

## **ARTICLE VIII ZONING**

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### **SECTION 1**

#### **Miscellaneous Provisions**

1.1	Purpose; scope	1-1
1.2	Definitions	1-1 to 1-6

### **SECTION 2**

#### **Establishment of Districts**

2.1	Districts Enumerated	2-1
2.2	Zoning Map	2-1
2.3	Interpretation of Boundaries	2-1

### **SECTION 3**

#### **Use Regulations**

3.1	Applicability	3-1
3.2	Conflict of Classifications	3-1
3.3	Schedule of Use Regulations	3-1 to 3-3
3.3.1	Residence A District (RA)	3-4 to 3-6
3.3.2	Business Village District (BV)	3-7 to 3-8
3.3.3	Business/Commercial District (B/C)	3-7 to 3-8
3.3.4	Residential Village District (RV)	3-4 to 3-6
3.3.5	Industrial District (I-1)	
3.3.6	Industrial District (I-2)	
3.4	Special Permit Requirements	3-9 to 3-11

3.5	Site Plan Approval	3-12 to 3-16
3.6	Signs	3-16 to 3-19
3.7	Parking and Loading Regulations	3-19 to 3-22
3.8	Landscaping	3-23 to 3-25
3.9	Temporary Moratorium on Medical Marijuana Treatment Centers	3-9
3.10	Expedited Permitting	3-10

#### **SECTION 4 Dimensional Regulations**

4.1	Compliance Required	4-1
4.2	Applicability	4-1
4.3	Previously Recorded Lots	4-1 to 4-2

#### **SECTION 5 Nonconforming Uses and Structures**

5.1	Exemptions	5-1
5.2	Extensions or Alterations	5-1
5.3	Restoration	5-1
5.4	Abandonment	5-1
5.5	Reversion	5-1
5.6	Reconstruction	5-2

#### **SECTION 6 Administration**

6.1	Enforcement and Penalties	6-1
6.2	Board of Appeals	6-1 to 6-2
6.3	Amendments	6-2
6.4	When Effective	6-2
6.5	Severability	6-3

**SECTION 7**  
**Floodplain Overlay District**

7.1	Statement of Purpose	7-1
7.2	Floodplain District Boundaries and Base Flood Elevation and Floodway Data	7-2

**SECTION 8**

**Temporary Moratorium on the Siting of Large-Scale Ground Mounted Solar Photovoltaic Installations**

**Large-Scale Ground-Mounted Solar Photovoltaic Installations**

8.1	Purpose and Intent
8.2	Applicability
8.3	Compliance with Laws, Ordinances and Regulations
8.4	Special Permit Approval
8.5	Pre-Submission Conference and Informal Meeting with the Planning Board
8.6	Application Process
8.7	Referrals to Town Boards/Commissions
8.8	Site Plan and Application Details
8.9	Use Regulations
8.10	Landscaping, Screening and Drainage
8.11	Endorsement of Site Plan
8.12	Monitoring
8.13	Abandonment or Decommissioning

## SECTION 1

### Miscellaneous Provisions

#### 1.1 Purpose; scope.

- A. This Zoning Chapter of the Town of Acushnet, Massachusetts has been adopted and, from time to time, amended and recodified under the authority of Chapter 40A and other relevant provisions of the General Laws of Massachusetts for the purpose of protecting and promoting the health, safety, convenience and welfare of the current and future inhabitants of Acushnet and for other purposes contained in Section 2A of Chapter 808, Acts of 1975.
- B. This Zoning Chapter divides the Town of Acushnet into districts, in which the location, construction, occupancy and use of buildings, structures, premises and land is regulated and restricted as provided hereinafter.

#### 1.2 Definitions.

- A. Unless the context indicates otherwise, the word “shall” is intended to be mandatory, the word “may” is merely permissive, the singular includes the plural, and the present tense includes the future, and other words and phrases have the following meanings.
- B. Definitions. As used in this chapter, the following terms shall have the meanings indicated.

**ABUTTER** – One who abuts.

**ABUTTING** – Having a common property line with, contiguous to, fronting upon, or within three hundred (300) feet of any property line thereof.

**ACCESSORY APARTMENT** – A subsidiary dwelling unit created within or as an extension to a single-family dwelling or a structure accessory thereto, with separate cooking, sleeping, and bathroom facilities.

**ACCESSORY BUILDING OR USE** – A building, structure, or use customarily incidental and subordinate to the principal permitted use of building or land, located on the same lot as the principal permitted building or use, and not prohibited by this chapter.

**ALTERATIONS, MINIMUM EXTERIOR** – External alterations limited to those necessary to comply with applicable building, fire, or health codes, and not enlarging the usable area of a building or changing its character.

**ALTERNATIVE ENERGY MANUFACTURING, ASSEMBLING OR PACKAGING GOODS** – Those used primarily for heavy or light industry or the manufacture or assembly of a product including processing, blending, fabrication, assembly, treatment and packaging.

(05/20/2013 b 10 p 379 a 15)

**APPROVING AUTHORITY** – Building Permits – Building Inspector; Special Permits – Board of Appeals; Planning Board or Board of Selectmen; Variances – Board of Appeals; Site Plan Review – Planning Board.

06/01/2015 b 11 p 82 a 13)

**BASEMENT** – That part of a building which is partly below and partly above grade, and having at least one-half ( $\frac{1}{2}$ ) its height above grade.

**BUILDING** – A structure having a roof and intended or used as a shelter for humans, animals, or goods, to be construed as if followed by the words “or any part thereof”. Buildings which are touching, structurally connected, or attached shall be considered as one (1) “building”.

**CELLAR** – That part of a building which is partly or completely below grade, and having at least one-half ( $\frac{1}{2}$ ) its height below grade.

**CONTINUOUS BUILDABLE UPLAND** – That area of a lot not including part of a street, right-of-way, or easement, any part of a pond, river, stream, or wetland, or any part of land subject to flooding. Land subject to flooding shall be defined by the Federal Emergency Management Agency Firm Flood Insurance Rate Maps 100-year floodplain, for the Town of Acushnet, Massachusetts, Bristol County, as amended. Wetlands, ponds, rivers, and streams shall be defined by Chapter 131, Section 40 of the Massachusetts General Laws. Previously recorded lots shall be governed by the provisions of Section 4.3 of this Article.

**CUSTOMARY HOME OCCUPATION** – The use of a portion, not exceeding twenty five percent (25%), of a one-family home, including the accessory buildings, by persons resident therein for a gainful occupation that is clearly incidental and secondary to the use as a residence; that does not generate a significant increase in traffic, noise, smoke, vibration, dust, odors, glare, unsightliness, or other effects not normally produced by a residence; that involves no exterior display or storage of goods, tools, materials, or equipment, or the parking of more than one (1) commercial vehicle; that gives no exterior indication of such occupation, other than one (1) sign not over four (4) square feet; that involves only motive power normally found in a home; that does not employ more than two (2) persons not resident therein; that involves the exercise of artistic, domestic, personal, or professional skills; and that requires the approval of the Board of Health for disposal of any waste generated by such occupation that differs in quantity or composition from domestic solid or liquid waste.

**DOG KENNEL** – The keeping for sale or boarding purposes, including convalescence or treatment, of more than three (3) dogs that are more than six (6) months old.

**DRIVEWAY** – An open area of a lot. Arranged or constructed for vehicular access to a principal or accessory structure or use, or to one or more off-street parking or

loading spaces, located on the same lot. A driveway shall not service more than one lot unless a special permit is granted for a common driveway.

(04/27/1998 b 9 p 22 a 22)

**DWELLING, MULTI-FAMILY** – A dwelling containing two (2) or more dwelling units.

**DWELLING UNIT** – Living quarters for a single family.

**FAMILY** – Any number of individuals related by blood, marriage, or adoption, and not more than six (6) individuals not so related, living together as a single housekeeping unit. (The limit on the number of unrelated individuals shall not apply to foster children under sixteen (16) years of age.)

**FARM** – Land or premises used to raise agricultural, civilcultural, or horticultural products, livestock, poultry, and dairy products, other than piggeries, dog kennels, riding stables, and the raising of carnivorous fur-bearing animals.

**FLOOR AREA, GROSS** – The aggregate horizontal area, in square feet, of all floors of a building or several buildings on the same lot, measured from the exterior faces of walls enclosing each building.

**FLOOR AREA RATIO** – The ratio of the aggregate gross floor area of all floors of a building or buildings on a lot to the total lot area. The gross floor area shall not include unenclosed porches, cellars, or attics not used for human occupancy. It shall include all accessory structures covered by a roof used for storage or enclosure of any item, goods, materials, livestock, or other creature.

**FRONTAGE** – The distance along a continuous portion of a street line between intersections with lot side lines, provided that for lots abutting more than one (1) street, frontage shall be required and measured along one (1) street only, but the front yard required by Section 3 hereof shall be provided along each street the lot abuts, and that for corner lots, frontage shall be measured to the intersection of street lines or to the middle of the corner rounding curve connecting such street lines, and further provided that a lot shall only be deemed to have “frontage” along any street to which it has both legal and physical access to and from the buildable portion of the lot, unless permitted as a common drive under 3.3.D.13.

(05/13/2019 b 11 p 137 a 25)

**FUR FARM** – The keeping or raising of carnivorous fur-bearing animals for commercial purposes.

**HEIGHT** – The vertical difference between the average of the mean finished ground elevations of all sides of the building or structure and the elevation of the highest point of the roof for flat roofs, to the deckline of mansard roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs. This definition shall not include signs and the structural features exempt by Section 4.2 hereof and extending not more than twenty (20) feet above the permitted height.

**HOUSING FOR THE ELDERLY** – Housing with occupancy of each dwelling unit reserved to not more than two (2) persons, one (1) of whom must either be fifty-five (55) years of age or older or handicapped.

**IMPERVIOUS** – Impenetrable by surface water.

**INDIVIDUAL** – A human being.

**LARGE-SCALE GROUND MOUNTED SOLAR PHOTOVOLTAIC INSTALLATION** – A solar photovoltaic system in excess of 25 kW rated nameplate capacity that is structurally mounted on the ground and is not roof-mounted.

(05/23/2011 b 10 p 250 a 12)

**LIGHT MANUFACTURING** – A use located on a parcel meeting all the requirements for that zone, which involves the processing, assembly or the packaging of previously prepared or finished materials without the use of heavy machinery, completely housed within a structure of less than 10,000 sq. ft. which employs 10 or fewer people having a capital investment of no more than 1 million dollars and produces no discernible disturbing agents beyond the property lines.

(06/01/2015 b 11 p 82 a 13)

**LOT** – A single tract of land in identical ownership throughout with definite boundaries ascertainable through a recorded plan or deed, which meets all applicable dimensional standards under the Acushnet Zoning law or is pre-existing non-conforming and meets the standards established under MGL 40A Sec. 6.

(06/01/2015 b 11 p 82 a 13)

**LOT DEPTH** – The minimum distance as measured between the lot frontage and any other lot line. All required lines of measurement must be completely within the lot. The minimum lot depth must be maintained within the required lot width.

**LOT WIDTH** – The minimum distance as measured between opposite lot sidelines. The minimum lot width must be maintained at all locations on the lot that are totally or partially within the required lot depth.

**MOBILE HOME** – A structure, transportable in one (1) or more units, built on a permanent chassis, equipped with wheels for towing to its destination, provided with internal heating, plumbing, and electrical systems and designed to be used as a dwelling when connected to the required utilities, with or without a foundation.

**NONCONFORMING BUILDING, LOT, OR USE** – A legally existing building, lot, location of building on a lot, or use of buildings or land which does not conform to the zoning regulations for the district in which it is located.

**ONE-FAMILY HOUSE** – A detached dwelling intended and designed to be occupied by a single family.

**PERSON(S)** – One (1) or several individuals, a family, firm, partnership, associations, corporation, company, or institutional organization of any kind.

**PIGGERY** – The keeping of five (5) or more pigs over one (1) year.

**PREMISES** – A lot, with all buildings, structures, improvements, and uses thereon.

**RATED NAMEPLATE CAPACITY** – The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

(05/20/2013 b 10 p 379 a 15)

**RESEARCH AND DEVELOPMENT FACILITIES** – Those facilities used primarily for research, development and/or testing of innovative information, concepts, methods, processes, materials or products. This can include the design, and/or optical components in advance of product manufacturing. The accessory development, fabrication and light manufacturing or prototypes or specialized machinery and devices integral to research or testing may be associated with these uses.

(05/20/2013 b 10 p 379 a 15)

**ROADSIDE STAND** – A structure erected and used exclusively for the sale of flowers or farm and garden products, the majority of which, by value, have been grown on the premises or within the Town of Acushnet. The structure may be located within the minimum required front yard, but at least twelve (12) feet from the nearest street line, if built of wood and other readily movable materials, without a foundation, integral heating, or permanent utility connections, and not over three hundred fifty (350) square feet gross floor area.

**SALVAGE YARD** – Premises used for the collecting, storage, and sale of wastepaper, rags, scrap metal, or discarded materials or for collecting, dismantling, storage, salvage, and sale of used machinery, vehicles, or parts thereof.

**STORY** – The part of a building between the top of any floor and the stop of the floor or roof next above, including a basement, but excluding a cellar or attic.

**STORY, HALF** – That part of a building under a gable or sloping roof in which the intersection of the bottom of the rafters with the interior faces of the outside walls is four (4) feet or less above the floor level or that part of a building if more than half of its exterior wall is below the mean finished ground elevation, and excluding a cellar or attic used solely for utilities, services, or storage and not for sustained human occupancy.

**STREET OR WAY** – A public way, a private way shown on a plan approved under the provisions of the Subdivision Control Law, or a private way in existence when the provisions of the Subdivision Control Law became effective in Town, having, in the opinion of the Town's Planning Board, suitable grades and adequate construction to serve the proposed use of land abutting thereon or served thereby and for the



installation of municipal services to serve such land and the building erected or to be erected thereon.

(06/01/2015 b 11 p 82 a 13)

**STRUCTURE** – A man-made combination of materials assembled in a fixed location to give support or shelter or for any other purpose, including buildings, frameworks, platforms, sheds, and the like, provided that fences not over six (6) feet in height, signs, utility poles, and small decorative or accessory structures not over three (3) feet in height or six (6) feet in any dimension, such as sculptures, mailboxes, birdbaths, benches, and the like, shall not be subject to the setback requirements of this chapter if located at least two (2) feet from side or rear lot lines or buildings.

(05/13/2019 b 11 p 137 a 25)

**TOXIC OR HAZARDOUS MATERIALS** – Substances listed on the Massachusetts Substance List contained in 105 CMR 670, Appendix A, substances regulated as hazardous under M.G.L.A. C. 21C, as amended, and regulated substances defined under Subtitle 1, Section 9001, of the Resource Conservation and Recovery Act, as amended.

**TRAVEL TRAILER** – A vehicular, portable structure built on a chassis and designed to be used for temporary occupancy for travel, recreational, or vacation use.

**VEHICLE** – A vehicle that is registered with a registry of motor vehicles; having a number plate related to such registration, secured to the front and/or rear bumper and holding a current inspection sticker on the windshield.

(06/01/2015 b 11 p 82 a 13)

**VEHICULAR USE AREA** – Includes all areas used for the circulation, parking, and/or display of any and all types of vehicles, boats, or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary uses. Driveways and parking spaces serving single-family residential uses shall be an exception to this definition.

**YARD** – A strip of land, unoccupied by building or structures, between a street or a lot line and a line parallel thereto at a depth equal to the minimum distance to the nearest part of any building or structure, measured at right angles to such street or lot line. If a lot is triangular or wedge-shaped, it shall have no rear yard, while on an irregular-shaped lot, the rear yard shall be adjacent to the lot line most nearly opposite to the frontage street. The minimum required yard may also be referred to as the required setback. The required front yard shall be provided along all street lines if the lot is on more than one (1) street.

## SECTION 2

### Establishment of Districts

#### 2.0 Repealed

(05/20/2013 b 10 p 379 a 15)

(06/01/2015 b 11 p 82 a 13)

#### 2.1 Districts Enumerated.

For the purpose of this chapter, the Town of Acushnet is hereby divided into the following classes of districts:

A. Residence A Districts which may be referred to as RA Districts.

B. Business Village Districts which may be referred to as BV Districts.

C. Business/Commercial Districts which may be referred to as B/C Districts

D. Residential Village, which may be referred to as the RV District.

(06/01/2015 b 11 p 82 a 13)

E. Industrial Districts which may be referred to as either I-1 or I-2 District.

(06/01/2015 b 11 p 82 a 13)

#### 2.2 Zoning Map.

The location and boundaries of zoning districts are as shown on the Zoning Map of the Town of Acushnet, dated January 1, 1996, as from time to time amended by votes of the Town Meeting, which map hereby is incorporated into and made a part of this chapter. The original Zoning Map, signed by the Planning Board and the Town Clerk, shall be in the custody of the Town Clerk, and facsimile copies thereof shall be reproduced for distribution and sale with this chapter. Whenever the Zoning Map is amended, a notation of the Article and area of the town vote of such an amendment shall be entered on the Zoning Map as soon as possible upon approval of the amendment by the Attorney General, but any delay in showing the amendment shall not affect its validity. The addition of new streets or other geographic features to the Zoning Map to facilitate orientation may be undertaken from time to time without action by the Town and without changing district boundaries.

**ZONING MAP AMENDED** to read: Amend the Acushnet Bylaw, Zoning Article VIII, Section 2.1, Districts Enumerated, and Section 2.2, Zoning Map, in the General By-Laws of the Town of Acushnet, changing the zoning of the property located at 211 Middle Road, containing 21 acres more or less, fronting upon Middle Road for a distance of 770 feet and fronting upon Nye's Lane for a distance of 963 feet, westerly of Nye's Lane, from Residential Zoning to Business/Commercial Zoning.

(11/18/2002 b 9 p 249 a 28)

(06/01/2015 b 11 p 82 a 13)

**ZONING MAP AMENDED** – Business/Commercial (B/C) District is located at 211 Middle Road, 224 Nye’s Lane, 226 Nye’s Lane, and 230 Nye’s Lane, containing 21 acres more or less, fronting upon Middle Road and Nye’s Lane, otherwise being described as Plots 29, 29A, 29B, 29Q, 29R, 29M, 29N, on Map 23 of Town of Acushnet’s Assessor’s Map.

(10/19/2009 b 10 p 157 a 17)

**ZONING MAP AMENDED** to read: Amend the existing Zoning Map of the Town of Acushnet by removing the following from a Residential A (RA) District and establishing the same as a Business Commercial (B/C) District for the following: 4 Slocum Street, 107 South Main Street, 97 South Main Street, South Main Street and 89 South Main Street, and Hope Street, containing 40 acres more or less, fronting upon Slocum Street, Hope Street and South Main Street, and otherwise being described as Plots 23, 23A, 23B, 23C, 23D, 24, 31, 107, 34A and 34 on Map 25 of Town of Acushnet Assessor’s Map.

(10/25/2010 b 10 p 214 a 23)

**ZONING MAP AMENDED** by rezoning a parcel of land identified in Assessor’s records as Map 15, Lots 482 and 534, from the Residential A zoning district to the Residential Village zoning district.

10/17/2022 b 12 p 461 a 13

## **2.3 Interpretation of Boundaries.**

- A. Where a right-of-way, street, railroad, or watercourse is shown on the map as a district boundary, the centerline thereof shall be the boundary line.
- B. Where a district boundary is shown approximately parallel to a street, it shall be deemed parallel to the center street line at such distance there from as indicated on the Zoning Map.
- C. Where district boundary lines specifically follow property lines on the Zoning Map, the location of said lines shall be deemed to be established to coincide with those property lines as they existed at the time said boundary lines were adopted.
- D. Where a district boundary line divides a lot existing at the time such line is adopted, the regulations relating to the less restricted portion of such lot may extend not more than fifty (50) feet into the more restricted portion, provided that the lot has the required frontage completely within the less restricted district.

## **SECTION 3**

### **Use Regulations**

#### **3.1 Applicability.**

No land in any district shall hereafter be used or occupied and no building or structure shall hereafter be occupied, used or erected or the use of buildings and land altered, except as set

forth in the following Schedule of Use Regulations or as specifically regulated or provided otherwise under other sections hereof, provided that the accessory uses and buildings not enumerated in the schedule but necessarily or customarily incidental to a principal use, including the signs otherwise allowed, shall be deemed to fall into the same category as such principal use. Streets and easements for public services are a permitted use in all districts.

### **3.2 Conflict of Classification.**

Where an activity may be classified under more than one (1) use listed in the Schedule of Use Regulations, the more specific classification shall apply, and if equally specific, the more restrictive classification shall govern.

### **3.3 Schedule of Use Regulations.**

- A. No building or structure shall be constructed and no building, structure or land or part thereof shall be used for any purpose or in any manner other than for one (1) or more of the uses hereinafter set forth as permitted in the district in which such building, structure, or land is located or set forth as permissible by special permit in said district and so authorized.
- B. Further, no building shall be constructed and no building, structure or land or any part thereof shall be used and no lot shall be changed in size or shape unless in conformity with the dimensional regulations set forth for each district.
- C. The following notes apply to all districts:
  - 1. All uses, change of uses, buildings or building additions for which more than thirty (30) off-street parking spaces are required shall be subject to the site plan preview and approval process as provided in Section 3.5.
  - 2. Multiple uses on a lot must meet the use and dimensional requirements of the underlying district considered individually and as a group.
  - 3. For uses subject to a special permit, refer also to Section 3.4, Special Permit Requirements.
  - 4. Building Permits – No permit for the construction of any type structure, residential, commercial, or otherwise, shall be issued by the Building Inspector unless the land on which construction is proposed has frontage on a way, and such land lies on a way having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide access to other ways of sufficient width, suitable grades, and adequate construction in a continuous fashion, for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and proposed buildings. Interior and/or exterior renovations not increasing the covered and/or enclosed area or changing the use of a lawfully existing structure shall not be governed by the provisions of this paragraph.

5. The construction and vertical and horizontal expansion of sanitary landfills, refuse incinerators with a grate area in excess of ten (10) square feet, dumping grounds for refuse or any other activity for treating or disposing of refuse is prohibited within the Town of Acushnet.

Transfer stations used for temporary storage in the transportation of refuse produced within the Town to disposal facilities outside the Town are allowed by special permit under Section 3.3.1 B.(9) and upon receipt of a site assignment under M.G.L. Chapter 111, Section 150A and any regulations adopted by the Board of Health and the Department of Environmental Protection.

6. Rate of Development – All construction of dwelling units located within areas of land subject to the jurisdiction of the Planning Commission under the Subdivision Control Law which require Definitive Subdivision Approval shall not be developed at a greater rate than that permitted by the following schedule:
  - (a) Subdivisions containing twenty-five (25) lots or more – 20% per year rounded to the next highest whole number.
  - (b) Subdivisions containing less than twenty-five (25) lots – five (5) lots per year.

The time period shall begin on the date of endorsement by the Planning Commission.

7. Mobile Homes and Travel Trailers: Not more than one (1) mobile home or travel trailer may be kept on any lot. Space shall not be leased for travel trailers or mobile homes, except as provided through state and/or local licensure to existing parks.

(06/01/2015 b 11 p 82 a 13)

8. Yard – “In the case of lots existing prior to January 29, 1973 on which the frontage was less than 125 feet, the minimum side yard requirements shall be a distance equal to 10 percent of the width of the lots, but in any event not less than six (6) feet, except that one side yard shall not be less than eight (8) feet.”

\*\* Further amended 4/25/77 to add the following:

(04/25/77 b 7 p 16 a 39)

Rear Yard: amended to allow ten (10) feet for specific purpose; the building of swimming pools, outdoor in-ground or above ground, and storage sheds not to exceed 120 square feet.

- 3.3.C.(8) Shall not apply to non-residential uses or uses accessory to non-residential uses.

9. Retreat Lots: A retreat lot may be created in any district and may be used for any purpose allowed in the underlying district. Retreat lots are subject to the following requirements:

- (a) Minimum Lot Area: one hundred twenty thousand (120,000) square feet, at least 60,000 square feet continuous buildable upland.
  - (b) Minimum Frontage: forty (40) feet
  - (c) Minimum Setbacks for all structures, as defined, over 120 sq. ft.:  
(06/01/2015 b 11 p 82 a 13)
    - (1) Front: seventy-five (75) feet
    - (2) Rear: seventy-five (75) feet
    - (3) Side: seventy-five (75) feet
  - (d) Lot width shall not be less than 35 feet at any location. This shall not apply to lot lines, which are geometrically adjacent.
  - (e) The distance between the street frontage used for access and the location of the furthestmost dwelling or principal structure shall not exceed one thousand six hundred (1600) feet as measured by a line or series of lines lying completely within the lot.
  - (f) No street frontage used for access shall be less than forty (40) feet.
  - (g) The retreat lot access strip shall begin at the street line and end where the minimum lot width is greater than one hundred fifty (150) feet. No parking areas, storage areas or above ground structures (other than fencing and a "Bus Stop" enclosure no greater than thirty-two (32) square feet) shall be allowed in the access strip.  
(04/27/1998 b 9 p 22 a 21)
  - (h) All access driveways shall be privately owned and maintained, and cannot be used to satisfy frontage requirements for any other building lot.  
(04/27/1998 b 9 p 22 a 21)
  - (i) No driveways shall be constructed within eight (8) feet of any lot sideline.  
(04/27/1998 b 9 p 22 a 21)
  - (j) No subdivision roadway, approved after 1/1/97 may be used to satisfy the frontage or access requirements for a retreat lot.  
(04/27/1998 b 9 p 22 a 21)
10. No structure of any kind, including antennas, shall exceed sixty-five (65) feet in height except as may be allowed under provisions of the Federal Telecommunications Act through a Special Permit.  
(06/01/2015 b 11 p 82 a 13)

11. All dwellings and/or principal use shall be located on the lot area that contains the continuous buildable upland.
12. The lot area used for computation of the required building coverage or the required total impervious coverage shall be the continuous buildable upland area that the dwelling or principal use is located on.
13. Common Driveways

- (a) No more than three (3) lots shall share a common driveway.
- (b) Regulation common driveways under 3.3.C.(13) shall only apply to lots having one principal use per lot, limited to either one single family dwelling, or one two-family conversion.

The single-family dwelling may also have an accessory apartment and/or a customary home occupation. The two-family conversion may also have a customary home occupation. Two-family conversions, home occupations and accessory apartments must meet all the requirements of Article VIII-Zoning.

- (c) All common driveways shall require a Special Permit issued by the Planning Commission as the Special Permit Granting Authority.

***\*\*\*Reference Planning Board Forms N and O in Subdivision Rules and Regulations Book.***

- (d) Each lot must meet all dimensional requirements for a lot in the district in which the land is located.
- (e) The Special Permit Granting Authority shall make a finding that the topography, sight lines along the street on which the lots are located or the
- (f) location of access to the lot(s) or a combination of such factors dictate that public safety, preservation of open space, preservation of wetlands or the public good will be better served by a common driveway.
- (g) The applicant must demonstrate that the public utilities such as water, electricity, telephone, cable television and gas are adequately provided for each lot either by direct access to the lot from the street or through a recorded set of easements.
- (h) Provisions must be made to ensure that the common driveway will be adequate for the number of dwellings or the lots to be served in

terms of width, construction and provision for fire and police protection.

Construction shall be done in conformance with Section 3.3.C. (14) - Driveway Construction Standards.

- (i) The applicant must demonstrate that construction of a common drive or access will not adversely affect abutting off-site property, roadways or wetlands with regard to water run-off and drainage. This shall be accomplished with a topographic site plan, submitted with the application and prepared by a registered professional engineer, showing existing and proposed grading and storm water control. Where such conditions indicate the potential for flooding, as defined above, the applicant shall also submit with the application, any engineered calculations deemed necessary the Planning Commission.
- (j) The applicant shall provide a topographic site plan, submitted with the application showing:
  - 1. the parcels of land to be served by the common drive or access.
  - 2. the extent of the common drive or access.
  - 3. public ways, onto which the common drive or the access is to intersect, shown with elevations in sufficient length so as to demonstrate proposed lines of sight.
  - 4. other public way intersections within 200 feet each way of the proposed intersection.
  - 5. wetlands boundaries within proposed lots.
- (k) The Special Permit shall require and the applicant shall record simultaneously with the permit a declaration of covenants and easements which provides for a method of maintenance of the drive.
- (l) No building permit shall be issued for any lot served by a common driveway until:
  - 1) A Special Permit has been granted.
  - 2) Proof of recording at the Bristol County Registry of Deeds of the Special Permit, and the required covenants and easements is submitted to the Building Commissioner.
- (m) No occupancy permit shall be issued until the required driveway construction is completed and the Special Permit Granting Authority issues a statement of completion to the Building Commissioner.

### **3.3.C. 14. DRIVEWAY CONSTRUCTION STANDARDS**

- A. The following standards shall apply to all common driveways:



- 1) Minimum width of driveway-sixteen (16) feet
- 2) Minimum width of clearing-twenty (20) feet. Each side of the driveway shall be cleared two (2) feet beyond the driveway surface. An unobstructed vertical clearance of fifteen (15) feet shall be maintained above the required twenty (20) foot width.
- 3) Maximum grade within fifty (50) feet of roadway serving as access-two (2) percent.
- 4) Maximum grade-ten (10) percent.
- 5) Minimum centerline radius-eighty (80) feet.
- 6) Base construction-twelve (12) inch minimum depth gravel meeting the requirements of the Massachusetts Highway Department Standard Specifications for Highways and Bridges-three (3) inches maximum stone size. Construction shall be sufficient to allow continuous year-round access for all vehicles.
- 7) Provision for turnaround space or equivalent measures for use in all seasons capable of serving all vehicles including moving vans, ambulances, fire engines and police vehicles.
- 8) No common driveway shall be constructed within seventy-five feet (75') of any principal structure served thereby.

(05/13/2019 b 11 p 137 a 25)

(05/10/2021 b 11 p 295 a 17)

- B. All principal and accessory structures shall be serviced by a driveway that is located within one hundred and fifty (150) feet of those structures and which driveway must meet the minimum construction standards herein specified.

(04/27/1998 b 9 p 23 a 23)

(05/13/2019 b 11 p 137 a 25)

(05/10/2021 b 11 p 295 a 17)

### **3.3.1 Residence A District (RA).**

- A. Permitted uses are as follows:

- 1) One single-family dwelling per lot
- 2) Religious uses, public or nonprofit school
- 3) Public or non-profit library, museum, art gallery, or a similar cultural institution
- 4) Town or other government building

- 5) Private swimming pool accessory to a residential use
- 6) All accessory or utility buildings incidental to the use of a single-family dwelling  
(06/01/2015 b 11 p 82 a 13)
- 7) Agricultural and aqua cultural uses
- 8) Construction of a private garage or private parking for not more than three (3) cars and/or one (1) truck or other commercial vehicle
- 9) Customary home occupation
- 10) Parking in a garage or out of doors for employees, customers, clients, occupants, or students, accessory to a permitted principal use and on the same lot as such use
- 11) Hobby Kennel –The keeping of fifteen (15) or less dogs for non-commercial purposes
- 12) Repealed  
(10/25/2008 b 10 p 115 a 11)
- 13) Ground mounted solar photovoltaic panels less than 25kW  
(05/23/2011 b 10 p 250 a 12)

B. Uses by special permit are as follows:

- 1) Accessory apartment
- 2) Boat livery, cemetery, children's camp, private nonprofit membership club, public utility, riding stable  
(10/25/2008 b 10 p 115-116 a 11)  
(05/13/2019 b 11 p TBD a 25)
- 3) Hospital, nursing home, home for the aged
- 4) Private school, nursery, or kindergarten as regulated by MGL  
(06/01/2015 b 11 p 82 a 13)
- 5) Veterinarian, animal hospital, dog kennel
- 6) Conversion of a one-family house in existence for two (2) years or longer to a two-family dwelling, on a lot with a minimum of thirty thousand (30,000) square feet
- 7) Multi-family housing for the elderly (55 years and older) or as allowed under MGL Ch. 40B  
(06/01/2015 b 11 p 82 a 13)

- 8) Private garage or parking for more than four (4) cars or more than one (1) truck or commercial vehicle
- 9) Transfer stations as defined by 310 CMR 18.01(12)
- 10) Offices and banks with adequate street access and off-street parking
- 11) Retail stores and services providing adequate off-street parking and in locations which would not result in traffic congestion or hazard
- 12) Automotive service stations and garages with safe and convenient street access
- 13) Light manufacturing, processing, and research not hazardous or detrimental to the neighborhood by reason of excessive noise, vibration, odor, light, glare, smoke, traffic, and pollution of water or land
- 14) Storage and distribution warehouse with safe access over primarily non-residential streets and subject to reasonable screening and landscaping requirements
- 15) Testing ranges
- 16) Golf courses and the structures accessory to the maintenance and operation of the course. The Special Permit Granting Authority shall be the Board of Selectmen
- 17) Large-scale ground-mounted solar photovoltaic installations. The special permit granting authority for this use shall be the Planning Board

(10/25/2008 b 10 p 115 a 11)

(5/23/2011 b 10 p 250 a 12)

- C. The Special Permit Granting Authority may specify limitations on the height of buildings and structures as a condition of the special permit, and may require yards greater than specified in Section 3.3 or clear distance for access and fire safety between the principal and accessory buildings on a lot. Uses by a special permit may also require site plan approval by the Planning Commission.

(5/23/2011 b 10 p 250 a 12)

- D. Prohibited Uses. All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited.

- E. Development standards are as follows:

- (1) Minimum Lot Area: Sixty thousand (60,000) square feet with continuous buildable upland of forty thousand (40,000) square feet minimum
- (2) Minimum Frontage: One hundred fifty (150) feet

- (3) Minimum Setbacks:
  - (a) Front: Twenty-five (25) feet
  - (b) Rear: Twenty (20) feet; ten (10) feet for accessory buildings not exceeding 120 square feet in area and swimming pools
  - (c) Side: Fifteen (15) feet; ten (10) feet for accessory buildings not exceeding 120 square feet in area and swimming pools
- (4) Maximum Height: Thirty-five (35) feet, two and one-half (2½) stories
- (5) Maximum Floor Area Ratio: Fifteen hundredths (.15)
- (6) Lot Width: One hundred fifty (150) feet
- (7) Lot Depth: One hundred fifty (150) feet
- (8) Additional requirements for all uses other than single family, two family, accessory apartments and home occupations
  - a) Rear Setback: Fifty (50) feet
  - b) Side Setback: Thirty (30) feet
  - c) Front Setback: Fifty (50) feet
  - d) No structures, parking, storage, access ways or impervious surfaces are allowed in the required side and rear setbacks. Only site access and landscaping shall be allowed in the required front yard
  - e) Maximum Impervious Surface: Twenty-five (25) percent
- (9) Lot width shall not be less than eighty (80) feet at any location within the parameters of the required lot size. Lot width within the required lot depth shall meet the requirement of 3.3.C

(05/13/2019 b 11 p 137 a 25)

- F. Lawfully existing uses in existence prior to January 1, 1996 currently in operation and not subject to the abandonment provisions of this Article are not subject to the dimensional, parking and site plan review sections of this Article. A change of use may be permitted subject to a determination by the Board of Selectmen that the proposed use is within the parameters of the Special Permit and no more intensive or offensive than the existing use. Any expansion of existing uses shall be made only in compliance with all relevant sections of the Article. This change of use must be one allowed by right or by special permit in the RA Zone.

(06/01/2015 b 11 p 82 a 13)

#### G. Permits

Prior to the issuance of a permit, the Zoning Enforcement Officer shall request a review and comment from the following, which shall respond in writing within 14 days:

- (a) The Superintendent of Streets, or designee, on the structural adequacy of the surrounding streets, drainage issues, as well as, the servicing of Town water and sewer.
- (b) The Planning Director, or designee, on the adequacy of proposed parking facilities per sec 3.7.
- (c) The Conservation Commission, or designee, on percent of impervious surface/coverage and the adequacy of storm water infiltration for the site and all buildings.
- (d) The Fire Chief, or designee, on emergency ingress and egress or other issues under his jurisdiction.
- (e) The Police Chief, Public Safety Officer, or designee, on traffic and pedestrian circulation and other safety issues.
- (f) The Board of Health, or designee, as to the adequacy of proposed on site water supply and designed septic system in relation to proposed use.

(05/13/2019 b 11 p 137 a 25)

### **3.3.2 Business Village District (BV)**

A. Permitted uses are as follows:

- (1) All uses permitted by right in the Residential (RA) District

B. Permitted uses up to three thousand (3,000) square feet of structure on a single lot are as follows:

- (1) Retail sales and services which do not involve manufacturing on the premises
- (2) Newspaper, job printing and publishing
- (3) Office, bank, office building
- (4) Hotel or motel, restaurant
- (5) Clinic or medical testing laboratory
- (6) Dwelling on the premises for a night watchman or janitor
- (7) Cafeteria on the premises for use by employees and not the general public
- (8) Automotive service stations and garages with safe and convenient street access
- (9) Light manufacturing, processing and research not hazardous or detrimental to the neighborhood by reason of excessive noise, vibration, odor, light, glare, smoke, traffic, and pollution of water or land
- (10) Storage and distribution warehouses with safe access over primarily non-residential streets and subject to reasonable screening and landscaping requirements
- (11) Place of amusement, commercial recreation facility, theater, motion picture theater

- (12) Sale or storage of fuel, lumber, building materials and equipment, contractor's yard
  - (13) Retail sales and services involving manufacturing of products, the majority of which will be sold on the premises to consumers, with not more than four (4) persons engaged in manufacturing operations
- C. Permitted uses by special permit from the Special Permit Granting Authority are as follows:
- (1) All uses listed in Subsection B that are greater than three thousand (3,000) square feet
  - (2) Uses allowed by special permit in the RA District that are greater than three thousand (3,000) square feet
  - (3) Large-scale ground-mounted solar photovoltaic installations.  
(06/01/2015 b 11 p 82 a 13)
- D. Prohibited Uses: All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulations are prohibited
- E. Development standards are as follows:
- (1) Minimum Lot Area: Ten thousand (10,000) square feet
  - (2) Minimum Frontage: Sixty (60) feet
  - (3) Minimum Setbacks:
    - (a) Front: Ten (10) feet
    - (b) Rear: Ten (10) feet; twenty five (25) feet if adjacent to a residential district
    - (c) Side: Ten (10) feet; twenty five (25) feet if adjacent to a residential district
  - (4) Maximum Height: Thirty five (35) feet, three (3) stories
  - (5) Maximum Impervious Coverage: Ninety (90) percent
  - (6) Parking, storage, maneuvering areas, and impervious surfaces are not allowed in the side and rear yards. Only site access and its associated impervious surface is allowed in the front yard. Access between adjacent lots may be allowed by special permit
  - (7) All buildable lots are required to connect to municipal sewer and water as approved by the Department of Public Works  
(11/14/2016 b 11 p 171 a 12)
  - (8) All buildable lots shall conform to all provisions of Massachusetts Title V and any and all other provisions, rules and regulations of the Acushnet Board of

Health as are administered and current at the time of Building Permit application.

(06/05/2017 b 11 p 223 a 26)

- (9) Minimum lot area for all parcels not capable of tying into municipal water and sewer shall be 45,000 sq. ft. with 100 ft. of approved road frontage.

(06/05/2017 b 11 p 223 a 26)

- F. Lawfully existing uses in existence prior to January 1, 1996 currently in operation and not subject to the abandonment provisions of this Article are not subject to the dimensional, parking and site plan review sections of this Article. A change of use may be permitted subject to a determination by the Board of Selectmen that the proposed use is within the parameters of the Special Permit and no more intensive or

offensive than the existing use. Any expansion of existing uses shall be made only in compliance with all relevant sections of this Article. This change of use must be one allowed by right or by special permit in the BV Zone

(06/01/2015 b 11 p 82 a 13)

- G. Prior to the issuance of a permit, the Zoning Enforcement Officer shall request a review and comment from the following, which shall respond in writing within 14 days:

- (a) The Superintendent of Streets, or designee, on the structural adequacy of the surrounding streets, drainage issues, as well as, the servicing of Town water and sewer.
- (b) The Planning Director, or designee, on the adequacy of proposed parking facilities per sec 3.7.
- (c) The Conservation Commission, or designee, on percent of impervious surface/coverage and the adequacy of storm water infiltration for the site and all buildings.
- (d) The Fire Chief, or designee, on emergency ingress and egress or other issues under his jurisdiction.
- (e) The Police Chief, Public Safety Officer, or designee, on traffic and pedestrian circulation and other safety issues.
- (f) The Board of Health, or designee, as to the adequacy of proposed on site water supply and designed septic system in relation to proposed use.

(05/13/2019 b 11 p 137 a 25)

### **3.3.3 Business/Commercial District (B/C)**

- A. Permitted uses are as follows:

- 1) Utility buildings, contractor's storage warehouses and buildings, and wholesale distribution facilities
- 2) Office Building
- 3) Light Manufacturing

- 4) Medical and dental offices, laboratories or clinics
- 5) Research Laboratory
- 6) Retail store, service establishment, and retail business of which the gross floor area of the store or establishment is not greater than seven thousand five hundred (7,500) square feet. Establishments in excess of seven thousand five hundred (7,500) square feet require special permit approved by the Planning Board.
- 7) Restaurant, public dining room or lunch room, not including any drive through, of which the gross floor area of said restaurant, public dining room or lunch room, shall not be greater than seven thousand five hundred (7,500) square feet.
- 8) Banquet Facilities, Function Halls and Dinner Theaters, of which the gross floor area of said banquet facility, function hall or dinner theater, shall not be greater than seven thousand five hundred (7,500) square feet.
- 9) Alternative Energy Research and Development Facilities – As of right through expedited permitting.
- 10) Alternative Energy Manufacturing facilities – As of right through expedited permitting.

B. Uses by Special Permit from the Planning Board are as follows:

- 1) Retail store or service establishment over 7,500 square feet.
- 2) Restaurant, public dining room or food service establishment which provides a dining area of over 7,500 square feet.
- 3) Drive through facilities including food service establishments.
- 4) Banquet facilities, function halls, or dinner theatres over 7,500 square feet.
- 5) Dry cleaning or power laundry.
- 6) Automobile and truck repairs services, provided that:
  - (a) All service is performed within an enclosed structure.
  - (b) Such building shall be located not less than three hundred (300) feet from properties used or zoned for residential purposes.
  - (c) Such building shall be set back at least 50 feet from any street right of way
  - (d) Motor vehicles in an inoperative condition are to remain enclosed in a building or fenced or screened from abutting properties and streets.



(e) Screening shall be provided and maintained along all adjacent property boundaries.

7) All Large-scale ground-mounted solar photovoltaic installations.

(05/23/2011 b 10 p 250 a 12)

C. Prohibited Uses: All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning bylaws or regulations are prohibited.

D. Development Standards are as follows:

1) Town Water. All new water connections for domestic supply or fire protection shall be connected to the Town water system.

2) Location of Drives and Streets. Major street or site entrances shall not be located within 100 feet of each other. Sites whose uses will generate a single

daily peak traffic volumes of 150 vehicles or more must provide a second emergency access way onto the site. Such access may be for emergency vehicles only and need not be a functioning roadway other than maintained for emergency vehicle usability.

3) Green Buffer. Other than as needed for drives and entrances, a 20 foot wide grass strip adjacent and parallel to the FRONTAGE of any LOT and low-lying plants shall not obstruct sight distances from entry drives along Nye's Lane and Middle Road.

4) Utilities. All utility outlets, service entrances, transformers and utility services shall generally be centrally clustered in a neat and orderly fashion, adequately screened, and if feasible, shall be located to the rear of BUILDINGS.

5) No Commercial BUILDING, STRUCTURE, use, PARKING AREA, driveway, vehicle circulation area or other vehicle access way shall be located within 20 feet of a residentially occupied BUILDING or within 20 feet of an adjacent parcel within a Residential Zoning District.

6) All other outdoor storage facilities shall be screened from view with a solid fence STRUCTURE and located to the side and/or rear of the BUILDING to which it is accessory. The fence shall be of reasonable height, a minimum of six (6) feet, and the enclosure shall not exceed 600 square feet in area except by Special Permit from the Planning Board.

7) A green belt shall be provided on any LOT that abuts a Residential District or a LOT with a residentially occupied BUILDING. Such green belt shall:

(b) Be located on the LOT along the shared property line.

- (c) Have a minimum depth from the shared property line of 20 feet.
- (d) Be used for no purpose other than planting and/or sidewalks.
- (e) Constitute a screen of evergreen trees and/or shrubs not more than 15 feet apart. Plant species shall be approved by the Planning Board. Plants shall be no less than 6 feet in height at the time of planting and shall be continuously maintained. In those circumstances where an effective screen of existing plantings already provides an appropriate buffer, the Planning Board has the discretion, during the Site Plan Approval process, to waive strict compliance with this Section.
- (f) Provided that the intent of Section 3.3.3.7.d. is met. If such a waiver is granted, the Planning Board shall, in its Site Plan Approval, require that the green belt be maintained and replanted where necessary to provide an effective screen throughout the life of the site and the structure

E. Dimensional Requirements

- 1) All setbacks are to be measured from the lot lines.
- 2) Every lot in the Business/Commercial District shall have the lot size, frontage, width, percent coverage, setbacks and height as specified below.
  - (a) Minimum Lot Size: 45,000 sf
  - (b) Minimum Frontage and Lot Width: 150 Ft.
  - (c) Maximum Percent Impervious Coverage: 75%
  - (d) Minimum Setback:
    - Front: 30 Ft.
    - Side: 15 Ft.
    - Rear: 15 Ft.
  - (f) Maximum Height: 35 Ft. or 3 stories (whichever is less)

F. Prior to the issuance of a permit, the Zoning Enforcement Officer shall request a review and comment from the following, which shall respond in writing within 14 days:

- (a) The Superintendent of Streets, or designee, on the structural adequacy of the surrounding streets, drainage issues, as well as, the servicing of Town water and sewer.
- (b) The Planning Director, or designee, on the adequacy of proposed parking facilities per sec 3.7.
- (c) The Conservation Commission, or designee, on percent of impervious surface/coverage and the adequacy of storm water infiltration for the site and all buildings.
- (d) The Fire Chief, or designee, on emergency ingress and egress or other issues under his jurisdiction.

- (e) The Police Chief, Public Safety Officer, or designee, on traffic and pedestrian circulation and other safety issues.
  - (f) The Board of Health, or designee, as to the adequacy of proposed on site water supply and designed septic system in relation to proposed use.
- (05/13/2019 b 11 p 137 a 25)

Note: District is located at 211 Middle Road, 224 Nye's Lane, 226 Nye's Lane, and 230 Nye's Lane, containing 21 acres more or less, fronting upon Middle Road and Nye's Lane, otherwise being described as Plots 29, 29A, 29B, 29Q, 29R, 29M, 29N on Map 23 of Town of Acushnet Assessor's Map.

(10/19/2009 b 10 p 157 a 17)

Slocum Street, 107 South Main Street, 97 South Main Street, South Main Street and 89 South Main Street and Hope Street, containing 40 acres more or less, fronting upon Slocum Street, Hope Street and South Main Street, and otherwise being described as Plots 23, 23A, 23B, 23C, 23D, 24, 31, 107, 34A, and 34 on Map 25 of Town of Acushnet's Assessor's Map.

(10/25/2010 b 10 p 214 a 23)

### **3.3.4 Residential Village District (RV)**

A. Permitted uses are as follows:

- 1) All uses permitted by right in the residential district (RA).

B. Permitted uses by special permit from the Board of Appeals are as follows:

- 1) Accessory apartment
- 2) Hospital, nursing home, home for the aged
- 3) Private school, nursery, or kindergarten
- 4) Veterinarian, animal hospital
- 5) Conversion of a one-family house in existence for two (2) years or longer to a two-family dwelling, on a lot with a minimum of thirty thousand (30,000) square feet
- 6) Multi-family housing for the elderly (55 years and older) or as allowed under MGL Ch 40B
- 7) Private garage or parking for four (4) or more cars or more than one (1) truck or commercial vehicle
- 8) Offices with adequate street access and off-street parking

(06/01/2015 b 11 p 82 a 13)

C. The Board of Appeals may specify limitations on the height of buildings and structures as a condition of the special permit, and may require yards greater than

specified in section 3.3.4 or clear distance for access and fire safety between the principal and accessory buildings on a lot. Uses by a special permit may also require site plan approval by the Planning Commission.

D. Prohibited uses are as follows: All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning regulation are prohibited.

E. Development standards are as follows:

1) Minimum lot area: Ten thousand (10,000) square feet

2) Minimum frontage: One hundred (100) feet

3) Minimum setbacks:

(a) Front: Twenty (20) feet

(b) Rear: Twenty (20) feet; ten (10) feet for accessory buildings not exceeding 120 square feet in area and swimming pools

(c) Side: Ten (10) feet

4) Maximum height: Thirty-five (35) feet

5) Maximum floor area ratio: Twenty hundredths (.20)

6) UPLAND CIRCLE: No dwelling, building or structure shall be erected on a lot unless the lot has an area within its bounds which encompasses an upland circle

with a minimum diameter equal to 90% of the required frontage and within which the frontage, or a distance equal to the frontage at the front yard setback line, must pass.

(05/10/2021 b11 p 296 a 19)

7) Repealed

(05/10/2021 b11 p 296 a 19)

8) Maximum impervious coverage: Twenty (20) percent

9) Parking, storage, maneuvering areas, and impervious surfaces are not allowed in the side and rear yards. Only site access and its associated impervious surface is allowed in the front yard. Access between adjacent lots may be allowed by special permit.

10) All dwelling units must connect, with approval of the Acushnet Department of Public Works, to municipal water and sewer.

- 11) Street and sidewalk improvements meeting the minimum standards of the Planning Commission.
- F. Lawfully existing uses in existence prior to January 1, 2014, currently in operation and not subject to the abandonment provisions of this Article are not subject to the dimensional, parking and site plan review sections of this Article. Any expansion of the existing uses shall be made only in compliance with all relevant sections of the Article. Any change of use must be an allowed by right or by special permit in the RV Zone.
- (05/20/2013 b 10 p 378 a 13)  
(06/01/2015 b 11 p 82 a 13)
- G. Severability
- 1) The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.
- (05/13/2014 b 11 p 26 a 13)  
(06/01/2015 b 11 p 82 a 13)
- H. Prior to the issuance of a permit, the Zoning Enforcement Officer shall request a review and comment from the following, which shall respond in writing within 14 days:
- (a) The Superintendent of Streets, or designee, on the structural adequacy of the surrounding streets, drainage issues, as well as, the servicing of Town water and sewer.
  - (b) The Planning Director, or designee, on the adequacy of proposed parking facilities per sec 3.7.
  - (c) The Conservation Commission, or designee, on percent of impervious surface/coverage and the adequacy of storm water infiltration for the site and all buildings.
  - (d) The Fire Chief, or designee, on emergency ingress and egress or other issues under his jurisdiction.
  - (e) The Police Chief, Public Safety Officer, or designee, on traffic and pedestrian circulation and other safety issues.
  - (f) The Board of Health, or designee, as to the adequacy of proposed on site water supply and designed septic system in relation to proposed use.
- (05/13/2019 b 11 p 137 a 25)

### **3.3.5 I-1 INDUSTRIAL DISTRICT (I-1)**

- A. Permitted uses are as follows:
- 1) Office building
  - 2) Utility buildings and storage warehouses and buildings
  - 3) Mining and Quarry Operations
  - 4) Rock Crushing

5) Hot Mix Asphalt Operations

6) Ready Mix Concrete Operations

Provided that:

- (a) Such uses shall not be located less than fifty (50) feet from properties zoned for residential purposes.
- (b) A dust mitigation plan, approved by the Town Board of Health, is actively implemented.

B. Prohibited Uses: All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning bylaws or regulations are prohibited.

C. Development Standards are as follows:

- 1) Town Water. All new water connections for domestic supply or fire protection shall be connected to the Town water system.
- 2) Location of Drives and Streets. Major street or site entrances shall not be located within 100 feet of each other. Sites whose uses will generate a single daily peak traffic volumes of 150 vehicles or more must provide a second emergency accessway onto the site. Such access may be for emergency vehicles only and need not be a functioning roadway other than maintained for emergency vehicle usability.
- 3) Green Buffer. Other than as needed for drives and entrances, a 20-foot vegetated buffer strip for the purpose of screening shall be maintained parallel to the frontage of any lot. Low-lying plants shall not obstruct sight distances from entry drives along South Main Street.
- 4) Utilities. All utility outlets, service entrances, transformers and utility services shall generally be clustered in a neat and orderly fashion, adequately screened, and if feasible, shall be located to the rear of buildings.
- 5) No building, structure or parking area shall be located within 50 feet from any street right of way or adjacent parcel within a districted zoned for residential use.
- 6) A green belt shall be provided on any lot that abuts a Residential District or a lot with a residentially occupied building. Such green belt shall:
  - (a) Be located on the LOT along the shared property line.
  - (b) Have a minimum depth from the shared property line of 20 feet.
  - (c) Be used for no purpose other than planting and/or sidewalks.

D. Dimensional Requirements

- 1) All setbacks are to be measured perpendicular from the lot lines.
- 2) Every lot in the I-1 Industrial District shall have the lot size, frontage, width, percent coverage, setbacks and height as specified below.
  - (a) Minimum Lot Size: 45,000 sf
  - (b) Minimum Frontage and Lot Width: 150 ft.
  - (c) Maximum Percent Impervious Coverage: 75% Minimum Setback
  - (d) Minimum Setback:
    - Front: 50 ft. from properties zoned for residential purposes and Town roads
    - Side: 50 ft. from properties zoned for residential purposes
    - Rear: 50 ft. from properties zoned for residential purposes
  - (e) Maximum Height: 35 ft. or 3 stories (whichever is less).  
Structures in excess of 35 ft., for purposes conforming to approved uses, require a Special Permit.
  - (f) Buildings for industrial purposes related to sand and gravel processing may increase from thirty-five (35) feet at a rate of one (1) foot of height for every one (1) foot of distance from the required setback to a maximum height of seventy (70) ft.

(11/14/2016 b 11 p 172 a 13)

E. Severability

- 1) The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

**3.3.6 I-2 Industrial District (I-2)**

A. Permitted uses are as follows:

- 1) Utility buildings, contractor's storage warehouses and buildings, and wholesale distribution facilities.
- 2) Office Building
- 3) Light Manufacturing

B. Permitted Uses by Special Permit from the Planning Board are as follows:

- 1) Medical Marijuana Dispensaries (defined as a "Registered Marijuana Dispensary" in accordance with 105 CMR 725.000, et seq.)

(05/12/2014 b 11 p 26 a 12)

C. Prohibited Uses: All uses which are not listed above, legally nonconforming or otherwise allowable by the provisions of the zoning bylaws or regulations are prohibited.

D. Development Standards are as follows:

- 1) Town Water. All new water connections for domestic supply or fire protection shall be connected to the Town water system.
- 2) Location of Drives and Streets. Sites whose uses will generate a single daily peak traffic volumes of 150 vehicles or more must provide a second emergency accessway onto the site. Such access may be for emergency vehicles only and need not be a functioning roadway other than maintained for emergency vehicle usability.
- 3) Utilities. All utility outlets, service entrances, transformers and utility services shall generally be centrally clustered in a neat and orderly fashion, adequately screened, and if feasible, shall be located to the rear of BUILDINGS.
- 4) No Commercial BUILDING, STRUCTURE, USE, PARKING AREA, driveway, vehicle circulation area or other vehicle access way shall be located within 20 feet of a residentially occupies BUILDING or within 20 feet of an adjacent parcel within a Residential Zoning District.
- 5) All other outdoor storage facilities shall be screened from view with a solid fence and located to the side and/or rear of the BUILDING to which it is accessory. The fence shall be a minimum of 6 feet, and the enclosure shall not exceed six hundred (600) square feet in area except by Special Permit from the Planning Board.

### **3.3.7 Special Residential Development – Over 55 Housing**

#### **A. Purpose**

The purposes of the Special Residential Development Special Permit are to grant relief in the form of increased density to encourage housing needed in the Town of Acushnet such as providing alternative housing for a maturing population; providing a type of housing which reduces residents' burdens of property maintenance and which reduces demands on municipal services; and which promotes flexibility in land use planning in order to improve site layouts, protection of natural features (i.e., natural topography, wooded areas and scenic meadows) and environmental values and utilization of land in harmony with neighboring properties. For the purpose of this By- Law, the term Special Residential Development is defined as a residential development of multiple dwelling units configured as attached or detached single-family dwellings on a tract of land in single ownership.

#### **B. Applicability**

The Planning Board, acting as Special Permit Granting Authority, may grant a Special Permit for construction of a Special Residential Development (SRD) and accessory structures, in the Residential A District, the Residential/Village District, and the Business/Commercial District. The provisions of this section supersede the dimensional requirements and use provisions of the Zoning By-Law.



### **C. Standards**

This section identifies the standards that will be applied to all Special Residential Developments.

- 1. Tract Size** - At the time of granting a special permit by the Planning Board, the property under consideration for a SRD shall be located on one or more contiguous parcels with definite boundaries ascertainable from a recorded deed or recorded plan, for parcels capable of tying into municipal water and sewer, having a contiguous "Buildable Area" of no less than 3 and no more than 30 acres, and for parcels not capable of tying into municipal water and sewer, having a contiguous "Buildable Area" of no less than 10 and no more than 30 acres. Frontage shall be a minimum of 150 feet on a public way.
- 2. Age Qualification** - A SRD may only be constructed as housing intended for persons of age fifty-five or over within the meaning of M.G.L. c151B, S4, 16 and 42 USC S3607 (b)(2)(c), and in accordance with the same, one hundred percent (100%) of the dwelling units in a Special Residential Development shall be owned or rented and also occupied by at least one person fifty-five (55) years of age or older per dwelling unit, and such development shall be operated and maintained in all other respects in compliance with the requirements of said statutes and regulations promulgated pursuant thereto. In the event of the death of the qualifying owner/occupant(s) of a unit, or foreclosure or other involuntary transfer of a unit in a SRD, a two-year exemption shall be allowed for the transfer of the unit to another eligible household.
- 3. Applicant Qualifications** - The applicant for a Special Permit for a SRD shall be the owner of the tract proposed for such development or be authorized in writing by the owner to apply for and be issued such Special Permit, and shall establish to the satisfaction of the Planning Board that the applicant has knowledge, experience and financial resources sufficient to construct and complete the development.
- 4. Maximum Number of Dwelling Units Permitted** - The maximum number of residential dwelling units per acre of buildable area shall be determined by multiplying the Buildable Area (expressed as acres) by the number 3. In order to achieve the maximum development as allowed under the above measures, the applicant must demonstrate compliance with all other standards identified in Section C.
- 5. Configuration of Buildings** - The following requirements shall apply to all buildings and dwelling units in a Special Residential Development:
  - a. Dwelling units can be attached, or detached as single units, or a combination of these types.
  - b. *Dwelling Units per Building*. No building shall contain more than four dwelling units.

- c. *Maximum Height.* No building constructed in a SRD shall exceed 35 feet in height nor exceed two full floor levels of living area.
- d. *Maximum Number of Bedrooms.* No dwelling unit constructed in a SRD shall contain more than two bedrooms. No more than ten percent (10%) of the total units in a SRD shall have fewer than two bedrooms.
- e. Minimum setback from the center-line of internal roads shall be forty (40) feet.

## **6. Location Design Standards and Landscaping**

- a. Identifying Conservation Areas and Potentially Developable Areas: Identify preservation land by the following steps:
  - 1. Identify Primary Conservation Areas such as wetlands and floodplains regulated by local, state or federal law. This shall be accompanied by Conservation Commission acceptance of the Abbreviated Notice of Wetlands Resource Delineation.
  - 2. An “Existing Conditions Plan” depicting soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined by G.L. c.131, s.40, and delineation of the official wetland area boundaries as accepted by the Conservation Commission pursuant to the Massachusetts Wetlands Protection Act, existing floodplain boundary lines, existing topography, wetlands, water bodies and the 100-year floodplain, all existing rights-of-ways, easements, and existing structures, the location of significant features such as woodlands, tree lines, individual hardwoods of significant stature, open fields or meadows, scenic views, watershed divides and drainage ways, fences and stone walls, roads, driveways, cart paths, and resources of historic or archeological importance.
- b. The units shall provide for an effective and unified treatment of the development possibilities of the project site, in the judgment of the Planning Board, making appropriate provision for the preservation of natural features and amenities of the site and the surrounding areas wherever possible.
- c. The units shall be planned and developed to harmonize with any existing or proposed development in the area surrounding the project site wherever possible.

- d. All units shall be arranged so as to preserve visual and audible privacy between adjacent houses wherever possible.
- e. Whenever possible, existing trees and vegetation shall be preserved and integrated into the landscape design plan.
- f. Whenever possible, the existing terrain shall be preserved and earth removal or relocation shall be kept to a minimum.
- g. Negative visual impacts of the development, if any, in the judgment of the Planning Board, shall be adequately screened from adjacent properties and nearby streets by landscaping and other site plan techniques.
- h. Additional landscaping amenities shall be proposed to achieve an effective, unified and aesthetic project in the judgement of the Planning Board.

#### **7. Interrelationship of Buildings**

The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy and separation between buildings. Buildings shall comply with a minimum setback of forty (40) feet from each other and all other structures except internal roads in the development. Minimum setbacks shall be measured at the nearest point between building footprints, not including patios and terraces. Building footprint shall include decks, porches and roof overhangs. The Planning Board at its discretion may allow up to 25 % of the buildings to have minimum setbacks from each other of thirty (30) feet if the applicant demonstrates outstanding preservation of natural features and/or open space.

#### **8. Perimeter Buffer**

A 50-foot-wide buffer between a SRD and public ways and a 50-foot wide buffer between a SRD and abutting properties is required; provided, however, that access roads and pedestrian paths may cross or be within the perimeter buffer at the discretion of the Planning Board. This perimeter buffer shall remain in a natural state, both at the outset and perpetually thereafter, to preserve the visual character of the parcel being developed. The Planning Board may permit exceptions to allow maintenance of desirable resources, which may exist at the time of application.

#### **9. Common Property**

This includes but is not limited to the perimeter buffer, roadways, yards, driveways, accessory structures as in #10 below, parking areas, and all areas not part of dwelling units. Common Property shall be for the exclusive use of owners or renters of the dwelling units and their guests. It shall be owned in

common by the owners of the dwelling units in the SRD. An enforceable restriction, acceptable to the Planning Board, shall be recorded for this property.

#### **10. Accessory Buildings and Structures**

In a SRD, accessory buildings and structures over 120 square feet may be permitted, including clubhouse, swimming pool, tennis court, cabanas, storage and maintenance structures, garages, and other customary accessory structures. Accessory buildings and structures shall be shown on the Plan and shall be available for the sole use and enjoyment of the residents and their guests.

#### **11. Parking**

A minimum of two off-street parking spaces shall be provided for each dwelling unit, in reasonable proximity to each dwelling, or in attached garages. Additional parking in proximity to any clubhouse or other facility serving residents in common, or guest parking, shall be provided in off-street parking areas, provided that no single accessory parking area shall contain less than one space per residential unit in the entire project, and all such areas shall be adequately landscaped. The adequacy of all parking facilities shall be determined by the Planning Board which may grant a waiver on the number of parking places.

#### **12. Road Construction Standards**

Roads and driveways within a SRD shall be subject to approval of the Planning Board based on the Rules and Regulations governing subdivisions as guidelines. The Planning Board may promulgate Rules & Regulations establishing minimum construction standards and design requirements for the SRD network of roads. There shall be an adequate, safe and convenient arrangement of roadways and driveways in the opinion of the Planning Board.

#### **13. Other Facilities**

All facilities including but not limited to utility services, drainage, lighting and signage shall be in accordance with requirements established by the Planning Board, consistent with applicable provisions of the Zoning By-Law and the

Rules and Regulations governing subdivisions, as the same may be waived or modified by the Planning Board to meet site conditions and design requirements.

#### **14. Project Maintenance**

Every SRD shall establish a trust, association or other legal entity whose membership includes all dwelling unit owners or renters and which shall have the power to assess costs and fees to the dwelling unit owners or renters, satisfactory to the Planning Board, which shall be responsible for the maintenance and repair of internal roads and driveways, snow plowing,

landscape maintenance, trash removal, utility services and maintenance and repair of other common elements and facilities serving the residents, and the Town of Acushnet shall not be responsible therefore. The organizational

documents shall expressly require assumption of these obligations and shall be approved by the Planning Board before occupancy of any dwelling unit. All such maintenance shall be the responsibility of the developer until such time as the legal entity assumes responsibility.

## **15. Building Architecture**

All buildings in a SRD shall be designed

- a. to have compatibility of style and building materials with those currently in Acushnet,
- b. to afford variations of facade and roof lines,
- c. so as not to have any dwelling unit extend under or over another dwelling unit in the same building, and
- d. to comply with requirements of law with respect to housing intended for persons of age fifty-five and over.

The Planning Board shall be satisfied with the architectural details and styling of the buildings prior to approval of a SRD.

## **16. Common Water and Sanitary**

- a. Common Sanitary facilities are encouraged consistent with the applicable Board of Health and State regulation.
- b. For potable water, projects shall be serviced entirely by Municipal Water as defined in 310 CMR 22.00. If the project is not served by Municipal water and regardless of number of service connections or number of individuals served, any ground water source that is part of the system shall comply with 310 CMR 22.21 Groundwater Supply Protection and the Massachusetts Department of Environmental Protection (DEP), Drinking Water Program's "Guidelines and Policies for Public Water Systems" as they presently exist and any subsequent amendments. Further, should the DEP for any reason, choose to not assert its jurisdiction, the Special Residential Development applicant shall still comply with the technical requirements of the regulations and guidelines.

### **D. Procedures**

The procedure for issuance of a special permit for a Special Residential Development shall be as follows:

- 1. Pre-Application Meeting** - A pre-application meeting with the Planning Board prior to formal submission of an application is strongly recommended. If such a meeting is requested, the Planning Board shall invite the Conservation Commission, Board of Health, the Town Planner, the Building Commissioner, and the Highway Superintendent. Peer Review participation may also be

valuable at such a meeting. The applicant may choose to fund Board engagement of Peer Review capability at this time per Section E of this By-Law.

The pre-application discussion will be most productive if a report is available at this time from a Certified Soil Evaluator, confirmed by the Board of Health, stating which locations for residential units contain soil conditions suitable for sub-surface sewerage disposal in accordance with rules and regulation of the Town of Acushnet and applicable laws of the Commonwealth of Massachusetts.

Also facilitating this meeting will be availability of a plan, which contains the boundaries of all wetland resource areas as defined in the Massachusetts Wetlands Protection Act with Conservation Commission acceptance of the Abbreviated Notice of Wetlands Resource Delineation.

**2. Application for Special Permit** - Any person who desires a Special Permit for construction of a SRD shall submit a written application to the Planning Board. Each such application shall be accompanied by the following information:

- a. Identification of applicant; information as to the record title to the tract; identification of applicant's professional and development associates.

An "Existing Conditions Plan" depicting soil characteristics as shown on Soil Conservation Service Maps; resource areas as defined by G.L. c. 131, s.40, and delineation of the official wetland area boundaries as accepted by the Acushnet Conservation Commission pursuant to the Massachusetts Wetlands Protection Act; existing floodplain boundary lines; existing topography, wetlands, water bodies and the 100-year floodplain, all existing rights-of-ways, easements, and existing structures, the location of significant features such as woodlands, tree lines, individual hardwoods of significant stature, open fields or meadows, scenic views, watershed divides and drainage ways, fences and stone walls, roads, driveways, cart paths, and resources of historic and archeological importance

### 3.4 Special Permit Requirements.

In acting on applications for special permits, the special permit granting authority, whether the Board of Appeals or as otherwise designated by this chapter, shall conform to the procedural, decision making and filing requirements of Chapter 40A of the General Laws, shall make general and, as appropriate, specific findings as provided herein or called for by the subject matter and may impose conditions, limitations, and safeguards. No special permit shall issue, except upon a general finding that the use sought and its characteristics shall be in harmony with the intent and purpose of this chapter, shall not be in conflict with public health, safety, convenience, and welfare and shall not be substantially detrimental or offensive to the neighborhood or destructive of property values therein. A special permit lapses if not exercised within two years from the date of the grant thereof. A special permit may be extended by the special permit granting authority for good cause shown for up to two (2) years. In addition, the following special requirements shall apply:

11/06/2023 b 12 p 571 a 11

- A. Decision Considerations.** Special permits shall be granted only if the special permit granting authority determines that the proposed benefits to the town will outweigh any adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things:

(06/01/2015 b 11 p 82 a 13)

1) **Location:**

- (a) The proposal should be located near uses which are similar to the proposed use, or if not, the nearby uses should be ones likely to benefit from rather than be damaged by having the proposal nearby or be permanently buffered from it.
- (g) Providing adequate water and drainage for this location should pose no special public problems.
- (c) The site should be able to accommodate the proposal without substantial environmental damage due to wetland loss, habitat disturbance or damage to valuable trees or other natural assets.
- (d) Non-residential proposals should contribute to the diversity of services available locally.

2) **Visual Consequences:**

- (a) Scenic views from public ways and developed properties should be considerately treated in the site arrangement and building design.
- (b) Visibility of parking and service areas from public streets should be minimized through site arrangement, and such areas should be screened from abutting premises.

3) **Access:**

- (a) Access to the location should increase existing traffic by no more than ten (10) percent at any point.
- (b) Pedestrian and vehicular movement to, from, and within the site should be safe and convenient and arranged so as not to disturb abutting properties.

- B. Accessory Apartments.** Special permits for accessory apartments may be issued upon referral of the application and receipt and consideration of a report, or after thirty-five (35) days lapse without such report, from the Board of Health, certifying that adequate provisions have been made in accordance with the requirements of the Board of Health for drainage and for the disposal of sewage and waste generated by the occupancy of the apartment. Off-street parking shall be provided in a manner consistent with the character of the premises. The accessory apartment shall comply with the following conditions and requirements.

- 1) The habitable floor area of the accessory unit shall not exceed twenty five (25) percent of the habitable floor area of the entire single family dwelling.  
(06/01/2015 b 11 p 82 a 13)
- 2) There is no other apartment on the lot on which the accessory apartment is proposed. NO accessory apartments will be allowed on the same lot as a two family or multifamily structure.
- 3) Not more than the required minimum exterior alterations have been or will be made to the one family house and to any accessory buildings, and the site plan of the lot and floor plans of the dwelling thereon have been filed with the Building Inspector prior to the application to the Board of Appeals.

**C. Nonconforming Uses, Lots and Structures.** Special permits may be issued for the extension or alteration of lawfully existing nonconforming structures, provided that the Board of Appeals find that such extension, alteration, or change shall not be substantially more detrimental to the neighborhood, will not increase the extent of nonconformance in size or in impact, and that the cost thereof shall not exceed twenty- five (25) percent of the assessed value of the nonconforming structure at the time of application. No special permits under this subsection shall be granted for nonconforming signs subject to Chapter 93 or 93D of the General Laws.

**D. Two-Family Dwelling.** The conversion of a one family house which has been in existence for two (2) years or longer to a two family dwelling is allowed by special permit from the Board of Appeals. The application will be considered after receipt of a report, or after thirty five (35) days elapse without such a report, from the Board of

Health certifying that adequate provisions have been made in accordance with the requirements of the Board of Health for drainage and the disposal of sewage and waste generated by the occupancy of the two family dwelling. The two family dwelling shall comply with the following conditions and requirements:

(06/01/2015 b 11 p 82 a 13)

- 1) The lot on which a one family residence is to be converted to a two family dwelling must be a minimum of thirty thousand (30,000) square feet.
- 2) There must be no other apartment or dwelling on the lot on which the two family residence is proposed.
- 3) Not more than the required minimum exterior alterations have been or will be made to the one family house and to any accessory buildings, and the site plan of the lot and floor plans of the dwelling thereon must be filed with the Building Inspector prior to the application to the Board of Appeals. Architectural features such as exterior stairways or two front doors which are not in character with a single family type appearance will not be allowed.
- 4) The total cumulative number of two family houses permitted by the Board of Appeals since January 1995 shall at no time exceed ten (10) percent of the total number of one family houses in Acushnet at the beginning of the year in which the application is filed based on the Assessor's records.



- E. Large-Scale Ground-Mounted Solar Photovoltaic Installations.** The Planning Board is the special permit granting authority for Large-scale ground-mounted solar photovoltaic installations and shall require compliance with applicable requirements set forth in Article III of the Planning Board Rules and Regulations.

(05/23/2011 b 10 p 250 a 12)

(06/01/2015 b 11 p 82 a 13)

### **3.5 Site Plan Approval.**

- A. The purpose of the site plan review procedure is to encourage a desirable and compatible character of development within the Town of Acushnet and to assure safety, promote logic, imagination, and innovation in the design process while complying with all zoning requirements. The requirements of this section shall be applicable to the following:

- (1) Any nonresidential development that results in an increase in on-site parking of more than ten (10) spaces.

(05/13/2019 b 11 p 137 a 25)

- (2) All new or modified nonresidential development that increases gross floor area more than three thousand (3,000) square feet.

(05/13/2019 b 11 p 137 a 25)

- (3) All new or modified nonresidential development that increases impervious coverage more than five thousand (5,000) square feet.

(05/13/2019 b 11 p 137 a 25)

- (4) All Large-scale ground-mounted solar photovoltaic installations. The Special Permit Granting Authority for this use shall be the Planning Board.

(05/23/2011 b 10 p 250 a 12)

- B. Site plan review will be processed by the following means:

1. All projects requiring Site Plan Review shall submit the following information to the Planning Board for review and processing.

***\*\*\*Reference Planning Board Forms L and M in Subdivision Rules and Regulations Book.***

- (a) Ownership, zoning, use, and the general location of structure and topography within three hundred (300) feet of the property lines of the site or adjacent land contiguously owned with the site.

- (b) All site features, existing or proposed, including but not limited to the following:

- (1) Driveways, including widths.

- (2) Parking facilities, including dimensions thereof.

- (3) Loading facilities.

- (4) Service areas.
  - (5) Street line, including widths.
  - (6) Roadways, including widths.
  - (7) Pedestrian walks, including widths and types of surface.
  - (8) Landscaping designation, specific plantings.
  - (9) Screening.
  - (10) Signs, including proposed sizes, mounting heights, types and drafted design.
  - (11) Lighting, including plan location and detail information, size, type and wattage.
  - (12) Surfacing, indicating treatment of all surfaces.
  - (13) Existing trees on the site which are a caliper of six (6) inches or larger.
  - (14) Wetlands.
  - (15) Drainage, including detailed design data, pipe sizing, etc.
  - (16) Stone walls.
  - (17) Topography at two-foot contour intervals.
  - (18) Sewage disposal, including detailed design information.
  - (19) Water supply.
  - (20) Curbing.
  - (21) Such other information as the Planning Board may reasonably request.
- (c) The construction of the work as detailed on the site plan shall not deviate from the work shown on the approved site plan. Accordingly, the site plan shall contain a sufficient level of detail to ensure the constructability of the project. Supporting details and documentation shall be presented as part of the site plan submission.
2. Incomplete applications for review shall not be accepted by the Planning Board. Following submission of a site plan to the Planning Board, the Board or its designee shall review the plan for completeness within fourteen (14) business days of the submission. Completeness shall be based on the requirements of this subsection. If the submission is determined incomplete by the Planning Board or its agent, notice will be mailed to the applicant by certified mail within fourteen (14) business days of the submission specifying the deficiencies.
- C. The plan shall be prepared by a professional engineer, land surveyor, architect, or landscape architect registered to practice in the Commonwealth of Massachusetts and

shall be submitted with ten (10) copies to the office of the Planning Board, together with an application form and a filing fee, if any.

D. Approval Required.

1. Site plan approval shall be granted upon determination by the Planning Board that the following are complied with. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and storm water drainage consistent with the functional requirements of the Acushnet Planning Board's Rules and Regulations for the Subdivision of Land and shall be so designed that for the given location and type and extent of land use, the design of building form, building location, egress points, grading and other elements of the development shall be so as to:

- (a) Minimize the volume of cut and fill, the number of removed trees six (6) inches in caliper and larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of storm water flow increase from the site, soil erosion, and the threat of air or water pollution.
- (b) Maximize pedestrian and vehicular safety and convenience within the site and egress.
- (c) Minimize obstruction of scenic views from publicly accessible locations.
- (d) Minimize visual intrusion by minimizing the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zones; minimizing glare from headlights through plantings or other screening; minimizing lighting intrusion through the use of such devices as cutoff luminaires confining direct rays to the site; fixture mounting height not higher than twenty (20) feet avoiding unreasonable departure from the character of building in the vicinity.

E. The Planning Board shall hold a public hearing on the application for site plan approval, with a written notice of the time and place of said hearing being given the applicant and the Board of Selectmen. The applicant is responsible for sending this notice to the certified abutters by certified mail, return receipt requested, at least ten (10) days before the scheduled hearing. The Planning Board shall not act on the application until it has received and given due consideration to the recommendations of the Board of Selectmen or until ten (10) days have elapsed after the public hearing without receipt of the Selectmen's comments.

F. The Planning Board shall act on an application for site plan approval and shall notify, in writing, the applicant, the Board of Selectmen, and the Building Inspector of its action within sixty (60) days of the receipt of the application. Failure of the Planning Board to so act and to notify the applicant within said sixty (60) days shall constitute approval of the site plan. The actions allowed by the site plan approval are authorized

for a two-year period from the date of grant thereof. The applicant may be granted a single two-year extension by applying to the Planning Board, in writing, prior to the date of expiration upon a successful showing of due cause by the applicant. If the actions permitted are not exercised or the approval not extended, they shall lapse, and a new application notice and hearing will be required.

- G. Minor departures from site plan as approved may be authorized by the Building Inspector if required by engineering or other circumstances not foreseen at the time of plan approval. Any change increasing the size of any building or structure, changing the location of any building, parking, or access road by more than ten (10) feet or reducing landscaping or screening may be made only through review by the Planning Board following the same procedures as for an original submittal. Any departure must be requested, in writing, with the basis for the change given. Any change authorized shall be recorded on the file copy of the site plan with the Building Inspector's signature and the date.
- H. The removal, fill, or change of grade of earth materials, including soil, loam, sand, or gravel, undertaken in order to construct or locate buildings, structures, and such features accessory thereto as ways, driveways, areaways, walks, or parking areas is a part of construction and development process regulated by the Zoning Chapter. Except as necessary for the construction of detached one or two family dwellings and of features accessory thereto, the removal, fill, or change of grade of earth materials for the purposes defined above shall be subject to approval under this section.
- I. Compliance. The issuance of an occupancy permit or certificate of compliance shall not occur prior to the satisfactory completion of all elements and conditions of the approved site plan. A temporary occupancy permit may be issued after the satisfactory completion of all items essential to public health and safety and sufficient bonding acceptable to the Planning Board is provided to the Town to cover all outstanding items.

(05/23/2011 b 10 p 250 a 12)

### 3.6 Signs

- A. Unless the context clearly denotes otherwise, the following terms shall have the meanings defined herein:

**ACCESSORY SIGN** – A sign describing, advertising, or drawing attention to the premises on which it is located, to the occupants thereof or to any business or activity conducted on such premises or to the availability of any part of the premises for rent, lease, or sale.

**DIMENSIONS OF A SIGN** – The area of a sign shall be the area of the smallest rectangle within which the entire sign can fit, excluding structural supports which do not contribute through shape, color, or otherwise to the sign's message, but including any separate surface, board, frame or shape on or within which the sign is displayed. For signs, the components of which are painted or engraved on or otherwise applied directly to a building or other structure, the sign area shall include any background of a different color, material, or appearance from the remainder of the wall or structure and shall, in any event, enclose all letters, figures, or representations related to the sign. The "dimensions of a sign" shall be the length and width of such a rectangle. The height of a sign shall be measured to the highest point of the sign, including any

structural or ornamental projections above the sign proper, from the average ground level above which the sign is located. A two-sided sign, with message on opposite sides (back-to-back), will be deemed to be one (1) sign; a sign with faces at an angle to each other shall be deemed to consist of several signs, one (1) for each direction faced.

**SIGN** – Anything that advertises, directs, promotes, identifies, describes, or draws attention to persons, products, or firms or any combination of letters, figures, shapes, colors, devices, pictorial, or three-dimensional representations, whether rigid, movable, or flexible, provided that signs required by governmental regulation or law or erected pursuant to or in discharge of a governmental function, flags, and insignia of any government not used in connection with advertising or commercial activities and signs not visible from outside the premises shall not be regulated by this chapter, nor shall this chapter apply to signs exempted from local regulations by the provisions of Section 32 of Chapter 93 of the General Laws, as amended.

**TEMPORARY SIGN** – Any sign advertising, directing or promoting the business, person, or firm associated with the land or structure therein or related to work being performed on the premises therein through any combination of letters, figures, shapes, colors, devices, pictorial or three dimensional representations whether rigid movable or flexible, provided that any such sign does not exceed 12 sq. ft. or remain in its functions longer than 60 days.

(06/01/2015 b 11 p 82 a 13)

## **B. General Regulations.**

1. Only accessory signs shall be permitted in any district, with the exception of those temporary non-accessory signs permitted under Subsection C(7).
2. The illumination or lighting of any sign shall be constant and not flashing, intermittent, moving, rotating, or changing in a source, color, or intensity. The light, whether internal or illuminating the sign from the outside, shall not be placed, directed, or arranged so as to throw a beam of light, glare, or reflection on any street or highway, walk, or nearby properties of others in such manner as to create a traffic hazard or nuisance.
3. Banners, pennants, streamers, ribbons, spinners, and other moving, fluttering, revolving, or changing devices and strings of lights shall not be used as signs or parts thereof, provided that lights may be used as part of a religious celebration not connected to commercial promotion, and further provided that banners or similar devices may be used for temporary (not longer than 60 days) political or new business signs as provided in Subsection C of this section.

(06/01/2015 b 11 p 82 a 13)

## **C. Signs Permitted in Any District.**

1. One (1) sign per premises, not exceeding two (2) square feet in area, denoting the name or names, occupation, and address of the occupants of the premises.

2. One (1) sign, not exceeding six (6) square feet in area, advertising the premises or any part thereof for sale, lease, or rent.
3. One (1) sign, or bulletin board, not exceeding twelve (12) square feet in area, denoting and describing a place of worship, library, museum, social club, or society or a similar nonprofit institution or school and located on the premises thereof.
4. One (1) or two (2) signs, each not exceeding twelve (12) square feet in area, accessory to a farm or roadside stand, identifying the farm and denoting the sale of agricultural products principally grown on the premises.
5. One (1) temporary sign, not exceeding thirty two (32) square feet, denoting the architect, engineer, owner, and contractor performing construction, repair, renovation, or development currently in progress on the premises where the sign is located, provided that for a subdivision a separate sign may be placed at each street entrance thereto, and further provided that the sign or signs shall be promptly removed upon completion of construction, repairs or renovation.
6. One (1) 12 sq. ft. temporary sign advertising the establishment of a new business or tradesman working thereon.

(06/01/2015 b 11 p 82 a 13)

7. The signs permitted under this Subsection C in any district shall not exceed twelve (12) feet in height and shall be arranged so as not to be located or to obstruct vision between three (3) and eight (8) feet above ground, unless attached to the wall of a building and not projecting more than twelve (12) inches therefrom. Signs permitted in any district and complying with the requirements of this subsection may be located within the required minimum front yard or street setback but shall not be located within the required side or rear yard.

**D.** No sign shall obstruct vision such that a traffic hazard is created in the opinion of the Police Chief.

**E.** Signs permitted in the BV District. In addition to signs permitted in any district pursuant to Subsection C hereof, for each lot in a BV District, there shall be permitted three (3) signs on the premises not exceeding fifty (50) square feet in area, measured as the sum of all three (3) or less signs, and not exceeding fifteen (15) feet in height.

**F. Nonconforming Signs.**

1. Any accessory sign legally erected may continue to be maintained, even though as a result of changes to this chapter, the sign no longer conforms to its requirements, provided that such sign shall not be enlarged, redesigned or altered, except so as to make the sign conform to said requirements, and further provided that any such sign which has been destroyed or damaged to such an extent that the cost of restoration would exceed fifty percent (50%) of the replacement value of the sign at the time of destruction or damage shall not be

repaired, rebuilt, or altered, except so as to make said sign conform to the requirements of this chapter.

2. The exemption for a nonconforming sign herein granted shall terminate with respect to any sign which shall have been abandoned, which advertises or calls attention to any products, businesses, or activities no longer carried on or sold on the premises for at least one hundred twenty (120) days or which shall not have been repaired or properly maintained for at least one hundred twenty (120) days after notice to that effect has been given by the Building Inspector.

### **3.7 Parking and Loading Regulations.**

**A. General Requirements.** There shall be provided off-street parking and loading facilities in accordance with the requirements of this section on the same lot as the use to which they are accessory, except that parking for nonresidential uses may be provided on a contiguous lot in the same ownership and zoning district as the lot on which the principal building or use is located. The Building Inspector shall interpret and apply the requirements for parking and loading spaces. Loading or parking layout for nonresidential uses shall be shown on and approved as part of a site plan stamped by a registered surveyor or engineer.

**B. Surfacing.** Required vehicular use areas shall be paved with bituminous concrete unless serving a single family dwelling. An alternative surface may be approved by the approving authority upon its determination that drainage, erosion, siltation, dust and appearance will be satisfactorily controlled. Where an alternative to bituminous concrete is authorized by the approving authority, the following shall be complied with:

1. Access drive shall be paved with bituminous concrete or other pavement authorized by the approving authority for at least fifteen (15) feet inside of the street or property line.
2. Grading and materials selection shall assure that surface materials will not be carried into the street and that drainage is positively provided for.
3. If there are eight (8) or more parking spaces, there shall be provisions for identifying individual spaces through use of segmented bumper strips or other similar permanent means.

**C. Dimensional Requirements.**

1. Loading. Each loading space shall be not less than ten (10) feet in width, fourteen (14) feet in height, and fifty (50) feet in length such that a truck or trailer occupying the space shall be entirely in the loading space and shall not project into any street, vehicular accessway, or pedestrian walk. The loading space may use common access driveways and aisles with parking spaces, where such access is adequate for both purposes. Loading spaces shall not be located within the required front yard.

2. **Parking.** Each parking space shall be at least nine (9) feet wide and eighteen (18) feet long, exclusive of aisles and maneuvering space; for parking at right angles to a central aisle, the width of the aisle shall not be less than twenty four (24) feet, and an equal width shall be provided at each end of a row of parking spaces; for angle or herringbone parking at forty five (45) degrees or sixty (60) degrees and one-way circulation, the width of aisles shall be consistent with the dimensions recommended by the Institute of Transportation Engineers. Unobstructed access to and from a street shall not require backing out into a street. Two (2) or more nonresidential uses may share a combined facility, provided that its continued availability is assured and the total number of spaces equals or exceeds the number required by this section. The number of parking spaces required by the Architectural Barriers Board located nearest to and to both sides of the entrance of a building used by the public and/or by employees shall be reserved for the exclusive use of handicapped persons and shall be identified by appropriate signs at each parking space and by the wheelchair symbol painted within each such parking space.

- D. Loading Requirements.** Not fewer than the number of loading spaces indicated in the following table shall be provided:

<b>Floor Area of Building or Structure (square feet)</b>	<b>Retail Trade, Wholesale Trade, Storage, Manufacturing</b>	<b>Consumer Service Offices, Hotels, Institutions, Dormitories, Other Nonresidential Uses</b>
5,000 to 15,000	1	0
15,001 to 50,000	1	1
50,001 to 100,000	2	1
100,001 to 150,000	3	2
150,001 to 300,000	4	3
Each additional 100,000 over 300,000	1 additional	
Each additional 200,000 over 300,000		1 additional

- E. Parking Requirements.** Off-street parking spaces shall be provided according to the following schedule, and no parking spaces, other than for dwellings, shall be located in the required front yard.

- (1) **Dwellings:** Two (2) spaces for each dwelling unit containing one (1) or two (2) bedrooms, three (3) spaces for each dwelling unit containing three (3) or more bedrooms.
- (2) **Hotels, motels, board or rooming houses and other places providing overnight accommodations:** One (1) space for each room accommodation, plus one (1) space for each two (2) employees, plus one (1) space for each four hundred (400) square feet of public meeting area and restaurant, plus one (1) space for every three (3) restaurant seats or three (3) lounge seats.
- (3) **Restaurants and other places serving food or beverages:** One (1) space for each three (3) seats, plus one (1) space for each employee, provided that drive-in



establishments shall instead provide one (1) space for each fifty (50) square feet of gross floor area, plus one (1) space for each two (2) employees.

- (4) Schools and Colleges: Two (2) spaces per classroom for elementary and intermediate, two and one-half (2½) spaces per classroom for secondary, and one (1) space per four (4) students beyond secondary, none to be fewer than one (1) space per teacher and staff.
- (5) Banks and Libraries: One (1) space for each two hundred and fifty (250) square feet of floor area in public use, plus one (1) space for each five hundred (500) square feet of other gross floor area.
- (6) Hospitals, Nursing Homes, Homes for the Aged. Hospitals: One (1) space per bed; nursing homes, one (1) space per two (2) beds; homes for the aged, one (1) space per one and one-half (1½) units.
- (7) Theaters, Membership Clubs, and Places of Amusement, Recreation, and Assembly (public or private): One (1) space per three (3) seats.
- (8) Retail Stores and Consumer Service Establishments: One (1) space for each two hundred (200) square feet of gross floor area.
- (9) Gasoline Service Stations: Two (2) spaces for each lubrication pit, lift, or bay, plus one (1) space for each employee.
- (10) Warehouses: One (1) space for each one thousand five hundred (1,500) square feet of gross floor area.
- (11) Medical and Dental Offices: One (1) space per two hundred (200) square feet of gross floor area.
- (12) Industry, Process, Manufacturing, Assembly and Research and Development: One (1) space for each three hundred (300) square feet of floor area, plus space for company-owned trucks and vans and the required loading spaces.
- (13) All Other Offices and Nonresidential Uses: Three and one-half (3½) spaces for each one thousand (1,000) square feet of gross floor area.

**F. Egress.**

- 1. Any driveway likely to carry more than two hundred (200) trips per average business day must comply with the following, unless the Board of Appeals grants a special permit for an alternative configuration, upon its determination that safety will be adequately protected, based on commonly employed engineering standards:
  - (a) Existing vehicle unobstructed sight distance at edge of traveled way – 200 feet.

- (b) Driveway centerline separation from other driveways serving two hundred (200) plus trips – 100 feet.
  - (c) Driveway centerline separation from inter-secting street sideline – 75 feet.
  - (d) Maximum driveway width unless greater width justified by engineered design – 30 feet.
  - (e) Curb radius – 20 feet.
  - (f) Minimum driveway width – 24 feet.
2. No existing parcel shall be divided into lots with frontage which would preclude meeting the driveway separation requirements, unless access rights-of-way are deeded to enable shared egress.

### 3.8 Landscaping.

- A. **Applicability.** Street, sideline, vehicular use area, and district boundary plantings and screenings shall be provided as specified below when any new building, addition, or change of use requires a parking increase of thirty (30) or more spaces. In performing site plan review under Section 3.5, the Planning Board may authorize alternatives to the following specifications, taking into consideration existing vegetation, topography, soils, and other site conditions, provided that equivalent screening, shading, and articulation are achieved.
- B. **Plantings.** Required plantings shall include both trees and evergreen shrubs and preferably will include ones existing on the site. To be credited towards meeting these requirements, trees must be at least two and one-half (2½) inches in caliper six (6) inches above grade, be of a species common in the area and be ones which reach an ultimate height of at least thirty (30) feet. To be credited towards meeting these requirements, shrubs must be at least thirty six (36) inches in height at the time of building occupancy, reach an ultimate height of at least five (5) feet, and be of a species common in the area. Plantings shall consist of at least one (1) tree per forty (40) linear feet of planting area length and at least one (1) shrub per six (6) feet. Plantings preferably will be grouped, not evenly spaced, and shall be located or trimmed to avoid blocking egress visibility. The planting area shall be unpaved except for access drives and walks essentially perpendicular to the area and shall be located wholly within the lot.
- C. **Street Planting Area.** Street planting is required for nonresidential premises. Required street planting shall be provided within fifteen (15) feet of the street property line along the entire street frontage, except at drives.
- D. **Sideline Planting Area.** Sideline planting shall be provided within five (5) feet of the side lot line between the front lot line and the building rear setback (as-built, not as required).

- E. Vehicular Use Area Plantings.** The exterior perimeter of all vehicular use areas shall be planted with a buffer strip at least five (5) feet in width, excluding accessways. Any vehicular use area abutting a lot that is residentially used or zoned shall be planted with a buffer strip at least ten (10) feet in width and shall be supplemented with an opaque fence or wall at least six (6) feet high, unless there is vegetation sufficiently dense to effectively obscure vision. A minimum of two percent (2%) of the interior area of parking lots containing thirty (30) or more spaces must be planted. A minimum of one (1) tree and four (4) shrubs exclusive of perimeter plantings must be planted for every one thousand five hundred (1,500) square feet of parking lot. Planting areas must each contain not less than thirty (30) square feet of unpaved soil area. Trees and soil plots shall be so located as to provide visual relief and wind interruption within the parking area and to assure safe patterns of internal circulation.
- F. District Boundary Planting Area.** District boundary planting is required on any premises along the full length of any boundary abutting or extending into an RA District and being developed for a use not allowed in that district, unless abutting property is determined by the Planning Board to be unbuildable or visually separated by topographic features. Required planting shall be located within ten (10) feet of the boundary.
- G. Existing Vegetation.** Wherever possible, the above requirements shall be met by retention of existing plants. If located within twenty five (25) feet of a street, no existing tree of six (6) inches in caliper or greater (measured four (4) feet above grade), dense hedgerow of four (4) or more feet in both depth and height, or existing earth berm providing similar visual screening shall be removed or have grade changed more than one (1) foot unless dictated by public health, access safety, or identification of the premises.
- H. Exceptions.** Where plant materials as required would harmfully obstruct a scenic view, substitution of additional low level plantings which will visually define the street edge of property line may be authorized, provided that proposed buildings are also designed and located to preserve that scenic view.
- I. Site Distance Restrictions.** When an accessway intersects a public street or another accessway, required plantings shall conform to the requirements of unobstructed site distance as outlined in the parking and loading regulations (Section 3.7 F).
- J. Maintenance.** All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs shall be promptly removed, and dead plants shall be replaced at the earliest appropriate season. Any fences required for screening shall be properly maintained.
- K. Nonconforming Landscape and Screening.**
- (1) Any improvement along the property boundary, including landscaping, screening, and fencing, legally erected and conforming to the requirement of this chapter when so erected, may continue to be maintained, even though as a result of changes to this chapter, the boundary improvements no longer conform to its requirements, provided that such boundary improvements shall not be enlarged, redesigned, or altered, except so as to make them conform to

said requirements, and further provided that any such boundary improvements which have been destroyed or damaged to such an extent that the cost of restoration would exceed fifty percent (50%) of the replacement value of the boundary improvements at the time of destruction or damage, shall not be repaired, rebuilt, or altered, except so as to make said boundary improvements conform to the requirements of this chapter.

- (2) The exemption for nonconforming landscaping and screening herein granted shall terminate with respect to any boundary improvements which shall:
  - (a) Have been abandoned; or
  - (b) Not have been repaired or properly maintained for at least one hundred twenty (120) days after notice to that effect has been given by the Building Inspector.

### **3.9 Repealed**

(5/20/2013 b 10 p 378 a 14)  
(06/01/2015 b 11 p 82 a 13)  
(06/05/2017 b 11 p 220 a 25)  
(05/13/2019 b 11 p TBD a 25)

### **3.10 Expedited Permitting**

Renewable or alternative energy research and development facilities and renewable or alternative energy manufacturing facilities and/or Renewable Energy generation Facilities as identified in Section(s) 2.0, subject to Site Plan Review by the Planning Board, pursuant to Section 3.5 (Site Plan Approval) and subject to the dimensional requirements of Section 3.3.3 E (Dimensional Regulations). Said Site Plan Approval shall be an “expedited” application and permitting process under which said facilities may be sited within one (1) year, from the date of initial application to the date of final approval by the Planning Board; unless mutually agreed upon by both parties to extend time of approval. For the purpose of this section such facilities shall be defined in Section 2.0.

(5/20/2013 b 10 p 379 a 15)

## **SECTION 4**

### **Dimensional Regulations**

#### **4.1 Compliance Required.**

- A. Any building or structure or use of a building, structure, or land thereafter located, erected, expanded, altered, or relocated, the lot on which it is to be located and the location of said building, structure, or use on said lot shall comply with the requirements of this Article VIII and of other applicable sections hereof. No lot shall be reduced in size, altered, or subdivided and no part thereof conveyed or transferred if said lot or the buildings thereon and the uses thereof will be caused thereby to be not in conformance with the provisions of this Chapter, unless, in addition to any

dimensional variances, a special permit is granted by the Zoning Board of Appeals in conformance with the provisions of Section 3.4A of this Chapter.

(06/01/2015 b 11 p 82 a 13)

- B. If land is subdivided, transferred, or conveyed in violation of this section, in addition to the other remedies provided by law, no zoning, special, building, or occupancy permit or variance shall be granted for either the land subdivided or conveyed or for the remainder of the original parcel until both meet the requirements of this section.

## **4.2 Applicability.**

The requirements of the following development standards, including the footnotes thereto, apply to each district and to specific uses or structures within certain districts as indicated in said schedule. The height limitations of said schedule do not apply to antennas, chimneys, silos, skylights, tanks, towers, ventilators, and similar building features extending not more than twenty (20) feet above the height permitted in the district in which they are located and not used for human occupancy.

## **4.3 Previously Recorded Lots.**

As provided by M.G.L.A. C.40A, Section 6, certain previously recorded lots may be built upon during the period of time specified or forever, even though such lots do not meet the dimensional requirements of this chapter.

- A. Any lot which was in ownership separate from adjoining land at the time the dimensional requirements of this chapter were adopted and has not been since consolidated, altered, or combined with other lots may be built upon for a one family residence, provided that such a lot has at least five thousand (5,000) square feet in area and fifty (50) feet in frontage, and met the minimum dimensional requirements for a building lot at the time it was created.
- B. The use of lots shown on a plan endorsed by the Planning Board as not requiring approval under the Subdivision Control Law shall be governed by the provisions of the Zoning Bylaw in effect at the time of submission of such a plan for a period of three (3) years from the date of Planning Board endorsement unless such endorsement is delayed pending disposition of a court appeal.
- C. If a definitive subdivision plan or a preliminary plan followed within seven (7) months by a definitive plan is submitted for Planning Board approval and written notice of such submission is given to the Town Clerk, the land shown on such plan shall be governed by the provisions of the Zoning Bylaw in effect at the time for first submission while the plan is being processed and for eight (8) years from the date of Planning Board endorsement of plan approval (seven (7) years for plans submitted and approved prior to January 1, 1976), unless said endorsement is delayed pending the disposition of a court appeal.
- D. This section is not meant to change or reinterpret the language of M.G.L.A. C.40A, Section 6. See said M.G.L.A. for a complete reading.

## **SECTION 5**

### **Nonconforming Uses and Structures**

#### **5.1 Exemptions.**

Any structure lawfully erected and existing and any use lawfully being made of land or buildings which does not conform to this chapter, as adopted or as amended, may be continued to the same extent and for the same purpose but shall not be expanded or altered, except in conformance with this chapter. This exemption shall include buildings, structures, and uses authorized by a building or special permit issued prior to the publication of the first hearing notice for an amendment to this chapter which would make them nonconforming, provided that the construction or use under such a permit is commenced within six (6) months after the permit is issued and, in case of construction, is continued to completion in a reasonably expeditious manner, but in no case to exceed two (2) years from the date of building permit issuance.

#### **5.2 Extensions or Alterations.**

Nonconforming structures or uses shall not be extended or altered, except to make them conforming, unless the Board of Appeals authorizes such extension or alteration by special permit upon making findings as provided in Section 3.4C. Building permits may be issued for extension or for structural alteration of one or two family houses, where such extension or alteration will not increase the nonconforming nature thereof.

#### **5.3 Restoration.**

NO structure damaged by fire or other causes to the extent of more than seventy five (75) percent of this assessed valuation shall be repaired or rebuilt, except in conformity with this chapter; provided, however, that the provisions of this section shall not apply to a dwelling or to a garage or other accessory structure incidental to the use of such dwelling for human habitation which was in conformity with the existing law at the time said structure was erected.

#### **5.4 Abandonment.**

A nonconforming use, including a nonaccessory sign, if discontinued for a period of two (2) or more years or abandoned shall not be reestablished, and any future use of the structure or premises shall conform to this chapter.

#### **5.5 Reversion.**

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

#### **5.6 Reconstruction.**

Structures damaged by fire or other accident or natural catastrophe to an extent of less than seventy five (75) percent of the assessed valuation preceding such damage may be rebuilt or restored to the same dimensions and in the same location as before the damage, but shall not

be enlarged, altered, or relocated except upon the issuance of a special permit as provided in Section 5.2.

## SECTION 6

### Administration

#### 6.1 Enforcement and Penalties.

This chapter shall be enforced by the Board of Selectmen and/or their agent, the Building Commissioner, as provided for in M.G.L.A. C.40A, Section 7. No structure shall be erected, altered, demolished, or moved, and no land or structure shall be changed in use until and unless a permit has been issued therefore, certifying that the plans and the proposed use of land conform to this chapter. Whoever violates any provision of this chapter shall be punished by a fine not exceeding fifty dollars (\$50) for each offense. Every day that a violation continues after its abatement has been ordered by the Town and sufficient time has elapsed to permit abatement shall constitute a new offense.

#### 6.2 Board of Appeals.

A. The Board of Selectmen shall appoint a Board of Appeals of five (5) members, who shall serve five-year terms, such that the term of one (1) member shall end each year. The Board of Selectmen shall also appoint two (2) associate members of the Board of Appeals, who shall be designated by the chairman of the Board of Appeals to act when a member is absent or unable to participate for any reason. The Board of Appeals shall adopt and file with the Town Clerk rules consistent with the requirements of the General Laws, Chapter 40A, and with this chapter. The Board of Appeals shall act on the following classes of matters, and no zoning or building permit shall be issued that is inconsistent with a decision of the Board of Appeals or on any matter within the jurisdiction of or before the Board of Appeals until it has filed its decision thereon:

- (1) **Appeals.** Any person aggrieved by any order, decision, or failure to act, believed to be in violation of the State Zoning Act or this chapter, may appeal such action or failure to act to the Board of Appeals, as provided by M.G.L.A. C.40A, Section 8, 14, and 15, and the Board of Appeals may reverse or affirm, wholly or in part, any such action or decision. The Board of Appeals shall to that end have all the powers of the officer from whom the appeal is taken and may issue or direct the issuance of a permit.
- (2) **Special Permits.** Unless otherwise designated by this chapter, the Board of Appeals shall be the special permit granting authority and shall hear and decide requests for special permits as provided in sections of this Article and in accordance with M.G.L.A. C.40A, Section 9, 11, 14, et al.
- (3) **Variances.** The Board of Appeals shall have the power to grant upon appeal or upon petition, variances from the terms of this chapter, not including where the Board finds that, due to use variances, circumstances relating to soil conditions, topography or shape of land or structures and especially affecting

such land or structures but not affecting generally the zoning district in which they are located, literal enforcement of this chapter would involve substantial hardship to the appellant or petitioner and that the desired relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter. The Board of Appeals may impose conditions, limitations, and safeguards not based on the continued ownership by the applicant, petitioner, or any owner.

If the rights authorized by a variance are not exercised within one (1) year from the date of grant thereof, they shall lapse, and a new petition, notice, and hearing will be required for their reestablishment.

(4) Comprehensive Permits. The Board of Appeals may issue comprehensive permits for publicly subsidized housing, as provided in M.G.L.A. C.40B, Section 21.

(5) Use variances shall not be authorized by the Board of Appeals.

B. Before acting on any appeal or application for a special or comprehensive permit or a variance, the Board of Appeals shall hold a public hearing, after publishing notices thereof twice in a newspaper of general circulation in Acushnet and sending notices to abutters, all as provided in the General Laws, Chapter 40A. The Board of Appeals shall conform to time limits for its notices, public hearings, decisions, and filing thereof as required by said Chapter 40A. The Board shall establish within its rules and may, from time to time, change by vote and file with the Town Clerk reasonable application fees to cover the costs of notices and hearings.

### **6.3 Amendments**

This chapter or any part thereof may be amended or repealed at a Town Meeting duly called after an advertised public hearing is held on the proposed amendment by the Planning Board and it submits a report thereon or twenty (20) days elapse without such report being submitted.

### **6.4 When Effective.**

This chapter and any amendments thereto shall take effect as provided by law upon adoption by a Town Meeting, provided that it is subsequently approved by the Attorney General and published over ninety (90) days elapse without action by the Attorney General.

### **6.5 Severability.**

If any provision of this chapter or in the administration thereof is declared invalid or void by a court of competent jurisdiction, this shall not invalidate or void any other section or provision thereof.



## **SECTION 7**

### **Floodplain Overlay District**

#### **7.1 Statement of Purpose**

The purposes of the Floodplain District are to:

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

#### **7.2 Floodplain District Boundaries and Base Flood Elevation and Floodway Data**

##### **A. Floodplain District Boundaries and Base Flood Elevation and Floodway Data**

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Acushnet designated as Zone A and AE on the Bristol County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management of Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Bristol County FIRM that are wholly or partially within the Town of Acushnet are panel numbers 25005C0294F, 25005C0377F, 25005C0381F, 25005C0382F, 25005C0384F, 25005C0392F, 25005C0403F and 25005C0411F dated July 7, 2009; panel numbers 25005C0383G and 25005C0391G dated July 16, 2014; and panel number 25005C0293G dated July 16, 2015. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Bristol County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Building Official and Conservation Commission.

(05/12/2014 b 11 p 27 a 14)

(06/01/2015 b 11 p 87 a 9)

##### **B. Base Flood Elevation and Floodway Data**

1. Floodway Data. 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.

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

(5/18/2009 b 10 p 147 a 11)

## **SECTION 8**

### **Large-Scale Ground-Mounted Solar Photovoltaic Installations**

#### **8.1 Purpose and Intent**

The purpose of this by-law is to permit the creation of new commercial solar photovoltaic installations that are to produce 200 kW or greater by providing comprehensive standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations to promote and address public safety and minimize the impacts on scenic, natural and historic resources, and promote public health and welfare. This is done by minimizing impacts on and undue disturbance to neighboring landowners, including from noise, traffic, lighting, smoke, fumes, dust, odor, glare, stormwater runoff, or the unnecessary removal of trees and destruction of natural habitat. The by-law also ensures provisions of adequate financial assurance for the eventual decommissioning and removal of such large-scale solar photovoltaic installations.

#### **8.2 Applicability**

This section applies to all ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section and that have a minimum nameplate capacity of, 200kW or greater. This article applies to all Large-Scale Installations for which building permits for initial construction or modification are sought after October 17, 2022. This section also applies to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. The provisions set forth in this bylaw shall apply to the construction, operation, and/or repair of Large-Scale Installations and also pertains to physical modifications. Large-Scale Installations, including the oil that is directly used in, or created by, the operation of a Large-Scale Installation itself, shall not be exempt from any local, state, or federal regulations and ordinances.

Within all Zoning Districts, Large-Scale Installations shall not be permitted within 300 feet of a way (as defined in G.L. Ch. 90, Section 1), unless natural topographic features of the landscape prevent observation of the solar installation from any portion of the way. Side and rear setbacks shall be no less than 150 feet.

Nothing in this Article shall be construed to prevent the installation of Large-Scale solar photovoltaic installations that are either primary or accessory use permitted as-of-right, subject to such other requirements that may apply, including Site Plan Review.

### **8.3 Compliance with Laws, Ordinances and Regulations**

The construction and operation of all Large-Scale Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communication requirements. All buildings, fixings and structures forming part of a Large-Scale Installation shall be constructed in accordance with the State Building Code and local code. No such installation shall be constructed, installed or modified without first obtaining the necessary building permit(s) and stormwater permit(s).

### **8.4 Special Permit Approval**

The Planning Commission shall be the Special Permit Granting Authority for all Large-Scale Solar Installations as defined in this bylaw.

### **8.5 Pre-Submission Conference and Informal Meeting with the Planning Board**

Prior to submitting a Special Permit application, the applicant shall meet informally with the following Town staff members: Town Planner, Conservation Agent, Stormwater Agent, Building Commissioner, Board of Health Agent, Police Chief and Fire Chief or their representatives. Purpose of the meeting is to review the applicant's conceptual plan and provided preliminary comments to the applicant before incurring design expenses. Meetings can be requested through the Town Planner and Planning Department.

Following such meeting, the applicant shall meet with the Planning Commission at a regularly-scheduled public meeting to review the information the applicant shall submit and determine the required minimum Special Permit fee. At this meeting, the applicant shall also submit a list of requested waivers, if applicable. The Planning Commission shall advise the applicant in writing the amount of the Special Permit fee, application fee, and any exceptions in respect to the Special Permit within 20-days following the Planning Commission Meeting. Any technical services required to assist the Planning Commission in preparing their written response shall be included as part of the application fee.

### **8.6 Application Process**

Applicants for Large-Scale Solar Special Permit Approval shall file a digital and hard copy application for Site Plan Review Application, Special Permit Application, and Site Plan accompanied by 8 copies of the Site Plan and any supporting reports and documentation. Additionally, applicants shall submit the application fee and minimum Special Permit fee as required by the Planning Commission. The Town Planner shall review submitted materials to confirm the application is complete pursuant to the submission requirements listed in this section. The Town Planner shall complete the review for applications within fifteen (15) business days or the application shall be considered complete. Applications and Site Plans shall include the elements on which the Planning Board is to make findings and determinations as provided in this section and shall also include format as to the nature and extent of the proposed use structures and such further information as the Planning Board shall reasonably require by rule and regulation.

## **8.7 Referrals to Town Boards / Commissions**

The Planning Board within five (5) business days of receipt of the Site Plan Application, Special Permit Application, and Site Plan, transmit a copy of the application and site plan to each of the following Town committees, boards, commissions and departments for review and comment: Conservation Commission, Board of Health, Building Department, Department of Public Works, Fire Chief, Police Chief, and Board of Assessors. Other Town committees, boards, commissions and departments may be requested to review applications and site plans if the Planning Board feels such review will help in their deliberations.

The Conservation Commission and other agencies designated by the Planning Board shall consider the same and submit a final report thereon with recommendations to the Planning Board. The Conservation Commission shall review the application with particular references to Stormwater Regulations and the Wetlands Protection Act, and shall recommend to the advisability of granting the site plan and special permit approval and as to the restrictions and as to the restrictions which should be imposed upon the development as a condition of the Special Permit.

The Planning Board shall not make a finding and determination upon an application until it has received the final report from the Conservation Commission and/or other agencies designated by the Planning Board thereon, or until 30 days shall have elapsed since the transmittal of said copies of the application and site plan to the Conservation Commission and other agencies designated by the Planning Board without such report being submitted. Failure of a commission, committee, board or department to report within the allotted time shall be interpreted as non-opposition to the submitted Site Plan.

## **8.8 Site Plan and Application Details**

Any site plan shall be prepared by a licensed engineer, architect or landscape architect for general locations, topographical and boundary survey information. The site plan shall be signed and sealed by a licensed land surveyor, and all elements of design, which shall include drainage, pavements, curbing, walkways, embankments, horizontal and vertical geometrics, utilities and all pertinent structures.

The following information shall be submitted on one or more site maps and in writing where appropriate. Such plans shall contain the following information for an application to be considered complete:

### General Information

- I. Date of Site Plan. All revisions shall be noted and dated.
- II. Title of development, north arrow, scale, Assessor's Map and lot number, name and address of recorded owner
  - a) If applicant is not owner: name, address and certificate of agency if applicant is not owner. And name, address, and seal of person preparing site plan.
  - b) If owner of record is a corporation: the name and address of the president and secretary shall be submitted with the application.

- III. A scale of 1"= 20', 1"= 40', or 1"= 60', whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to nearest 10 seconds. The error of closure shall not exceed one (1) in 10,000.
- IV. Key map showing the location of the tract with reference to surrounding areas and existing street intersections.
- V. The names of all owners of record of all abutting properties and those within 300 feet of the property line.
- VI. Zone boundaries and Overlay Districts shall be shown on the site plan as they affect the parcel. Adjacent zone districts or Overlay Districts within 300 feet also shall be indicated. Such features shall be shown on a separate map or as a key map on the detail map itself.
- VII. Boundaries of the property lines and lines of streets, lot reservations, easements and areas dedicated to public use, including grants, restrictions and rights-of-way.
- VIII. All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with any other public street.
- IX. Existing contours with intervals of two (2) feet where slopes are more than three percent but less than 15%, and five (5) feet when 15% or more, referred to US Coast and Geodetic datum, are to be indicated by a dashed line. Where any changes in the contours are proposed, finished grades should be shown as solid lines.
- X. If any areas fall within the 100-year flood plain as delineated on the Flood Insurance Rate Maps for the Town of Acushnet, the area will be shown and base elevations shown.
- XI. The location of the consecutively numbered flags denoting wetland resources shall be shown on the plan.
- XII. Location of existing rock outcrops, general soil types (including limitations as noted in "Soils and their interpretations for Various Land Uses" as prepared by the U. S. Department of Agriculture), high points, vistas, watercourses, depressions, ponds, marshes, wetlands, flood plain designations as shown on the Flood Insurance Rate Maps for the Town of Acushnet, wooded areas and major trees (12" caliper or over) and other significant existing features including previous flood elevations of watercourses, pond and marsh areas as determined by survey.
- XIII. Location of existing buildings, which shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc. with spot elevations of such structures. Structures to be removed shall be indicated in dashed lines.
- XIV. All structures or significant changes in topography within 50 feet of the property lines.
- XV. All stone walls, farm and woods roads.
- XVI. All calculations necessary to determine conformance to by-law regulations.
- XVII. Acreage of tract to nearest 1/10 of an acre.
- XVIII. Place for signature of the Planning Board on all plans and/or documents to be approved by the Planning Board.

#### Buildings and Stationary Equipment

- I. The proposed uses of land, buildings and stationary equipment and proposed location of buildings and stationary equipment including proposed grading.
- II. Such features shall be shown on a separate drawing where deemed appropriate by the Building Inspector.
- III. The Gross Floor Area (GFA) of all buildings also shall be indicated.

- IV. Layout of proposed buildings or structures, including elevations plan and measurements as appropriate for easy interpretation. The type and color of materials to be used shall be indicated.
- V. The location, type and screening details for all waste disposal containers shall be shown.
- VI. A visual impact assessment, including analysis such as renderings, and visualizations.
- VII. A sight line representation of the proposed installation prepared by a Professional Engineer or Registered Landscape Architect. The representation shall include depictions, both in a site plan and elevations, of the most visible point of the installation to:
  - (i) any portion of a public way within 500 feet of the property;
  - (ii) any portion of a public way with a clear view of the installation; and
  - (iii) the closest façade of any residential building on a parcel located within 500 feet of the parcel on which the installation is proposed.
- VIII. Location of signs.
- IX. Height of panels and associated structures, including their relationship to the existing and proposed grades.
- X. A glare analysis that includes all proposed measures to minimize or mitigate the impact of glare on any land or way. Existing photographs and proposed renderings from at least four perspectives, including from the nearest residential structures and of the area(s) that are most publicly visible, as specified by the Planning Board, shall be included in the analysis. The analysis shall additionally include a technical explanation of how visualization was produced.
- XI. A preliminary noise analysis prepared by a professional acoustical engineer that includes the ambient noise level traveling across the site prior to any construction or site clearing activities and any projected changes to those noise levels resulting from the installation or site alterations. The analysis shall include, at a minimum, the ambient noise level at three different locations deemed satisfactory by the Planning Board, with simulations performed and measurements taken on weekdays between the hours of 7:00 AM and 6:00 PM, including one simulation performed/measurement taken during the morning peak traffic period, one simulation performed/measurement taken during the evening peak traffic period, and one simulation performed/measurement taken at any point during this time period.

#### Landscaping

- I. A landscape plan prepared by a certified Landscape Architect showing all existing natural features, trees, forest and water resources and proposed changes to these features including the size and type of plant material.
  - a) Water resources include any ponds, lakes, brooks, streams, wetlands, certified vernal pools, floodplains and drainage detention/retention areas.
- II. The type and extent of groundcover being proposed beneath the solar array.
- III. Landscape Maintenance Plan that details the process by which plants and materials are to be maintained and replaced, as necessary.
- IV. The site plan shall minimize the number of removed trees 12" caliper or greater.

- a) If trees 12” in caliper or greater are removed due to access or safety concerns, the applicant shall submit an additional landscaping plan to plant the same number of trees on site or at another location within Acushnet.

#### Utilities and Drainage

- I. Location of all existing storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and direction of flow, and if any existing utility lines are underground, the estimated location of any said underground utility lines shall be shown.
- II. The location of all proposed water lines, valves or hydrants and all sewer lines or alternative means of water supply of wastewater disposal and treatment in conformance with the applicable standards of the Town of Acushnet and for the appropriate utility.
- III. The location of the groundwater table in the vicinity of any proposed septic field, leaching catch basin, or drainage detention/retention area.
- IV. Plans to prevent the pollution of surface or groundwater, erosion of soil during and after construction; excessive runoff, excessive raising or lowering of the water table; and the flooding of other properties, as applicable.
- V. The proposed location, height, direction of illumination, bulb type, power and time of proposed outdoor lighting and methods to eliminate sky glare and glare onto adjoining properties must be shown.
- VI. The Planning Board may require analysis in comparison with a specified alternative where warranted by large or complex applications.
- VII. All utilities with the exception of lighting fixtures, transformers and telephone/cable pedestals shall be placed underground.

#### Vehicular and Emergency Access

- I. The site plan shall show provision of adequate vehicular access among the solar panels as well as around the perimeter of the array for the purposes of proper maintenance and repair as well as access for emergency vehicles subject to approval of the Acushnet Fire Department.
- II. The applicant shall provide information for adjacent roadways in the area of the proposed project to include accident data for the previous three (3) years, sight distances, roadway conditions, existing traffic volumes and site-generated traffic.

#### Open Space – Maintenance

- I. A copy of any covenants, deed restrictions or exceptions that are intended to cover all or any part of the tract.
- II. All proposed easements.
- III. The proposed screening, landscaping and planting plan, including details of types of planting.
- IV. A survey prepared by a licensed surveyor of the Commonwealth of Massachusetts shall accompany the site plan and shall show the boundaries of the parcel and the limits of all proposed streets, recreation and conservation areas and other property to be dedicated to public use.
- V. Adequate provision shall be provided for snow removal and positioning of snow mounds during snow removal as specified by the Highway Surveyor as approved by the Planning Board.

## 8.9 Use Regulations

Large-Scale Solar Photovoltaic Installations shall conform to the following requirements:

- I. A Large Scale Solar Photovoltaic Installation may be erected, upon the issuance of a special permit by the Planning Board and Stormwater Permit by the Conservation Commission, on a lot containing a minimum of three (3) acres.
- II. Large-Scale Solar Photovoltaic Installations shall be subject to the provisions of Article 3.5, Site Plan Approval.
- III. Minimum frontage shall be 300 feet, rear and side set backs shall be 150 feet, regardless of zoning district. The Planning Board may impose greater setback requirements as determined to be necessary based on project or site-specific factors, including solar array type or technology, topography, and tree cover to mitigate the installation's impacts, including those related to glare, on neighboring land uses.
- IV. A security fence or fences shall be installed around the installation and shall be maintained in good condition for as long as the installation continues to be located on the site, whether or not it is being operated. All security fences surrounding the installations shall be set back from the property line a distance that the Planning Board determines to be necessary to minimize visual and other impacts on neighboring land uses.
- V. Any permit authorizing a Large-Scale solar photovoltaic installation may set forth reasonable requirements to minimize or mitigate the visual impacts of the installation, including all accessory structures and appurtenances, as the Planning Board determines will protect the public health, safety, or welfare. At minimum, the following shall be required:
  - a) All accessory structures and appurtenances shall be architecturally compatible with each other.
  - b) Solar panels, supporting structures, and appurtenances shall be shielded from view year-round in all districts. Screening methods may include landscaping, natural features, earthen berms, fencing, or a combination thereof.
  - c) The design and materials used for the installation shall minimize and mitigate reflected solar radiation or glare, including through the placement and arrangement of solar panels, and use of anti-reflective materials or additional screening.
  - d) Visual impacts shall be minimized and mitigated.
  - e) Noise impacts shall be minimized and mitigated, including noise generated by the installation and noise from other sources that may be exacerbated, amplified, or otherwise altered by the installation or alterations to the site.
- VI. In applying the special permit standards set forth, the Planning Board shall specifically consider whether locating a commercial solar photovoltaic installation on a site that would require extensive tree cutting will be detrimental to the neighborhood or the Town because of the important water management, cooling, and climate benefits trees naturally possess. The clearing of natural vegetation, including trees, shall be limited to the minimum necessary for the construction and operation of the installation.
- VII. Installations shall be designed and constructed to protect and optimize the maintenance of wildlife corridors and trail networks. Where such corridors or trail networks may be impacted, an applicant shall prepare plans for alternative trail alignments and wildlife corridors that minimize or mitigate those impacts. Fencing shall be raised from the ground to allow passage of wildlife. This paragraph shall not be construed to require the



establishment of public access rights, provided, however, that any agreement by an applicant to establish such a right may be given weight by the Planning Board in making its special permit decision.

- VIII. In addition to other applicable requirements in this Article, installations proposed for siting and construction on land that is in agricultural use or a pervious open space location shall conform to the following standards:
- a) Removal of field soils shall be minimized.
  - b) Disturbances to existing leveled field areas shall be minimized.
  - c) Soil leveling, smoothing, and penetrations shall be done in a manner that minimizes the displacement of or disturbance to soil. Displaced soils shall be recovered and returned to the area of displacement, to the extent practicable.
  - d) Ballasts, screw-type, or post driven pilings and other acceptable minimal soil impact methods shall be required. Footings or other methods requiring permanent penetration of soils for mounting are prohibited unless the need for such a method is demonstrated to the satisfaction of the Planning Board.
  - e) Concrete or asphalt shall not be installed in the mounting area other than that required for ballasts or as required by the Massachusetts State Building Code.
  - f) The use of geotextile fabrics shall be minimized. Vegetative cover shall be maintained to the extent practicable to prevent soil erosion.
- IX. The commercial solar photovoltaic installation, including accessory structures and appurtenances and all access roads and driveways serving the installation, shall be maintained by the owner and operator in good condition for as long as the installation continues to be located on the site, whether or not it is being operated. Maintenance shall include, but not be limited to, painting, structural repairs, continued compliance with landscaping and screening requirements, and safeguarding the integrity of security measures.
- X. The installation shall conform to all other applicable federal and state laws and regulations and bylaws and regulations of the Town.

#### **8.10 Landscaping, Screening and Drainage**

- I. All landscaped areas and plants required by the Planning Board in connection with any permit issued or site plan review must be permanently maintained in a healthy growing condition in order to accomplish the purpose for which they were required.
- II. The owners, their agents and assigns are responsible for providing, protecting, and maintaining all landscaping material in a healthy and growing condition, replacing it when necessary, and keeping it free of refuse and debris.
- III. Dead or diseased plants must be replaced within 30 days of notification, or as soon as practical in regard to weather, or complex situations involving the removal and replacement of large trees.
- IV. Plant material must not interfere with public utilities, restrict pedestrian or vehicular access, or constitute a traffic hazard.
- V. All fencing, walls and other features used for screening purposes shall be kept in good repair and free of litter and debris.
- VI. All drainage systems must be kept in working order.
- VII. Maintenance Plan

A Maintenance Plan shall be submitted by the applicant for the continuing maintenance of all required plantings, fencing, walls and/or drainage system, including a schedule of specific maintenance activities to be conducted. A Maintenance Plan narrative shall also be included on the site plans in note form. Maintenance of the required landscaping, fencing and/or drainage shall be a continuing condition of any approval that may be granted. A cost estimate for required maintenance shall be presented as part of any application and a 5-year maintenance bond, in an amount and form approved by Town Counsel and the Planning Board shall be a condition of approval.

**VIII. Continuing Maintenance**

The applicant and its successors and assigns shall be responsible for the ongoing maintenance of the landscaping, screening and/or drainage required as a condition of approval and as outlined in the Maintenance Plan. If it becomes necessary, after notice as required above, for the Town to take action in removal and/or replacement of required landscaping, screening and/or drainage system, the property owner will be billed for all costs associated with the removal and/or replacement. Any unpaid amounts so billed shall constitute a lien on the property in question and will be collected as such.

**8.11 Endorsement of Site Plan**

After approval by the Planning Board and subject to the satisfaction of any conditions of approval, a mylar print of all approved site plan maps shall be submitted for signature and filing; all information thereon shall be in black India ink.

**8.12 Monitoring**

The applicant shall provide an annual energy output summary to the Planning Board to verify consistent use of the facility.

**8.13 Abandonment or Decommissioning**

- I. Any Large-Scale Installation which has reached the end of its useful life, or has been abandoned for 12 months, 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 Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
  - a) Physical removal of all Large-Scale Installations, structures, all electrical equipment, all appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, security barriers and overhead and underground electric lines from the site;
  - b) Disposal of all solid and hazardous waste in accordance with Town, State, and Federal waste disposal regulations;
  - c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Director of Inspectional Services may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

- IX. Abandonment. Absent written notice to the Planning Board of a proposed date of decommissioning or written notice of extenuating circumstances, the Large-Scale Installation shall be considered abandoned when it fails to operate for more than 12 months without the written consent of the Planning Board. If the owner or operator of the Large-Scale Installation fails to remove the installation in accordance with the requirements of this section within 60 days of abandonment or the proposed date of decommissioning, the Town may enter the property and physically remove the installation.
- X. Financial surety. Proponents of Large-Scale Installations shall provide a form of surety, either through cash or bond, 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 Planning Board, but in no event to exceed more than 125% of the cost of removal due to inflation. Such surety will 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. The amount shall include a mechanism for calculating increased removal costs due to inflation.

#### **8.14 Severability**

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

(10/17/2022 b 12 p 450 a 12)