to, cutting the grass, weed whacking, reseeding, clearing of leaves, and planting of shrubs and trees. This care does not include replacing gravestones or monument structures, unless damaged by the Town.
- B. The Cemetery Committee and Town may receive, hold, and apply any funds, money, or securities deposited with the Treasurer thereof for the preservation, care, improvement or embellishment of any public burial place situated therein, or of burial lots situated in such burial places. Such funds, money, or securities shall be entered upon the books of the Treasurer and held in accordance with ordinances or bylaws relative thereto. The

1. Editor's Note: For rates see the Schedule of Charges included as an attachment to this chapter.

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Town may pass ordinances or bylaws consistent with law, necessary for the purposes of this section. The Treasurer shall invest such deposits under his/her control to protect the cemetery and ensure maximum income from such deposits upon receipt of a deposit for the preservation, care, improvement, or embellishment of individual lots in Town-owned burial places (MGL c. 114, § 19). At present 40% is taken out of a lot purchase for perpetual care and 60% goes to sale of lots. Funds in the Sale of Lots Fund are appropriated by Town Meeting to reimburse the Town for certain allowable expenses relative to cemeteries.

§ 307-6. Monuments and foundations.**A. Monument dimensions are as follows:****(1) Washington Street Cemetery:**

- (a) Single lot. Maximum width: 32 inches; maximum height: three feet; or flat/flush marker.
- (b) Double lot. Maximum width: 64 inches; maximum height: three feet; or flat/flush marker.
- (c) Family lot. No longer available.
- (d) Flat marker. Maximum dimensions: 24 inches long by 12 inches wide by four inches thick.

(2) Stetson Meadows Cemetery:

- (a) Monument section: (Note: Monuments may be back to back.)
 - [1] Single lot. Maximum width: 32 inches; maximum height: 36 inches; or flat/flush marker (see flat marker section).
 - [2] Double lot. Maximum width: 64 inches; maximum height: 36 inches; or flat/flush marker (see flat marker section).
- (b) Flat marker section:
 - [1] Flat marker. Maximum dimensions: 24 inches long by 12 inches wide by four inches thick.
- (c) Estate lots. (Note: Consists of eight contiguous single lots.) Monument maximum width: 64 inches; maximum height: 36 inches; and/or eight flat/flush markers (see flat marker section).
- (d) Garden of Angels. Flat/flush markers only measuring 20 inches long by 10 inches wide by four inches thick.
- (e) Cremation garden and walk. Flat/flush markers only measuring 20 inches long by 10 inches wide by four inches thick.

B. Any requests for a larger monument must be submitted to the Cemetery Committee for approval.

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- C. It is recommended that all markers be made of granite or a material of similar hardness.
- D. All flat markers require foundations.
- E. Memorial dealers are required to submit a detailed drawing of what the stone will look like with descriptions and specifications for the base and monument, the finish, color, and inscription. All monuments must be approved by the Cemetery Liaison.
- F. Foundations are required for all monuments and should be included in the drawings submitted. The cost for the foundation is paid by the plot owner directly to the monument dealer and will be forwarded to the Town of Norwell. Foundations will be laid by the Town's cemetery personnel. Monuments with bar foundations may be placed back to back.
- G. The erection of secured mausoleums, vaults, or tombs (entirely above ground) on a selected lot(s) will be permitted at Washington Street Cemetery in such places of the cemetery as the Cemetery Committee approves. Complete plans drawn to scale, accompanied by specifications describing all materials to be used, must be submitted to and approved by the Cemetery Committee before any work commences. Duplicate keys for private mausoleums must be left in care of the Cemetery Liaison.
- H. The Town of Norwell reserves the exclusive right to do or have done all applications of chemicals, pesticides, or fertilizers. Application of such chemicals on Town-owned property is required to be done by certified personnel and could do harm to the environment and to the cemetery if improperly or redundantly applied. Please notify the Cemetery Liaison with any questions regarding landscaping or grass maintenance.

§ 307-7. Flowers and shrubs.

- A. Flowers may be placed at the front and sides of the monument, not in the back (unless the back lot is owned by the same family and the monument is for both lots). Flowers, plantings, and decorations should be securely placed within the confines of the respective lot. Placement must not interfere with the safe mowing and maintenance of the lot and must not encroach upon adjacent lots. No flowers shall be planted in the ground at the Stetson Meadows Cemetery except by cemetery personnel.
- B. No invasive plants, vines, rose bushes or vegetables are allowed.
- C. Container plants, winter wreaths, and baskets that have died will be removed on a regular basis. The Town is not responsible for any decoration or container of value.
- D. No tree or shrub shall be planted in the Washington Street Cemetery from this date forth except by cemetery personnel. Any tree or shrub presently on a grave site may be trimmed or removed (if overgrown, diseased, or hazardous). No plants, trees, or shrubs shall be planted at the Stetson Meadows Cemetery except by cemetery personnel.

§ 307-8. Flags and decorations.

- A. One American flag is permitted per grave or family lot. On veterans' graves, one flag attached to a military medallion is allowed. If a veteran served in more than one war, or another family member was in the service, another medallion can be placed but only

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one flag for all. Military, fire, or police memorial flags are allowed in front of the stone.

- B. Veteran markers can be obtained through the Veterans' Agent free of charge, or you can go to www.cem.va.gov or call 1-800-697-6947. Delivery of veterans' markers should go through a funeral director who will notify the Cemetery Liaison. Personal veteran markers are allowed.
- C. Low-wattage, non-blinking, solar, or battery-operated lighting is allowed at the Washington Street Cemetery. Lighting must not interfere with safe mowing or maintenance. No lighting is allowed at the Stetson Meadows Cemetery.
- D. Wire hangers are not allowed for safety reasons. All decorative objects are placed at your own risk and may become damaged during mowing and may be removed if broken. No decorative objects are allowed at the Stetson Meadows Cemetery.
- E. Decorative edgings and fences made of plastic are not allowed at the Washington Street Cemetery as they are easily damaged during mowing. Other decorative edgings must not impede safe mowing and may be removed if they do so. No decorative edgings or fences are allowed to be placed at the Stetson Meadows Cemetery except by cemetery personnel.

§ 307-9. General rules.

- A. All Norwell cemeteries are open from dawn to dusk.
- B. No dogs are allowed in Norwell cemeteries except for service dogs assisting a person with a disability.
- C. No metal detecting is allowed in Norwell cemeteries.
- D. Water spigots at the cemeteries are for irrigation and cemetery maintenance only.
- E. Any person who destroys, defaces, or overturns any monument, tree, shrub, plant, or building will be subject to a fine or prosecuted by law resulting in imprisonment or both.
- F. All vehicles must travel on paved roadways only. Please be respectful of others when parking along the roadway.
- G. Vehicle speed should not exceed 10 miles per hour.
- H. Persons within the cemeteries are required to conduct themselves in a courteous and respectful manner. Recreational activities such as skateboarding, sledding, and all-terrain vehicles (ATVs) are not allowed.
- I. In the case of an extraordinary circumstance or event, the Cemetery Committee reserves the right to make exceptions, suspensions, or modifications to any of these rules.
- J. Owners with grievances pertaining to their specific lot or burial may appeal these rules to the Cemetery Committee at one of its regularly scheduled and duly posted public meetings. All grievance resolutions shall be mutually agreed upon, or if no agreement

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is reached an owner may appeal to the Board of Selectmen for final disposition of the grievance.

CEMETERY COMMITTEE

307 Attachment 1

Schedule of Charges
[Adopted 12-6-2017]

Cemetery Washington Street and Stetson Meadows	Rates*	
	Resident	Nonresident**
Single lot (1 full burial + 3 cremations) Flat marker or monument	\$1,225	\$2,025
Double lot (2 contiguous lots = 2 full burials + 6 cremations) Flat marker or monument	\$2,450	\$3,250
Mausoleum lots (6 contiguous lots, 6 person maximum) (Washington Street only)	\$7,250	\$9,650
Cremation lot (1 lot = 4 cremations) Flat marker (Stetson only)	\$1,025	\$2,025
Estate lot (8 contiguous lots = 8 full burials + 24 cremations) Flat marker or monument (Stetson only)	\$9,680	\$16,000
Garden of Angels (1 infant lot) (Stetson only)	\$300	\$300

NOTES:

* Lot sale prices include the following fees: Perpetual Care Fund fee, filing fee, and metal lot marker fee.

** Former residents who lived in Norwell for 10 years or more may purchase lots under resident prices.

Additional fees: Collected at burial, resident or nonresident.

Burial – weekday	\$1,125
Burial – weekend and holiday	\$1,275
Cremation burial – weekday	\$400
Cremation burial – weekend and holiday	\$450
Burial – infant in Garden of Angels (Stetson Meadows only)	\$250
After hours burial fee (if necessary)	\$200 per hour
Winter fee (heavy snow conditions, if necessary)	\$200
Full burial removal	\$1,100
Cremation removal	\$475

Fee to monument company: Paid at time of ordering.

Foundation fee per square foot (pouring of cement)	\$100 per square foot
Setting fee for flat markers (laborer)	\$100

Chapter 308

PERMANENT DRAINAGE COMMITTEE

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| <p>§ 308-1. Purpose.</p> <p>§ 308-2. Intent.</p> <p>§ 308-3. Drainage design data.</p> <p>§ 308-4. Design analysis.</p> <p>§ 308-5. Design storm.</p> <p>§ 308-6. Computation of runoff.</p> <p>§ 308-7. Selection of drain size.</p> <p>§ 308-8. Slope of pipe.</p> <p>§ 308-9. Type of pipe.</p> <p>§ 308-10. Inlets.</p> | <p>§ 308-11. Catch basins.</p> <p>§ 308-12. Manholes.</p> <p>§ 308-13. Excavation.</p> <p>§ 308-14. Bedding.</p> <p>§ 308-15. Pipe laying.</p> <p>§ 308-16. Backfilling.</p> <p>§ 308-17. Debris grates.</p> <p>§ 308-18. Headwalls.</p> <p>§ 308-19. Scour protection.</p> |
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[HISTORY: Adopted by the Permanent Drainage Committee of the Town of Norwell; amended 12-11-1968; approved as current November 1970. Subsequent amendments noted where applicable.]

§ 308-1. Purpose.

The following rules and regulations are set forth by the Permanent Drainage Committee of Norwell, hereinafter referred to as the "Committee." They are to be used in the design of drainage facilities (i.e., pipes, culverts, drainage structures and appurtenances) and are the basis under which approval for any drainage plan will be granted by the Committee.

§ 308-2. Intent.

- A. Recognizing its responsibility to the protection of the public, the Committee sets forth the following, with the intent of establishing reasonable rules and regulations that are neither highly restrictive to the orderly development of raw vacant land into properly drained livable home sites nor so loose, vague and weak in their intent that costly redesign and revisions to drainage systems generally paid for by public funds are required.
- B. It is further the intent of these rules and regulations that accepted design practices, proven construction methods, materials and procedures be followed. These are more particularly described in the current edition of the Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways, Bridges, and Waterways, including amendments and addenda, and in the same Department's Construction Manual, Part 3, Constructions Standards. Description of various drainage structures contained herein are not intended to supersede the Commonwealth's standards.

§ 308-3. Drainage design data.

In accordance with Chapter 584 of the Acts of 1958, as amended, the Committee will require that designs submitted for the Committee's consideration will be prepared by a registered professional engineer, duly registered under the provisions of the above-named law.¹ The design necessarily rests with the professional engineer. It is expected the quality of his design and analysis will meet the standards implied by his professional engineer's stamp.

§ 308-4. Design analysis.

Each drainage plan submitted for approval shall be accompanied by a design analysis prepared on a design computation form available from the Town Clerk. The drainage plan shall show profiles, typical sections and details, pipe sizes and slopes, elevations, grades and other pertinent data necessary to the support of the design analysis and the analysis shall clearly indicate all the computations for the drain, including determination of pipe size and strength, and a statement concerning the disposition of flow. If the flow is discharged to the ground surface on land not belonging to the applicant, then a flowage easement over the ground subject to flow shall be obtained by the applicant and a statement to that effect shall be included with the design analysis.

§ 308-5. Design storm.

A rainfall having a frequency of occurrence of once in 10 years has been selected for design computations. This storm amounts to 1.8 total inches of rain in one hour. Intensities for small areas correspond to the time of concentration for the area.

§ 308-6. Computation of runoff.

Runoff to each inlet on the drainage system or to a culvert shall be based upon the Rational Method and shall be computed for the entire tributary area. Computations shall be based upon full development of the tributary area. Runoff coefficients shall be as follows:

- A. Roofs and pavements: 0.85.
- B. Lawns and wooded areas: 0.35.

§ 308-7. Selection of drain size.

- A. The proper drain size may be calculated by using Manning's Formula with a Kutter's "n" value of .013 for concrete pipe and 0.024 for corrugated metal pipe. Standard charts for deriving drain sizes using these figures may be obtained upon request from the office of the Town Clerk. For culverts less than 30 feet in length and all drains, the minimum size of pipe shall be 12 inches in diameter. Drains shall be large enough to pass the design storm without surcharge.

1. Editor's Note: See MGL c. 112, § 81J.

- B. Culverts shall be sized in accordance with accepted culvert design formulas taking into account headwater and tailwater conditions. Culvert design computation shall indicate the headwater and tailwater conditions for which the culvert is designed.

§ 308-8. Slope of pipe.

All pipes shall be laid on a slope so that the minimum velocity with the pipe flowing full shall be 2.5 feet per second. Consideration will be given to flatter slopes if adequate provisions are made for cleaning the pipes. All plans having drains with slopes which will produce pipe velocities less than 2.5 feet per second, flowing full, shall be accompanied by a letter stating the reason for the flat slope. The letter shall have a space for approval by the Committee and the drain shall not be constructed until the letter has been approved.

§ 308-9. Type of pipe.

All storm drains shall be reinforced concrete of adequate strength except that in off-street locations bituminous coated, galvanized, corrugated metal pipe or pipe arch may be used, if approved by the Committee. Concrete pipe shall conform to the State of Massachusetts Standard Specifications for Highways, Bridges and Waterways as amended.

§ 308-10. Inlets.

Inlets shall have an adequate waterway opening to pass the design runoff with not more than 0.2 foot of surcharge. Grates and frames shall be cast iron suitable for the loads which can occur either during the construction or afterward. Inlets shall be constructed either of brick and mortar with eight-inch-thick walls, precast segmental concrete blocks not less than six inches thick mortared in place, or of precast pipe sections. Inlets shall be set on a base of either poured concrete eight inches in thickness or precast segmental base blocks not less than four inches in thickness. Inlets shall be used in off-street locations and the grate frame shall be mortared in position with the top 0.2 foot below the grade of the finished ground surface. Side openings may be used in lieu of a grate if the quantity of runoff exceeds the capacity of a grate of reasonable size as approved by the Committee. Inlet shall be 4.0 feet inside diameter below the corbeling and shall not be used on drains greater than 30 inches in diameter. A shaped invert is not required but the bottom of the inlet shall be finished at the same grade as the lowest pipe invert. At inlets where the outlet pipe is larger than the inlet pipe, the crown of the outlet pipe shall be at the same elevation or lower than the crown of the inlet pipe.

§ 308-11. Catch basins.

Drain inlets located in streets shall be catch basins with a sump 24 inches or more lower than the invert of the outlet pipe. The grate shall be cast iron designed for the same loading as the street. Catch basins shall be constructed of one of the materials specified herein under inlets and shall be 4.0 feet in diameter below the corbeling. Catch basins shall be located as required to collect the runoff but shall not be spaced more than 200 feet apart on each side of the road unless otherwise approved by the Committee. The top of the grate shall be set 0.1 foot lower than the finished road surface, and the road surface shall be shaped to the grate in

a smooth, uniform transition. The crown of the outlet pipe shall be at or below the crown of the inlet pipe.

§ 308-12. Manholes.

Manholes shall be constructed similar to an inlet, except that a solid cast-iron cover of adequate strength shall be provided in lieu of a grate. The top of the cover shall be at the same elevation or above the adjacent ground or street surface as directed. A manhole shall be used at every change in pipe size or direction, vertical or horizontal. Manholes shall be spaced not over 300 feet apart. Manholes only shall be constructed on the drain with all inlets and catch basins discharging into the drain directly through a manhole. Manhole covers shall have the letter "D" cast into the cover at least three inches in size.

§ 308-13. Excavation.

The trench for the pipe shall be excavated to the required line and grade, including earth boulders and ledge. Trenches for storm drains shall be wider than the outside diameter of the pipe plus 16 inches for pipes through 18 inches nominal diameter, and the outside diameter plus 24 inches for pipes larger than 18 inches. This trench width shall apply from the top of the pipe to the bottom of the trench. Above the top of the pipe, the trench may be as necessary to properly install the pipe. Trenches with side slopes steeper than the natural angle of repose of the soil shall be sheeted in an approved manner, as necessary, to avoid cave-ins and sloughing. All excavations shall be properly barricaded and lighted at night where they are near pedestrian or vehicular traffic. Before any pipe is placed in a newly constructed fill, the contractor shall, as indicated, place the filling two feet above the top of the pipe after which the pipe trench may be excavated. If any cross pipes, conduits, drains or other unforeseen obstacles are encountered in the excavation, which cannot be relocated, the drain shall be redesigned to avoid the obstruction in a manner suitable to the Committee. Possible obstructions to the line shall be investigated prior to the construction of the drain in its immediate vicinity.

§ 308-14. Bedding.

Trenches may be excavated with a flat bottom, but the full length of the pipe, except the bell, must rest upon undisturbed soil, except as hereinafter specified. Where trenches have been overexcavated, a selected earth or gravel foundation, thoroughly compacted, shall be provided for proper pipe bedding. Soil which is considered to be unstable by the Committee shall be removed to a depth of not less than two feet below the bottom of the pipe and replaced with compacted sand and gravel to the bottom of the pipe. Unstable soil or other unsuitable material shall be disposed of off site, as directed by the Committee.

§ 308-15. Pipe laying.

Pipe shall be laid starting with the downstream end. Grade boards or other approved devices shall be provided to ensure that the pipe is laid true to line and grade. Reference bench marks shall be clearly marked to enable the inspector to quickly check the grade and invert elevations. The joints of all pipes shall be filled with mortar composed of one part portland

cement to three parts clean sharp sand. Lime may be added up to 25% of the cement and enough water to make a workable mix. The downstream pipe shall be laid with groove or bell and facing upstream in the proper position, and a dab of mortar shall be placed in the bell or groove, such that the inverts match and the peripheral space shall be filled with stiff mortar. All mortar squeezed out on the inside of the pipe shall be removed before it sets.

§ 308-16. Backfilling.

After the pipe has been laid and inspected by a representative of the Committee, the trench shall be backfilled. The space under the pipe haunches shall be carefully filled with selected material, free from stones or frozen earth, and compacted carefully to prevent the pipe from moving. The layer of backfill, up to 12 inches over the top of the pipe, shall also be of selected material free from stones and frozen earth, well compacted. The remainder of the trench shall be backfilled in twelve-inch layers, except as noted below, and each layer shall be full compacted in an approved manner. Under roads or other traffic areas the trench shall be backfilled in six-inch layers with each layer compacted to the density of the surrounding soil. Pavement and base course materials removed during the excavation process shall be replaced with pavement and base course to match those removed. When, in the opinion of the Committee, the excavation is deep enough to warrant it, temporary pavement shall be provided as directed. Trenches not in pavement shall be left in a mounded condition as directed by the Committee.

§ 308-17. Debris grates.

Debris grates at the entrance to culverts or open pipe drains as directed may be required. The grate shall be constructed of steel bars not less than 1/2 inch in diameter, welded together to provide a grate not smaller than the pipe opening. The vertical bars shall be placed with two-inch clear openings between them, and the horizontal bars shall be 12 inches on center. The grate shall be installed not closer than one pipe diameter upstream from the entrance in approved manner. A suitable sketch of the grate and method of installation shall be submitted for approval with the plans for the drains and appurtenances.

§ 308-18. Headwalls.

Concrete or rubble masonry headwalls shall be provided at both ends of culverts and discharge ends of storm drains. They shall conform in all respects to standards of the Commonwealth of Massachusetts, Department of Public Works, referred to in § 308-2.

§ 308-19. Scour protection.

The discharge ends of all drains with flowing full velocities of 10 feet per second or more shall be protected with a riprap apron of a width not less than three times the nominal diameter of the pipe. The riprap apron shall extend for a distance of not less than 10 times the nominal pipe diameter from the end of the discharge pipe. The riprap for exit velocities of 10 feet per second or less shall be composed of a layer of stones 12 inches in thickness or more, placed upon a bed of sand and gravel six inches in thickness. The stones shall be sized so that not less than 60% shall have one dimension 12 inches or more. The stones, after being

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laid, shall be carefully chinked by hand to make a reasonably smooth and shaped surface. Where exit velocities are greater than 10 feet per second, the thickness of stones and the dimensions of the individual pieces shall be sized to prevent displacement by the flow. In this case, details shall be submitted to the Committee for approval.

APPENDIX

DERIVATION TABLE

Chapter DT

DERIVATION TABLE

**§ DT-1. Derivation Table of Bylaws,
Rules and Regulations to 2019
Code.**

In order to assist Code users in the transition to the new Code's organization, the Derivation Table indicates where articles and sections of the Bylaws, Rules and Regulations (2016) have been included in the 2019 Code, or the reason for exclusion.

§ DT-1. Derivation Table of Bylaws, Rules and Regulations to 2019 Code.

Article/Title From Bylaws, Rules and Regulations	Location in 2019 Code
Art. I, General Provisions	Ch. 1
Art. II, Town Seal	Ch. 12
Art. III, Acts of the Legislature Accepted by the Town	Division 1 (following Charter)
Art. IV, Town Meetings	Ch. 2
Art. V, Elected Town Officers	Ch. 3
Art. VI, Appointed Town Officers	
Department of Finance	Ch. 7, Art. I
School Building Committee for the Construction Phase of Norwell 2001	Deleted; Committee disbanded
All other sections	Ch. 4
Art. VII, Contracts	Ch. 6
Art. VIII, Legal Affairs	Ch. 8
Art. IX, Records and Reports	Ch. 10
Art. X, Public Ways	Ch. 81
Art. Xa, Street Openings on Public Ways	Ch. 81
Art. Xb, Private Ways	Deleted 5-5-1994
Art. XI, Licenses	
§§ 1, 2, 4 and 5	Ch. 9, Art. I
§§ 3 and 7	Ch. 9, Art. II
§ 6	Ch. 9, Art. III

Article/Title From Bylaws, Rules and Regulations	Location in 2019 Code
Art. XII, Town Rules and Regulations	Ch. 10
Zoning Board of Appeals Rules and Regulations and General Information	Ch. 301
Community Preservation Committee	Ch. 4
Design Review Board	Ch. 4
Prohibition of Smoking in Public Places and Workplaces	Deleted 9-12-1994; see Ch. 41, Art. I
Sanitary Disposal of Sewage, Management of Private Water Supplies and Floor Drain Regulations	Ch. 304, Art. V
Massage Regulations	Ch. 304, Art. II
Permanent Drainage Committee	Ch. 308
Police Department Rules and Regulations	Deleted 5-12-2003, Art. 12
Taxi Rules and Regulations	Ch. 306, Art. I
Cemetery Rules and Regulations	Ch. 307
Board of Water Commissioners Rules and Regulations and Water Rates	Ch. 305
Water Use Restriction Bylaw	Ch. 42, Art. I
Art. XIII, Town Property	Ch. 11
Scenic Road General Bylaw	Ch. 83
Art. XIV, Traffic Rules and Orders	Ch. 306, Art. II
Art. XV, General Regulations	
§§ 1 through 6	Ch. 45, Art. III
§ 7, Swimming pool enclosure regulations	Ch. 43, Art. III
§§ 8 and 9, Excavations	Ch. 43, Art. I
§ 10, Public consumption of alcoholic beverages	Ch. 45, Art. III
§ 11, Animal control	Ch. 45, Art. II
§ 12, Self-service gasoline stations	Ch. 9, Art. IV
§ 13, Groundwater protection regulations	Ch. 44, Art. I
§ 14, Alarm systems	Ch. 45, Art. I
§ 15, Restrictions on smoking in public places and workplaces	Ch. 41, Art. I
§ 16, Regulations for the sale of tobacco products	Ch. 41, Art. II

Article/Title From Bylaws, Rules and Regulations	Location in 2019 Code
Youth Access to Tobacco Products Regulations	Superseded 3-31-2016; see Ch. 304, Art. III
§ 17, Storage of construction machinery	Ch. 43, Art. II
§ 18, American Flag	Ch. 11
§ 19, Marijuana not medically prescribed	Ch. 45, Art. III
Art. XVI, Removal of Soil, Loam, Sand or Gravel	Ch. 62
Art. XVI-a, Wetlands Protection	Ch. 61, Art. I
Wetlands Regulations	Ch. 303, Art. I
Art. XVII, Zoning Bylaw	Ch. 201
Art. XVIII, Consolidated Personnel Bylaw	Ch. 5, Art. I
Art. XIX, Town Landing Bylaw	Ch. 64, Art. I
Art. XX, Mooring Bylaw	Ch. 64, Art. II
Art. XXI, Stretch Energy Code	Ch. 43, Art. IV
Right to Farm Bylaw	Ch. 63

DISPOSITION LIST

Chapter DL

DISPOSITION LIST

§ DL-1. Disposition of legislation.

The following is a chronological listing of legislation of the Town of Norwell adopted since 2017, indicating its inclusion in the Code or the reason for its exclusion. [Enabling legislation which is not general and permanent in nature is considered to be non-Code material (NCM).]

§ DL-1. Disposition of legislation.

Enactment	Adoption Date	Subject	Disposition
ATM Art. 7	5-8-2017	Personnel Amendment	See Ch. 5, Art. I
ATM Art. 22	5-8-2017	Reject MGL c. 64G, § 3A	Special Acts and General Laws
ATM Art. 24	5-8-2017	Departmental Revolving Funds	Ch. 7, Art. II
ATM Art. 25	5-8-2017	Departmental Revolving Funds	Ch. 7, Art. II
ATM Art. 26	5-8-2017	Accept MGL c. 40, § 57; Licenses and Permits Amendment	Special Acts and General Laws; Ch. 9, Art. I
ATM Art. 27	5-8-2017	Personnel Amendment	See Ch. 5, Art. I
ATM Art. 29	5-8-2017	Animal Control Amendment	Ch. 45, Art. II
ATM Art. 30	5-8-2017	Zoning Amendment	Ch. 201
ATM Art. 32	5-8-2017	Zoning Amendment	Ch. 201
ATM Art. 33	5-8-2017	Peace and Good Order Amendment (marijuana)	Ch. 45, Art. III
ATM Art. 34	5-8-2017	Zoning Amendment	Ch. 201
ATM Art. 35	5-8-2017	Zoning Amendment	Ch. 201
ATM Art. 36	5-8-2017	Zoning Amendment	Ch. 201
ATM Art. 37	5-8-2017	Zoning Amendment	Ch. 201

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Enactment	Adoption Date	Subject	Disposition
ATM Art. 38	5-8-2017	Scenic Roads Amendment	Ch. 82
ATM Art. 7	5-7-2018	Personnel Amendment	Ch. 5, Art. I
ATM Art. 25	5-7-2018	Electronic Voting Devices	NCM (expires after May 2019 ATM)
ATM Art. 27	5-7-2018	Fiscal Year 2019 Revolving Fund Limits	Ch. 7, Art. II
ATM Art. 30	5-7-2018	Public Ways Amendment	Ch. 81
ATM Art. 31	5-7-2018	Peace and Good Order Amendment	Ch. 45, Art. III

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