

# TOWN OF ACUSHNET



## GENERAL BY-LAWS

ACCEPTED GENERAL LAWS  
AND  
SPECIAL ACT REFERENCES

JANUARY, 2018

# Town of Acushnet

## GENERAL BY-LAWS

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# ORIGINAL BY-LAWS

## Article I

### TOWN MEETING

**Section 1.** Notice of every town meeting shall be given by posting an attested copy of the warrant calling the same in place previously determined by the Selectmen, and within the town limits, not less than seven (7) days before the day appointed for said meeting; and the return of the officer, stating the manner of notice, shall be endorsed on the warrant.

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

**Special Town Meetings:**

Notice to be posted fifteen (15) days before the day appointed for said meeting; and the return of the officer, stating the manner of notice, shall be endorsed on the warrant.

(See Acts of 1976, C272)

**Section 2.** The annual election of officers shall be held on the first Monday of April in each year and the annual meeting for the transaction of business shall be held on the fourth (4th) Monday of April, opening and closing at such hours as may be determined by the Board of Selectmen.

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

(4/14/1975 b 6 p 56 a 6)

**Section 3.** The town at its annual meeting shall in every year when the term of office of any incumbent expires, and except when other provision is made by law, choose by official ballot from its registered voters a moderator. The term of every elected officer shall be three years, except members of the planning board who shall be elected for five years.

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

(3/10/1951 b 4 p 396 a 53)

(3/6/1965 b 5 p 258 a 4)

(See Housing Authority 3/22/1969 b 5 p 343- 344 a 23)

## Article II

### RULES FOR THE GOVERNMENT OF TOWN MEETINGS

**Section 1.** Voting lists shall be used in checking admissions to either regular or special town meetings, and none other than legal voters shall be admitted to said meetings unless by special permission of the Moderator.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 2.** There must be present at least (75) legal voters of the Town at any Town Meeting to constitute a quorum for the transaction of business.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)  
(3/11/1944 b 4 p 200 a 40)  
(3/12/1960 b 5 p 121 a 49)  
See 1971 Town Charter p 6 C 2 S 2 (2-2-2)  
\*(6/4/1979 b7 p79 a 16)

**Section 3.** The voting list shall be used and the name of every person voting shall be checked thereon, in the election of all town officers whose election is required to be by ballot. On demand of forty (40) legal voters such list shall be so used in voting on any motion or resolution properly before a meeting of the town. Every such list upon once being used shall be preserved by the town clerk and marked to designate the action of the town in which the same was so used.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 4.** The Moderator shall appoint two or more Tellers to aid him in checking the name of voters and in assorting and counting votes. He may also appoint any necessary number of Tellers to assist him in counting votes. Such Tellers shall be sworn to the faithful discharge of their duties by the Town Clerk, who shall make a record of the taking of such oath.

**Section 5.** The Moderator may also name a citizen, who is a legal voter, to perform the duties of the chair for a period not exceeding two hours at a time.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 6.** When a question is under debate no motion shall be entertained except to adjourn the meeting; to lie on the table; to commit or amend; to refer or postpone; to a day certain, or to postpone indefinitely; which several motions shall have precedence in the order in which they are herein named.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 7.** All motions shall be reduced into writing when required by the Moderator.  
(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 8.** No vote shall be reconsidered at the same meeting at which it is passed, unless notice of such reconsideration shall have been given prior to the adjournment of that same meeting.  
(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 9.** The Moderator shall enforce order, and all questions relating to the enforcement of order shall be decided by the Moderator without debate, subject to an appeal to the meeting without debate.  
(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 10.** The proceedings of all meetings shall be governed by the rules of practice contained in Town Meeting Time, a handbook of parliamentary law by Johnson, Trustman and Wadsworth, except as modified by these by-laws.  
(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)  
(3/7/1964 b 5 p 226 a 22)

**Section 11.** The warrant for an annual or special town meeting may specify that the meeting is to be held in a suitable auditorium or other facility in any of the contiguous city or towns. Town meeting may also vote to adjourn to such a facility if it deems appropriate.  
(4/28/97 b 8 p 255 a 9)

**Section 12.** On matters requiring a two thirds vote by statue a count need not be taken unless the vote so declared is immediately questioned by seven or more voters as provided in General Laws, Chapter 39, Section 15.  
(4/28/97 b 8 p 255 a 10)

## Article III

### FINANCIAL AFFAIRS

**Section 1.** Fiscal Year (5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)  
(See G.L., Acts of 1969 c 849, as amended)

**Section 2.** Not approved (5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

**Section 3.** No money except state and county taxes, town debt, and interest thereon shall be paid from the town treasury, without an order therefor signed by a majority of the Selectmen.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 4.** The Town Treasurer shall safely keep all moneys belonging to the town, separate and apart from all other moneys, and he shall deposit the same in the name of the town from time to time for safe keeping, and may withdraw the same by check or order as occasion may require.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 5.** All notes authorized by a vote of the town shall be countersigned by a majority of the Selectmen.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 6.** Collection of Taxes

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)  
(3/12/1949 b4 p345 MGL 41 S38A)

**Section 7.** Poll-Tax Law

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)  
Repealed (1963 c 160 S 12)

**Section 9.** It shall be the duty of the Town Clerk to notify in writing all members of committees that may be elected or appointed at any town meeting, stating the business upon which they are to act, and the names of their associates.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 10.** Not approved

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 11.** The report of the Town Clerk shall show the number of births, marriages, and deaths during the year.

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

**Section 12.** It shall be the duty of the Town Clerk immediately after every town meeting to furnish the Selectmen and Assessors a statement of all moneys appropriated by the town at such meeting, and of the purpose for which such moneys were appropriated respectively.

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

**Section 13.** The compensation of all officers and committees elected or appointed by the town, when the same is not fixed by law, shall be determined by vote in open town meeting.

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

**Section 14.** All bills against the town shall before the Selectmen give an order on the Treasurer for their payment, be clearly itemized, and excepting the bills for the salaries of Town officers, be approved by the officer on whose order the bill was contracted.

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

**Section 15.** The Selectmen shall annually appoint a Town Counsel who shall have the power to prosecute all suits authorized by the town; to defend all suits against the town; and may employ counsel therefor, subject to approval of the Selectmen. He may institute any suit involving not more than One Thousand Five Hundred dollars (\$1,500.00.) which he may think the interests of the town require, without instructions from the town. All suits involving more than \$1,500.00. shall not be brought by the Town Counsel except by vote of the Town. No town officer shall be surety on bond of any other town officer.

(9/15/51 b 4 p403 a 2)

(4/26/76 b 6 p 76 a 21)

**Section 16.** Repealed

(5/7/1902 b 2 p 333-334)

(9/2/1926 b 3 p 192 a 4)

(9/15/1951 b 4 p 403 a 1)

**Section 17.** There shall be an annual audit of the town's accounts under the supervision of the Director of Accounts of the Department of Corporations and Taxation in accordance with the provisions of C44 S35 of G.L.

(3/11/1944 b 4 p 200 a 36)

**Section 18.** All employees, officers, and agents of the Town, whether elected or otherwise, who are required and authorized to use their personal vehicle on Town business, shall be reimbursed at the IRS standard mileage rate for the required use, or to take any other action relative thereto.

(11/18/1998 b 9 p 57 a 2)

(4/24/2006 b 10 p 380 a 8)

**Section 19.** Annual fees for a license for an automatic amusement device, or any renewal thereof, pursuant to G.L. Chapter 140, Section 177A, shall be Forty Dollars (\$40.00) per device.

(2/07/2000 b 9 p 102 a 13)

**Section 20.** The fee set in the Town of Acushnet for the sealing and inspection of the following weighing and measuring devices or systems shall be as follows:

- (a) Each scale with a weighing capacity of more than ten thousand pounds Seventy-Five dollars (\$75.00).
- (b) Each scale with a weighing capacity of five thousand to ten thousand pounds, Forty dollars (\$40.00).
- (c) Each scale with a weighing capacity of one thousand to five thousand pounds, Thirty dollars (\$30.00).
- (d) Each scale with a weighing capacity of one hundred to one thousand pounds, Twenty-five dollars (\$25.00).
- (e) Scales and balances with a weighing capacity of more than ten pounds and less than one hundred pounds, Ten dollars (\$10.00).
- (f) Scales and balances with a weighing capacity of ten pounds or less, Ten dollars (\$10.00).
- (g) Each liquid capacity measure, except vehicle tanks, of the capacity of more than one gallon measures on pumps, Two dollars (\$2.00).
- (h) Each liquid measuring meter, except water meters, the diameter of the inlet pipe of which is one half inch or less, Eight dollars (\$8.00), more than one half inch but not more than one inch, Fifteen dollars (\$15.00); for each such type of liquid measuring meter, the diameter of the inlet pipe of which is more than one inch, the following shall apply, vehicle-tank pump Thirty dollars (\$30.00), vehicle-tank gravity Forty-five dollars (\$45.00), bulk storage Fifty dollars (\$50.00), bulk storage user furnishes certified prover Thirty dollars (\$30.00).
- (i) Each taximeter or measuring device used upon vehicles to determine the cost of transportation, Twenty dollars (\$20.00).
- (j) Each machine or other mechanical device used for determining linear or area measurement, Eight dollars (\$8.00).
- (k) Milk bottle or jars, Sixteen dollars (\$16.00) per gross.
- (l) Vehicle tanks used in the sale of commodities by liquid measures shall be charged for each hundred gallons or fraction thereof, Four dollars (\$4.00). An additional fee of Eight dollars (\$8.00) per sealed indicator shall be received.



- (m) All weights and other measures, One dollar (\$1.00) each.
- (n) Each automated electronic retail checkout system with fewer than four cash registers or computer terminals, not more than Seventy-five dollars (\$75.00).
- (o) Each automated electronic retail checkout system with no less than four and no more than 11 cash registers or computer terminals, not more than One hundred fifty dollars (\$150.00).
- (p) Each automated electronic retail checkout system with greater than 11 cash registers or computer terminals, not more than Two hundred fifty dollars (\$250.00).

They shall also receive a minimum fee of Ten dollars (\$10.00) for the use of special facilities, necessary repairs, alterations and adjustments made by them.

(10/15/2001 b 9 p 182-183)

## Article IV

### STREETS

**Section 1.** No building shall be transported over a public street without a written permit from the Selectmen.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 2.** Before such permit is granted the applicant therefore shall give to the Selectmen a bond running to the Town, in such sum as said Selectmen may require to hold the Town harmless against all damages, costs, and expenses which it may be compelled to pay in consequence of the moving of such building or of the acts of negligence of any parties connected therewith.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 3.** No person shall place, or cause to be placed in any one of the public streets, without a written permit from the Board of Selectmen any dirt, rubbish, wood, timber or other material of any kind under penalty of not less than one nor more than twenty dollars (\$20.).

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 3.1.** “No person shall pump, siphon or otherwise discharge any water or other substance under his control into or across any public street or sidewalk without having first notified the Department of Public Works of such proposed pumping, siphoning or other discharge and having received from the Department of Public Works a written permit authorizing same.”

(2/15/95 b 8 p 170 a 14)

**Section 4.** No person shall set up any fence, post, tree, edge-stone, pavements, or lamp posts in any street or public place in the town without a written permit from the Board of Selectmen, under a penalty for each offense of not less than one nor more than twenty dollars (\$20.).

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 5.** No person shall injure or deface any building, fence, sign, or other property not his own bordering on highway by cutting, barking, daubing or writing upon the same, making any nuisance in the highway, or on the sidewalk, under penalty of each offense of not less than one nor more than twenty dollars (\$20.).

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 6.** No person shall leave any wagon, cart, dumpsters, or other vehicle, or coal, wood, or other article in any street way, sidewalk or public square and suffer the same to remain overnight without maintaining a sufficient light over or near the same throughout the night to prevent injury to travelers.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 7.** No person shall pasture any cattle, or other animals without a keeper upon any street, or way in this town. No person shall permit any horse, cattle, swine or sheep under his or her care to go upon any sidewalk in the town, except for the purpose of reaching the adjoining premises, or otherwise occupy, obstruct, injure or encroach upon the same, but he may use a horse in removing snow or ice from said sidewalk, or in repairing the same.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 8.** Repealed

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 10.** No person shall in any manner affix any bill, placard or poster, nor paint, draw or write any words, figures or devices, upon any property in the town not his own, bordering on the highway, nor upon any town property, without first obtaining the consent of the Selectmen.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 11.** No person shall bathe in any of the waters of this town in a state of nudity, in places exposed to public view, or in immediate sight of the occupants of any dwelling house.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

**Section 12.** Except as otherwise provided by law, no person shall have more than one non-registered or abandoned car or truck on his property or premises, or property of premises under his control, and no one shall abandon a non-registered or registered automobile or truck on the property or premises under the control of another; and whoever is found to be guilty of said violation by appropriate Court be subject to bearing all costs expended in relation to this matter. Antique automobiles are excepted.

(3/12/1966 b 5 p 274 a 29)  
(4/26/76 b 6 p 76 a 22)  
(10/15/2007 b 10 p 65 a19)

**Section 13.** No alcoholic beverages shall be consumed on the streets or sidewalks of Acushnet by anyone walking, sitting or in a motor vehicle. Violation of this by-law is an arrestable offense.

(4/14/1975 b 6 p 56 a 5)

**Section 13A.** No alcoholic beverages shall be consumed by anyone on Town Property such as parks, school grounds, including Town Buildings, except by license or permission from those in authority.

(10/25/1976 b 6, p 83 a 7)

## Section 14. HANDICAPPED PARKING

- A. Any person or body that has lawful control of a public or private way or of improved or enclosed property used as off-street parking areas for businesses, shopping malls, theaters, auditoriums, sporting or recreational facilities, cultural centers, residential dwellings, or for any other place where the public has a right of access as invites or licensees, to reserve parking or handicapped person whose vehicle bears the distinguishing license plate authorized by said section two of said chapter ninety or for any vehicle transporting a handicapped person and displaying the special identification plate authorized by section two of chapter ninety or for any vehicle bearing the official identification of a handicapped person issued by any other state, or any Canadian Province, according to the following formula:

If the number of parking spaces in any such area is more than fifteen but not more than twenty-five, one parking space; more than twenty-five but not more than forty, five per cent of such spaces but not less than two; more than forty but not more than one hundred, four per cent of such spaces but not less than three; more than one hundred but not more than two hundred, three per cent of such spaces but not less than four; more than two hundred but not more than five hundred, two per cent of such spaces but not less than six; more than five hundred but not more than one thousand, one and one-half per cent of such spaces but not less than ten; more than one thousand but not more than two thousand, one percent of such spaces but not less than fifteen; more than two thousand but less than five thousand, three-fourths of one per cent of such spaces but not less than twenty; and more than five thousand, one-half of one per cent of such spaces but not less than thirty.

- B. Parking spaces designated as reserved under the provisions of paragraph (a) shall be identified by the use of above grade signs with white lettering against a blue background and shall bear the words "Handicapped Parking: Special Plate Required. Unauthorized Vehicles May be Removed at Owner's Expense"; shall be as near as possible to a building entrance or walkway; shall be adjacent to curb ramps or other unobstructed methods permitting sidewalk access to a person with a disability; and shall be twelve feet wide or two eight-foot wide areas with four feet of cross hatch between them. The cross hatch area abutting a handicapped parking space shall, for the purposes of this section, be considered a handicapped parking space.
- C. The leaving of unauthorized vehicles within parking spaces, including the cross hatch areas, designated for use by disabled veterans or handicapped persons as authorized by paragraphs A and B or in such manner as to obstruct a curb ramp designate for use by handicapped persons as a means of agrees to a street or public way shall be prohibited.
- D. The penalty for a violation of this by-law shall be \$100.00 and the vehicle may be removed according to the provisions of Section 120D of Chapter 266 of the General Laws.

(6/21/07 b 10 p a11)  
(5/21/2007 b 10 p 12 a11)

## **Article V**

### **TRUANT LAWS**

(See G.L. C 77 S3, S4) (See vote of 4/3/1882 b 1 p 502 a 13, relative to Acts and Resolves of 1873) (See approval of Judge Fuller <sup>3</sup>/<sub>4</sub>/1895 b 2 p 226 a 18)

## Article VI

### SOIL CONSERVATION FOR THE TOWN OF ACUSHNET

#### Section 1

The Town By-Laws shall be amended to establish a Soil Conservation Board in the Town of Acushnet for the purpose of exercising the powers and duties hereunder.

A. The members of the Board shall consist of one member of the Board of Selectmen, or a designee appointed by the Board of Selectmen, one member of the Planning Board, Board of Health, Conservation Commission and the Highway Superintendent, or a designee from the Highway Department, or a designee from any one of these Boards. Each of the Boards having a representative on the Soil Conservation Board shall select its representative by a majority vote of the Board so represented at any meeting at which a quorum is present.

B. In the event that a vacancy shall occur on the Board, the Board from which such representative comes, shall select a representative to fill such vacancy by a majority vote of the Board at any meeting at which a quorum is present in the same manner as which the original representative was selected.

#### C. Organization

1. A quorum for the conduct of any and all business shall be three (3) members.
2. The affirmative vote of at least three (3) members shall be required for the recommendation to grant, modify, revoke or remove any permit authorized hereunder.
3. The members shall elect a chairman and vice-chairman, the latter to serve in the absence of the chairman.
4. The Board may appoint a secretary, who need not be a member of the Board. The secretary shall keep a true record of the proceedings of the Board, which shall be a public record.
5. The Board shall file a copy of all its official actions with the Town of Acushnet Clerk and Board of Selectmen as required by law.
6. The Board may appoint an inspector who need not be a member of the Board. The inspector shall keep a record of all duties performed and inspections made.

## **Section 2**

### **Definitions**

- A. For the purpose of this by-law, “earth” shall include soil, loam, sand, gravel, clay, rock, or other allied products.
- B. For the purpose of this by-law, the “inspector” shall be the inspector or inspectors appointed by the Soil Conservation Board to carry out these duties.
- C. For the purpose of this by-law, “Board” shall mean the Soil Conservation Board.
- D. For the purpose of this by-law, “petitioner” shall be the person or persons making application to remove earth from a property in the Town.
- E. For the purpose of this by-law, “parcel” or “parcel of land” shall mean a lot showing on the then current Assessors’ Plat Plans.

## **Section 3**

### **Earth Removal Procedure**

- A. No earth shall be removed from any parcel of land within the Town except as hereafter provided, and only in accordance with a written permit issued by the Board of Selectmen. The Board of Selectmen may grant a permit for such removal and for temporary structure accessory thereto, in accordance with the procedure hereafter set forth for special permits. No permit for removal shall be granted unless the Board of Selectmen finds that such removal (subject to the conditions imposed by the permit) will not be contrary to the best interests of the Town, and no removal operations subsequently conducted under such permit shall continue if contrary to such interests. For this purpose, removal of earth material shall be considered contrary to the best interest of the Town which (1) will be injurious or dangerous to the public health or safety, (2) will produce noise, dust, or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of adjacent property, (3) will result in transportation of materials on ways giving access to the land in question which will cause traffic congestion or hazards, (4) will result in transportation which will cause undue injury to the roadway surfaces, (5) will result in change in topography and cover which will be disadvantageous to the most appropriate use of land on which the operation is conducted, or (6) will have a material adverse effect on the health or safety of persons living in the neighborhood, or on the use of amenities of adjacent land.
- B. Any person wishing to remove such material from a property in the Town shall file a formal application with the Board, which application shall include the following specific information and supporting documentation:

1. The location of the proposed excavation, including Assessors' Plat and Lot numbers
2. The legal name and address of the owner of the property involved.
3. The legal name and address of the petitioner, which address shall be used by the Board for all correspondence hereunder.
4. Names and addresses of all abutting property owners, including those across any streets.
5. The proposed method of performance security to be used or a performance bond of \$2,000.00 per acre of excavation will be required to secure a permit.
6. A plan and representative profiles of the area covering the permit prepared by a Registered Professional Engineer, from which final grades may be established.
7. Copies of the information outlined in the above articles shall be filed with the Town Clerk.
8. In approving the issuance of a permit, the Board shall impose reasonable conditions, especially designed to safeguard the neighborhood and the town, as follows:
  - a. The finished leveling and grading shall be indicated on approved plans indicated and submitted to the Board.
  - b. The placing of topsoil and planting of grass necessary to control erosion.
  - c. The duration of the removal operation.
  - d. The construction of necessary fencing and other protections against nuisances. Boulders may be used for this purpose; boulders not used for this purpose must be disposed of as required by subparagraph (i) hereunder.
  - e. Method of removal.
  - f. Hours of operation.
  - g. Routes of travel or transportation of material.



- h. Control of temporary or permanent drainage.
  - i. Disposition of boulders and tree stumps. Boulders may be buried below grade. Stumps may not be buried below the normal grade.
  - j. Set and maintain permanent monuments at each property corner.
  - k. At the conclusion of every day's operation, the vertical bank shall be caved in to a slope to protect public safety.
- C. No permit for the removal of earth shall be issued by the Board of Selectmen, except as provided in Section 4 below, until a public hearing has been held by the Board, notice of which shall have been given by them at least fourteen days in advance, in a paper of general circulation, published not less than weekly, in the Town of Acushnet, the posting of copies thereon on municipal bulletin boards and the mailing of copies thereof to the abutting property owners, including those across any streets and a recommendation has been received in writing from said Board.
- D. Any permit issued hereunder shall automatically expire upon the completion of the earth removal project for which it was issued or at the expiration of one year from the date of issue, or upon revocation for cause by the Board of Selectmen, whichever shall first occur.
- E. Approval of the renewal of a permit for a period not in excess of one year may be made by the Board of Selectmen without hearing if the Board of Selectmen, after a report from the inspector, finds that all conditions of this By-law and permit then applicable have been complied with and that the work has been carried on continuously and in good faith.
- F. The removal of earth pursuant to any permit granted hereunder shall be deemed a permitted use under Section 4 of the Zoning By-law.

#### **Section 4**

##### **Exceptions**

- A. No permit shall be required for the following purposes:
- 1. Moving of earth on an individual parcel.
  - 2. As part of a cemetery operation.

3. When such earth is not necessary in connection with the construction of a building being built in accord with a permit issued by the Building Inspector. The amount to be removed to be limited to the volume of earth necessary to construct the structure authorized by the permit.
  4. When such earth is not needed in connection with the construction of a private road.
- B. The Board of Selectmen, without a public hearing, may approve permits without requiring compliance with conditions set forth in Section 3, B1 – B8, for the removal from the site of earth for the following purposes:
1. Where necessary as part of farm, garden or nursery activities.
  2. When incidental to landscaping or similar activities for which building or zoning permits are not required.
- C. Earth removal activities in lawful operation on any parcel of land at the time this By-law is adopted may continue unless and until abandoned for more than twelve (12) consecutive months.

## **Section 5**

### **Specific Limitations**

- A. No permit for the removal of earth shall be approved by the Board of Selectmen except upon the condition that a cover of topsoil of not less than 4 inches in depth shall be replaced or allowed to remain, except that it shall be no greater than the depth of the topsoil, if any, shown on submitted plans, and except where, due to construction of roads, buildings or other permanent physical features, such provision is impractical.

## **Section 6**

### **General Limitations**

- A. No permit for the removal of earth shall be approved by the Board of Selectmen if the work extends within two hundred (200) feet of a public road unless the Board of Selectmen is satisfied that such removal will not undermine the way.
- B. No permit shall be issued for the removal of earth within one hundred (100) feet of a dwelling foundation or existing leaching field unless the Board is satisfied that such removal will not interfere with the dwelling or septic system.

- C. No permit shall be issued for the removal of earth within twenty (20) feet plus a sufficient distance to provide a 2 horizontal to 1 vertical foot slope from an abutting owner, unless the Board of Selectmen finds after a report from the inspector that a closer distance would not be detrimental to the site or if a closer dimension is not objectionable to the abutting property owner. In the case of two abutting gravel operations, if it is agreeable to both parties, there shall be no lot line restrictions.
- D. The required bond or the method of performance security will be used to enforce performance of conditions imposed by this By-law or under this section.

## **Section 7**

### **Fees**

- A. The Board of Selectmen shall establish such fees as it shall find necessary for the administration of this By-law, including for the issuance of the original permit, renewal permits, semi-annual inspections and special inspections.
- B. Any fees received hereunder shall be transmitted to the Town Treasurer.
- C. The Town Treasurer shall pay all charges or bills, properly authorized by the Board charged with the administration of this By-law.

## **Section 8**

### **General Administration**

- A. The Board or inspector may enter upon the premises involved from time to time to inspect and ensure proper conduct of the work. (These words must be incorporated in permit and appear thereon.)
  - 1. The inspector shall be required to notify the owner or petitioner before making any inspections.
- B. The Board or inspector may retain a civil engineer to inspect the site and to do such engineering as is necessary to determine conformity with plans and conditions of the permit and such necessary costs for engineering shall be borne by the Town.
- C. Prior to the anniversary date of the permit, each petitioner shall specify the number of cubic yards of material to be taken out of his pit the following year. At the end of the year, he shall file a statement of how many cubic yards have been taken during that preceding year. Annual removal shall not exceed the amount stated at the beginning of the year unless the Board of Selectmen, on the advice of their inspector, determine there will be no adverse effect to the Town.

- D. A permit shall be issued only after full payment of all annual fees and charges.

## **Section 9**

### **Violations**

- A. The inspector, if he concludes that there has been a violation of this By-law, shall send to the permit holder, by certified mail, return receipt requested, to the address stated on the initial application, or any other manner provided for by law, a notice ordering a cessation of the improper activities.
- B. If a permit holder or other offender persists in such violation, the inspector shall seek the imposition of the penalties authorized by paragraph 17, of Section 21 of Chapter 40, G.L., through appropriate legal action; and the penalty for removing earth in violation of this By-law shall be a fine of not more than fifty (50) dollars for the first offense after such warning; not more than one hundred (100) dollars for the second offense; and not more than two hundred (200) dollars for any subsequent offense. Each day or part thereof shall constitute a separate offense.
- C. If the offender persists with the violation, a permit issued under the By-law may be revoked, by the Board of Selectmen, after notice and hearing.

## **Section 10**

Any permit issued by the Board of Selectmen shall be accompanied by a copy of the following:

Bond must be filed in amount indicated on list of stipulations attached to permit.

Any soil or loam shall, in connection with removing sand and gravel under this permit, be stockpiled on the premises.

As soon as practicable, and in accordance with good conservation practices, all stripped areas shall be graded and covered with top soil and loam and graded in a proper soil conserving manner.

As soon as practicable, and in accordance with good conservation practices, as soon, as the loam is restored, it shall be planted with a suitable cover crop to prevent erosion of the surface.

The operations to be conducted under this permit are to be carried on in such a way as not to interfere with the natural flow of any stream, intermittent or otherwise running through the premises.

No gravel shall be removed within four feet of spring high water table. This elevation shall be established from a test pit and the level related to a permanent monument on the property. This information shall show on the topographic plan.

Boulders that are dug up during this operation must be taken from the land or buried as per Article III (B) (I).

No mounds of loam, gravel, stones, brush, sand, etc. are to be left at the completion of this operation, or upon the termination of this permit.

At the completion of the operation, or upon the termination of this permit, any uncovered portions of the pit shall be sloped and regarded as provided in the paragraphs above.

All work shall be performed in the following manner:

After the operation has proceeded 600 feet, the operator shall slope, grade, and reseed the initial 300 feet before or during the period when he begins work on the following 300 feet. Thereafter, he shall proceed to advance his operations at integral distances of 300 feet while he simultaneously grades, slopes, loams and reseeds the previous integral distance of 300 feet.

The conveyance of the property covered by this license by the licensees, or either of them, shall result in the termination of the right to remove any further sand and gravel under this permit and the premises shall be restored as above provided. This termination shall not be effective if prior to such conveyance as bond conditioned upon the full performance of all the terms and conditions of this license and with sureties satisfactory to the Soil Conservation Board of Acushnet shall be filed with such Board.

## **Section 11**

### **Validity**

The validity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

This By-Law accepted at Town Meeting

On this date: 9/11/89

Voted: 79 Yes  
2 No

## Article VII

### TOWN OF ACUSHNET LAWS RELATING TO DOGS

**Section 1** All dogs owned or kept within the boundaries of the Town of Acushnet shall be restrained from running at large beyond the boundaries of the property owned or under the control of their keeper at all times during the day or night, except that when any such dog is permitted beyond said boundaries it shall be restrained by leash or other similar restraint. Penalties for the violation of any provision of this by-law shall be assessed and collected in accordance with the provisions established under Massachusetts General Laws Chapter 140 Section 173A, Three (3) or more instances in a twelve (12) month period will be subject to a hearing before the Board of Selectmen. (Non-criminal Disposition of Complaint for Violation of Dog Control Laws).

**1A** A person who at the commencement of a license period (the time between January 1<sup>st</sup> and December 31<sup>st</sup> of any year, both dates inclusive) becomes the owner or keeper within the Town of Acushnet of a dog six months or over which is not duly licensed shall cause it to be registered, numbered, described and licensed before March 31<sup>st</sup> of each year.

Failure to license your dog(s) by March 31<sup>st</sup> of each year, or failure to license your dog(s) obtained after March 31<sup>s</sup>, within three months of ~~purchasing~~ or taking possession of such dog(s), shall result in a late fee assessed by the Town Clerk and shall be subject to penalties under Massachusetts General Laws Chapter 140, Section 137 and 137A (Licenses, Kennel Licenses) and Section 141, keeping unlicensed dogs.

Failure to vaccinate your animals against rabies shall be subject to penalties as applied under, Massachusetts General Laws Chapter 140, Section 145B penalty for non-vaccination of rabies.

**Section 2** Section 2 and preceding Section 1 are enacted pursuant to the authority of Massachusetts General Laws, Chapter 140, Sections 173 and 173A. Penalties for the violation of Section 1 hereof shall be assessed and collected in accordance with the procedure established under said Section 173A (Non-Criminal Deposition of Complaints for Violation of Municipal Dog Control Laws) as assigned by the Board of Selectmen.

**Section 3A** The owner or keeper of any dog found at either the Town Beach or any other recreational areas in town during beach hours or during times that town recreational areas or parks are open or on the property of any public school property during school hours may be subject to a noncriminal citation.

**B** The owner or keeper or any dog who has been ordered restrained by either the Board of Selectmen, the Animal Control Officer or the Police Department and who fails to obey such order may be fined punished as prescribed by Chapter 140, Section 167 and 168 which are herein incorporated and made a part of this by-law.

- C** The owner or keeper of any dog who is left unattended for a period of 24 hours or longer may be subject to a noncriminal citation.
- D** The owner or keeper of any dog determined to be a nuisance by either the Animal Control Officer or the Police Department may be subject to a noncriminal citation.
- E** Repealed
- F** Any person who takes in or otherwise shelters a stray dog without notifying the Animal Control Officer, the Police Department or the Board of Selectmen may be subject to a noncriminal violation.

**Section 4A** The owner or keeper of any dog who has violated (Section 1) the restraining bylaw of the Town of Acushnet, or State Dog Law, shall be charged a daily boarding fee

- B** The owner or keeper of any dog who has violated the restraining By-Law Bylaw of the Town of Acushnet, or State Dog Law, may claim their dog by contacting the Animal Control Officer to make arrangements to pick up their dog(s) at the Animal Shelter.
- C.** Any dog that is impounded shall be so impounded for a period of (7) days, during which time an owner or keeper shall be entitled to lay claim to ownership of the dog, provided, that this period may be extended at the discretion of the Animal Control Officer. Immediately upon impounding any dog, the Animal Control Officer shall make every reasonable effort to notify the owner of the dog of his or her impoundment.

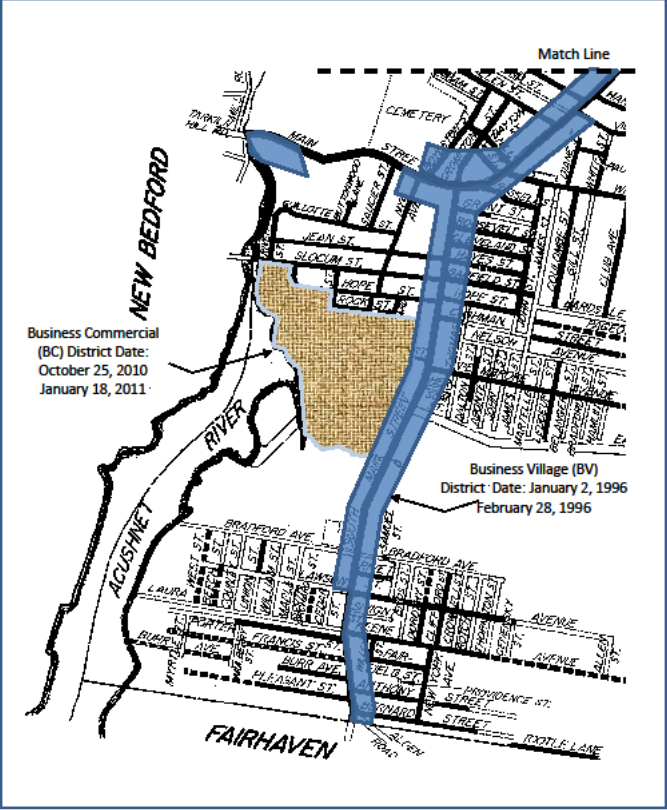
**Section 5A** The owner or keeper of any dog or other animal, whether licensed or not, which continually howls, yelps, barks, or through other noise disturbs or annoys any person or number of persons, or is a source of annoyance to any person residing in the vicinity is unlawful and is hereby declared to be a public nuisance. Shall be subject to penalties under Massachusetts General Law, c 140 s 157.

- B.** It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any feces left by such person's dog, on public property and any private property not owned or possessed by such person. This section shall not apply to a ~~guide~~ dog accompanying any handicapped person who, by reason or his/her handicap is physically unable to comply with the requirements of this section. Any person who fails to obey such order shall be subject to a non-criminal citation.
- C** Any dog which is on the sidewalk, street, or any other area to which the public has right of access, must be under leash as prescribed by Chapter 140, Sections 173 and 173A of the General Laws of Massachusetts which is incorporated into this By-law.

**Section 6 Fees**

Licenses and Fees for all services, licenses, boarding, and permits shall be established by regulation as periodically amended by the Board of Selectmen.

(06/05/2017 a29 b11 p226)





# ARTICLE VIII ZONING

Accepted by Town Meeting April 22, 1996  
(Revised June 1, 2015)  
(Revised May 10, 2016)  
(Revised October 26, 2018)  
(Revised February 18, 2020)

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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 (½) 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 (½) 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 **TBD** 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 **TBD** 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)

### **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 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.
- (f) 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.
- (g) Provisions must be made to insure 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.

- (h) 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.
- (i) 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.



- (j) 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.
- (k) 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.
- (l) 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**

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 one hundred and fifty feet of any principal structure served thereby.

(05/13/2019 b 11 p **TBD** a 25)

- 9) All principal structures shall be serviced by a driveway that is located within one hundred and fifty (150) feet of that structure which meets the construction standards herein specified.

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

(05/13/2019 b 11 p **TBD** a 25)

### **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

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

17) Large-scale ground-mounted solar photovoltaic installations. The special permit granting authority for this use shall be the Planning Board

(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 **TBD** 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 **TBD** 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 **TBD** 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:
  - (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) 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.
  - (e) 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 **TBD** 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  
(06/01/2015 b 11 p 82 a 13)
- 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

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) Minimum lot width: One Hundred (100) feet within the required lot depth

requirement of 3.3.4E (7)

- 7) Minimum lot depth: Eighty (80) feet
  - 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 **TBD** 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.

## **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.

### 3.4 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. In addition, the following special requirements shall apply:

**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 **TBD** 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 **TBD** 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 **TBD** 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 luminaries 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:

Floor Area of Building or Structure (square feet)	Retail Trade, Wholesale Trade, Storage, Manufacturing	Consumer Service Offices, Hotels, Institutions, Dormitories, Other Nonresidential Uses
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)

**ARTICLE IX**  
**STORMWATER MANAGEMENT BYLAW**  
**TOWN OF ACUSHNET**

**Preamble:**

It is hereby determined that:

Land development projects and other land use conversions, and their associated changes to land cover, permanently alter the hydrologic response of local watersheds and increase stormwater runoff rates and volumes, which in turn increase flooding, stream channel erosion, and sediment transport and deposition and decreases groundwater recharge

Land development projects and other land use conversions also contribute to increased nonpoint source pollution and degradation of receiving waters;

The impacts of post-development stormwater runoff quantity and quality can adversely affect public safety, public and private property, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters;

These adverse impacts can be controlled and minimized through the regulation of stormwater runoff quantity and quality from new development and redevelopment, by the use of both structural and nonstructural measures;

Localities in the Commonwealth of Massachusetts are required to comply with a number of both State and Federal laws, regulations and permits which require a locality to address the impacts of post-development stormwater runoff quality and nonpoint source pollution;

Therefore, the Town of Acushnet has established this bylaw to provide reasonable guidance for the regulation of post-development stormwater runoff and for the purpose of protecting local water resources from degradation.

**1.0 PURPOSE**

- A) The purpose of this Bylaw is to protect, maintain and enhance the public health, safety, environment and general welfare by establishing minimum requirements and procedures to control the adverse effects of increased post-development stormwater runoff and nonpoint source pollution associated with new development and redevelopment. Proper management of post-development stormwater runoff will minimize damage to public and private property and infrastructure, safeguard the public health, safety, environment and general welfare of the public, and protect water and aquatic resources. This Bylaw seeks to meet that purpose through the following objectives:



1. Establish decision-making processes surrounding land development activities that protect the integrity of the watershed and preserve the health of water resources;
  2. Require that new development and redevelopment maintain the pre-development hydrologic characteristics in their post-development state as nearly as practicable in order to reduce flooding, streambank erosion, nonpoint source pollution, and maintain the integrity of stream channels and aquatic habitats and provide protection from property damage
  3. Establish minimum post-development stormwater management standards and design criteria for the regulation and control of stormwater runoff quantity and quality; Establish minimum design criteria for the protection of properties and aquatic resources downstream from land development and land conversion activities from damages due to increases in volume, velocity, frequency, duration, and peak flow rate of storm water runoff; Establish minimum design criteria for measures to minimize nonpoint source pollution from stormwater runoff which would otherwise degrade water quality;
  4. Establish design and application criteria for the construction and use of structural stormwater control facilities that can be used to meet the minimum post-development stormwater management standards;
  5. Encourage the use of nonstructural stormwater management and stormwater better site design practices, such as reducing impervious cover and the preservation of greenspace and other natural areas. Coordinate site design plans, which include greenspace within the town's Open Space Protection Plan;
  6. Establish provisions for the long-term responsibility for and maintenance of structural stormwater control facilities/devices and nonstructural stormwater management practices to ensure that they continue to function as designed, are maintained, and pose no threat to public safety; and
  7. Establish administrative procedures for the submission, review, approval and disapproval of stormwater management plans, and for the inspection of approved active projects, and long-term follow up. Establish certain administrative procedures for the submission, review, approval, and disapproval of stormwater plans, and the inspection of approved projects.
- B) Nothing in this Bylaw is intended to replace the requirements of any other Bylaw that may be adopted by the Town of Acushnet. Any activity subject to the provisions of the above-cited Bylaws must comply with the specifications of each.

## **DEFINITIONS**

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

Alter - Refers to any activity, which will measurably change the ability of a ground surface area to absorb water or will change existing surface drainage patterns.

Board – Refers to the Town of Acushnet Stormwater Review Board or its agents.

Certificate of Completion (COC) – Refers to a document issued by the Stormwater Review Board, which states that all conditions of a previously issued Stormwater Management Permit (SMP) have been met and that a project has been completed in compliance with the conditions set forth in a SMP.

Development – the modification of land to accommodate a new use or expansion of an existing use, usually involving construction.

General Stormwater Management Permit (GSMP). Refers to a permit issued for an application that meets a set of pre-determined standards outlined in the Rules and Regulations to be adopted by the Stormwater Review Board under Section 4 of this Bylaw. By meeting these pre-determined standards, the proposed project will be presumed to meet the requirements and intent of this Bylaw.

Land Disturbing Activity or Land Disturbance – Any action, including clearing, grubbing, and removal of trees and other vegetation, that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth material.

Person – Shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof to the extent subject to Town Bylaws, administrative agency, public or quasi-public corporation or body, the Town of Acushnet, and any other legal entity, its legal representatives, agents, or assigns.

Redevelopment – development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on a previously developed site.

Stormwater Management Permit (SMP) - Refers to a permit issued by the Stormwater Review Board, after review of an application, plans, calculations, and other supporting documents, which is designed to protect the environment of the Town from the deleterious affects of uncontrolled and untreated stormwater runoff.

Town Officer - Refers to the person(s) designated by the Stormwater Review Board to review Stormwater Management Permit Applications and advise the Stormwater Review Board on Stormwater Permit Applications as outlined in this Bylaw.

### **3.0 AUTHORITY**

- A) This Bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and as authorized by the residents of the Town of Acushnet at Town Meeting, dated May 21, 2007.

- B) The town of Acushnet shall establish a Stormwater Review Board. The membership of said Board shall be made up of the duly established members of the Planning Board.

#### **4.0 ADMINISTRATION**

- A) The Stormwater Review Board shall administer, implement and enforce this Bylaw. Any powers granted to or duties imposed upon the Stormwater Review Board may be delegated in writing by the Stormwater Review Board to its employees or agents.
- B) Stormwater Regulations – The Stormwater Review Board may adopt, and periodically amend, rules and regulations relating to the procedures and administration of this Stormwater Management Bylaw. Said Regulations may include post-development stormwater management criteria.
- C) Regulations may be adopted by majority vote of Stormwater Review Board, after conducting a public hearing to receive comments on any proposed revisions. Such hearing dates shall be advertised in a newspaper of general local circulation, at least seven (7) days prior to the hearing date. After public notice and public hearing, the Stormwater Review Board may promulgate rules and regulations to effectuate the purposes of this Bylaw. Failure by the Stormwater Review Board to promulgate such rules and regulations or a legal declaration of their invalidity by a court shall not act to suspend or invalidate the effect of this Bylaw.
- D) Stormwater Management Manual – The Stormwater Review Board may utilize the policy, criteria and information including specifications and standards of latest edition of the Massachusetts Stormwater Management Policy, or approved local equivalent, for execution of the provisions of this Bylaw. This Policy includes a list of acceptable stormwater treatment practices, including the specific design criteria for each stormwater practice. The Policy may be updated and expanded periodically, based on improvements in engineering, science, monitoring, and local maintenance experience. Unless specifically altered in the Stormwater Regulations, stormwater management practices that are designed, constructed, and maintained in accordance with these design and sizing criteria will be presumed to be protective of Massachusetts water quality standards.

#### **5.0 APPLICABILITY**

This Bylaw shall apply to all Land-Disturbing Activity within the jurisdiction of the Town of Acushnet, as provided in this By-law.

- A) Activities Requiring a Permit – No person shall perform any of the following land-disturbing activities without first obtaining a Stormwater Management Permit from the Stormwater Review Board:
  - 1. Any Land Disturbing Activity resulting in a Land Disturbance of 5,000 square feet or more;
  - 2. Development or Redevelopment involving multiple separate activities in discontinuous locations or on different schedules if the activities are part

of a larger common plan of development that all together disturbs 5,000 square feet or more of land;

3. Paving or other change in surface material over an area of 5,000 square feet or more causing a significant reduction of permeability or increase in runoff;
4. Construction of a new drainage system or alteration of a new drainage system serving a drainage area of more than 5,000 square feet;
5. Any other activity altering the surface of an area exceeding 5,000 square feet that will, or may, result in increased stormwater runoff flowing from the property into a public way or the municipal storm drain system;
6. Construction or reconstruction of structures where more than 5,000 square feet of roof drainage is altered;
7. Construction or reconstruction of stone walls or any other retaining wall over 12 ft. in length;
8. An alteration, redevelopment, or conversion of land use to a hotspot such as auto salvage yards, auto fueling facilities, fleet storage yards, commercial parking lots with high intensity use, road salt storage areas, commercial nurseries and landscaping, metal rooftops, outdoor storage and loading areas of hazardous substances, or marinas, shall require a Stormwater Management Permit; **or**
9. Any other Land-Disturbing Activity not expressly exempt from this By-law in accordance with the Section 5(B).

B) Exemptions – The following Land-Disturbing Activities may be performed without a Stormwater Management Permit:

1. Any activity that will disturb an area less than 5000 square feet. This exception may not be applied for contiguous properties that may have been subdivided and/or are attributed to multiple separate owners.
2. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
3. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
4. Repair or replacement of an existing roof of a single-family dwelling.
5. The construction of any fence that will not alter existing terrain or drainage patterns.
6. Construction of utilities (gas, water, electric, telephone, etc.) other than drainage, which will not alter terrain, ground cover, or drainage patterns.
7. Emergency repairs to any stormwater management facility or practice that poses a threat to public health or safety, or as deemed necessary by the Stormwater Review Board.
8. Construction or reconstruction of stone walls and all other retaining walls less than 12 ft. in length;
9. Any work or projects for which all necessary approvals and permits have been issued prior to the effective date of this Bylaw.

C) Administrative Review of Certain Exempt Projects – Any Land-disturbing

activity which is exempt from the permitting requirements of this By-law, and which is performed in connection with a project for which a building permit is required shall be reviewed by the Stormwater Review Board to ensure that the design, testing, installation, and maintenance of erosion and sediment control operations and facilities shall adhere to the standards specified in this bylaw. Applicants for a building permit will submit to the building inspector the documents required in Section 9 of the Acushnet Zoning Bylaw to obtain a building permit. The building inspector will distribute the application to the Conservation Commission. Projects shall be reviewed by the conservation agent concurrently with the building permit process. During the review, the agent will provide guidance materials and conditions to bring the project into conformance with the objectives of this bylaw. If the Agent finds that the project fails to meet these conditions, project proponent may be required to submit a full land disturbance permit application, in accordance with this By-law and the Regulations enacted by the Stormwater Review Board.

D) Redevelopment Projects

1. Redevelopment projects, defined as any construction, alteration, or improvement exceeding land disturbance of 5,000 square feet, where the existing land use is commercial, industrial, institutional, or multi-family residential, is presumed to meet the specified stormwater management requirements described in the Rules and Regulations if the total impervious cover is reduced by 40% from existing conditions. Where site conditions prevent the reduction in impervious cover, stormwater management practices shall be implemented to provide stormwater controls for at least 40% of the site's impervious area. When a combination of impervious area reduction and stormwater management practice implementation is used for redevelopment projects, the combination of impervious area reduction and the area controlled by a stormwater management practice shall equal or exceed 40%.

E) General Permits

1. Management Permit (GSMP) for specific types of projects, such as Construction of a Deck, Patio, Retaining Wall, Existing Driveway Expansion, Shed, and Swimming Pool. Any such General Stormwater Management Permit Requirements shall be defined and included as part of any Stormwater Regulations promulgated as permitted under Section 4 of this Bylaw. Nothing in this section shall be construed so as to limit the authority of the Stormwater Review Board with respect to any particular Land-Disturbing Activity.

## 6.0 PROCEDURES

Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under Section 4 of this Bylaw.

**7.0 ENFORCEMENT**

The Stormwater Review Board, or an authorized agent of the Stormwater Review Board shall enforce this Bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations. Enforcement shall be further defined and included as part of any rules and regulations promulgated as permitted under Section 4 of this Bylaw.

**8.0 SEVERABILITY**

The invalidity of any section, provision, paragraph, sentence, or clause of this Bylaw shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that previously has been issued.

**9.0 FEES**

The fees for any permit, approval or review by the Stormwater Review Board shall be determined by said Board.

**10.0 VARIANCES**

A variance may be granted if, in the opinion of the Stormwater Review Board, the request will not adversely affect public safety, public and private property, drinking water supplies, recreation, aquatic habitats, fish and other aquatic life, property values and other uses of lands and waters. All variance applications shall be in writing and shall describe how the interests protected by this By-law will be alternatively addressed by the applicant. No variance request will granted unless the applicant shows that: (1) enforcement of this Regulation would be manifestly unjust; and (2) the applicant has established that a level of protection for public health and the environment at least equivalent to that provided under this By-law can be achieved without strict application of the By-law or Regulation.

Any variance granted by the Stormwater Review Board shall be in writing. A copy of any such variance shall, while it is in effect, be available to the public at all reasonable hours in the office of the clerk of the city or town, or in the office of the conservation commission. Copies of all variances shall be provided to the Director upon request.

Any variance may be subject to such qualification, revocation, suspension, or expiration as the Stormwater Review Board expresses in its grant. A variance may otherwise be revoked, modified, or suspended, in whole or in part, only after the holder thereof has been notified in writing and has been given an opportunity to be heard.

(5/21/07 b 10 p 50 a10)

## **Article X**

### **BOARD OF PUBLIC WORKS BY-LAW**

**Section 1.** Upon election and qualification of the initial members of the board of public works, the board shall have all the powers and duties vested by by-law, the charter, and general or special laws in the following boards, departments or officers having corresponding powers and duties in the Town of Acushnet: highway department, water and sewer department, and the water and sewer commission and to assist the park board and cemetery commission in the areas of construction and maintenance when requested by said board or commission. It shall also have all powers and duties vested by by-law, the charter, and general and special laws with respect to refuse, recycling and solid waste collection. No contracts or liabilities then in force shall be affected by such abolition, but the board of public works shall in all respects be the lawful successor of the boards, departments and the officers so abolished.

The board shall have such additional powers with respect to the furnishing of engineering services, the maintenance and repair of town buildings and property, and the performance of such duties of any other boards, departments and offices of the town may, from time to time, by by-law provide, and other provisions of law to the contrary notwithstanding.

**Section 2.** The board shall appoint and fix the compensation of a superintendent of public works who shall exercise and perform, under the supervision and direction of the board, such powers rights and duties transferred to it under section two and three as it may, from time to time designate. He shall be responsible for the efficient exercise and performance of such powers, rights and duties and shall hold office subject to the will of the board and shall not be subjected to any provisions of Chapter thirty-one of the General Laws. He shall be specifically fitted by education, training and experience to perform the duties of said office. During his tenure he shall hold no elective office nor shall he be engaged in any other business or occupation, and shall, subject to the approval of the board, appoint such assistants, agents and employees as the exercise and performance of his powers, rights and duties may require. He shall keep full and complete records of the doings of his office and render to the board as often as it may require a full report of all operations under his control during the period reported upon; and annually, and from time to time as required by the board, he shall make a synopsis of such reports for publication. He shall keep the board fully advised as to the needs of the town within the scope of his duties, and shall furnish to the board each year upon its request a carefully prepared and detailed estimate in writing of the appropriations required during the next succeeding fiscal year for the proper exercise and performance of all said powers, rights and duties.

Formation of Board of Public Works Article IX at Special Town Meeting of September 14, 1994.  
Amended at Annual town Meeting of April 28, 1997.

## **SEWER ASSESSMENTS BY-LAW**

The Town of Acushnet, acting through its Board of Public Works, shall assess one hundred percent of sewer project costs proportionately upon those properties that benefit from the project. In assessing one hundred percent of total project costs, the Board of Public Works shall determine what portion of such costs shall be assessed as betterment assessment and what portion shall be assessed as a privilege fee.

### **I. Assessment based on uniform unit method**

The Town of Acushnet, acting through its Board of Public Work, in assessing a portion of project cost as betterment assessments, shall assess the owners of land abutting a public sewer line installed by the Town by a rate based upon the uniform unit method. Sewer assessments shall be determined utilizing sewer unit values.

### **II. Statutory authority**

The authority to assess betterments, as well as the permitted methodologies for doing so, are described in MGL c. 80, Betterments, and MGL c. 83 Sewers, Drains and Sidewalks.

### **III. Severability**

If any provisions of this bylaw or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this bylaw which can be given effect without such invalid provisions or applications.

### **IV. Method of assessing betterments: order of assessment**

- A. The Town of Acushnet shall assess sewer betterments based upon the uniform unit method. Properties abutting a sewer street shall be assessed by a rate proportional to the value assigned to the sewer unit at the time of the assessment. Said rate shall be determined by user class and shall apply to all lands developed or undeveloped abutting a sewer street. The total assessments shall not exceed the local share of the total sewer project cost which shall include total costs of engineering, survey and design, construction, land acquisition, construction engineering services, legal services, the cost of borrowing funds and all related contingencies less all state and federal aid received.
- B. The Board shall levy, by preparing an order of assessment, assessments against all properties abutting a sewer street. In the order of assessment, the Board shall designate the owner of each parcel, as of the preceding January 1, as liable to assessment stipulation under the provisions of the General Laws.

### **V. Time of assessment**

- A. Betterments. The equivalent monetary value of one sewer unit shall be set by the Board for the sewer construction projects. The time of assessment for lands abutting the sewer street shall be a reasonable time following that date upon which the sewer system with appurtenances is approved for use. In the case where the construction of that portion of the sewer system (lateral sewers), partially funded by betterments, is



completed prior to the date upon which the sewer system is approved for use, it shall be within the powers of the Board to establish an earlier date of assessment.

#### **IV. Sewer unit designation**

- A. General. Sewer units shall be designated based upon the user class of those properties to be assessed a betterment. Said classes shall include residential and nonresidential. The nonresidential class shall include commercial, industrial, institutional, municipal and any or all other nonresidential properties.
- B. Sewer unit determinations. Properties receiving direct benefit from the public sewer system, whether developed or undeveloped, shall be designated a number of sewer units in accordance with the following:
1. Residential, developed.
    - a Single-family dwellings shall comprise one sewer unit.
    - b Duplex dwellings shall comprise two sewer units.
    - c Three-family dwellings shall comprise three sewer units.
    - d Four-family dwellings shall comprise four sewer units.
    - e Multiple family dwellings (in excess of four dwelling units) shall comprise a number of sewer units based on the following methodology:
      - (1). Rental properties (apartments) shall be assessed one sewer unit for each apartment with more than one bedroom. Rental properties shall be assessed one half of one sewer unit for each one-bedroom or studio apartment.
      - (2). Condominium complexes shall be assessed one sewer unit for each dwelling unit.
  2. Nonresidential, developed.
    - a Nonresidential property shall include all commercial, industrial, institutional and municipal properties.
    - b Nonresidential buildings which are metered for water use shall comprise a number of sewer units based upon the average water consumption for the 12 months preceding the appropriation of the funds for construction using the following formula:
$$\frac{\text{Nonresidential sewage}}{\text{In gallons per day (gpd)}} = \text{equivalent number of sewer units}$$
$$300 \text{ gpd}$$

(all decimals shall be rounded up to the next whole number)
    - c Nonresidential buildings not metered for water shall be assigned a water consumption based on Title 5 (Part 2, Section 13) of the State Environmental Code for the Commonwealth of Massachusetts, Minimum Requirements for the

Subsurface Disposal of Sanitary Sewage. An equivalent number of sewer units shall then be determined by using the following formula:

$$\frac{\text{Nonresidential sewage}}{\text{In gallons per day (gpd)}} = \text{equivalent number of sewer units} \\ 240 \text{ gpd}$$

(all decimals shall be rounded up to the next whole number)

3. Residential undeveloped. Undeveloped lots shall be assigned one sewer unit and be assessed accordingly. Future subdivisions of the assessed lot shall be subject to the assessment of sewer privilege fees.
4. Nonresidential, undeveloped. Undeveloped lots shall be assigned one sewer unit and be assessed accordingly. Future use of land shall govern the assessment of privilege fees.

## **VII. Betterment payment**

- A. General. Except as herein, the provisions of the General Laws relative to the assessments, apportionment, division, reassessment, abatement and collection of sewer assessments, to liens therefore and to interest thereon, shall apply to assessments made under this article, and the Tax Assessor of the Town shall have all of the powers conveyed by the General Laws.
- B. Lump-sum betterment. The lump sum betterment payment for an assessed property shall be equivalent to the product of the total number of sewer units designated upon said property and the appropriated value for one sewer unit at the time of assessment. Said values shall be determined as described herein.
- C. Apportionment of betterment payment. Property owners shall have the option to finance betterment payments through apportionment. The interest rate charged by the Town shall be 2% greater than the project bond rating being paid by the Town for the sewer construction project.
- D. Betterment deferral. The provisions of MGL c. 80, 13B, with regard to deferral of betterment assessments shall apply.

## **VIII. Sewer privilege fees**

- A. For those properties not abutting the sewer line, but tying into the system at a future date, the time of assessment of privilege fee shall be the date upon which that property connects into the sewer system.
- B. For those properties serviced by the sewer system, but subdivided at a future date, the time of assessment of privilege fee for the unsewered subdivision shall be the date upon which those subdivisions connect to the sewer system.

C. Private sewer extension.

1. If a developer or a person other than the Town of Acushnet, or duly authorized representative of same, constructs a sewer extension to the public sewer system, the Town shall assess a sewer privilege fee in lieu of betterment assessment against each property tying into said sewer extension. The sewer privilege fee shall be equivalent to 90% of the calculated betterment assessment value pertinent to each property as determined following the procedure outlined in Article VI of these regulations. Sewer privilege fees shall be levied at the time of connection to the public sewer system. Property owner options for payment of said fees shall reflect those related to payment of betterment assessments as described in Article VII.
2. In addition, the developer and/or property owners connecting to private sewer extensions shall bear the burden of all costs, including legal services, related to the following:
  - (a). Review of design plans and specifications for the private sewer extensions to be accepted as part of the public sewer system, conducted by a registered professional engineer, as authorized by the Board.
  - (b). Inspection fees of the Board related to the installation of the private sewer extension tying into the public sewer system.
  - (c). Application fees for a building sewer installation permit, which shall include all reasonable costs related to the installation inspection performed by an inspector for the Town of Acushnet.
3. Costs associated with the design and construction of a private sewer extension shall be considered separate to the sewer privilege fee. Payments or method of payment related to these costs shall not be reflected within the sewer privilege fee.

D. If a property abuts a private or unaccepted way within which a public sewer has been installed, the Town shall assess the betterment assessment against said property. All rules and regulations governing the payment and the method of payment relating to betterment assessments, as described in these regulations, shall apply. The sewer privilege fee shall be levied at the time of the connection to the public sewer. All rules and regulations governing and method of payment related to betterment assessments, as described in these regulations, shall apply.

E. Compensatory sewer privilege fee.

1. Undeveloped property. In the situation where a betterment has been assessed to an undeveloped property based upon the number of sewer units required by these regulations, and said property is ultimately developed to accommodate a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.

2. In the situation where a betterment has been assessed to a developed nonresidential property based upon the number of sewer units required by these regulations, and the usage of said property is changed or increased, which results in a number of sewer units in excess of the number used for determining the betterment assessment, the Town shall assess a compensatory sewer privilege fee.
3. The compensatory sewer privilege fee shall be equivalent to that sum of money that would have been charged, as a betterment assessment upon the property at the time of the original assessment, under the conditions to which they have changed or increased, less the amount of the original assessment.
4. All rules and regulations governing the payment and method of payment related to betterment assessments, as designated in these regulations, shall apply.
5. The Board of Public Works is authorized to take any other action necessary or appropriate to accomplish the establishment and recovery of such betterment assessments.

(4/28/03 b 9 p 262 a 3)



- 3.1 As of the effective date of this by-law, no fire alarm system shall be installed without first obtaining a fire alarm permit signed by the Fire Chief or his designee. Existing alarm systems must obtain a permit within three (3) months of the effective date of this by-law. The Fire Chief shall prescribe an application form for the alarm permits and may impose other rules as may be necessary for the implementation of this by-law. A permit for the connection to the municipal Fire Alarm System shall be obtained from the Fire Chief or his designee. The fee for each alarm permit shall be \$10.00. The approval requirement shall include municipal radio master box connection and digital dial-up devices.
- 3.2 Any current or future alarm user may contract with an alarm company of their choice for the purchase, lease, installation and servicing of a fire alarm system on their premises.
- 3.3 Existing telephone dialers using voice-type tape recorders, which are not compatible with the alarm console, may continue to use the special alarm number set up only for this purpose for a period not exceeding one (1) year from the effective date of this by-law. New applications for voice-type tape systems will not be approved.
- 3.4 Actual connection to the Acushnet Fire Department's alarm console will be made by the Fire Alarm Division personnel. The connection fee for each alarm system shall be established by the Board of Selectmen.
- 3.5 (Reserved)
- 3.6 The approval requirement shall include municipal connection, radio master box, and digital dial-up devices.
- 3.7 (Reserved)
- 3.8 (Reserved)

#### **Section 4.0**

#### **Plan Review**

- 4.1 The Acushnet Fire Department will receive a set of blueprints drawn by a professional Architect, Engineer or Designer prior to any building permit being issued by the Building Inspector.
- 4.2 The prints will include a complete sprinkler system and riser diagram and/or a complete fire detection system diagram.
- 4.3 The prints will include the fire alarm annunciator as well as the radio master box.
- 4.4 A letter or official company stationary will accompany each set of blueprints or plan. Said letter will state that the system meets or exceeds all applicable State and local codes and N.F.P.A. Standards.

- 4.5 Estimated installation dates and final acceptance dates are required. Submittal will include manufacturer's specification sheets.
- 4.6 Any deviation from the plan will be documented in writing and approved by the Fire Chief or his designee.
- 4.7 There will be a \$25.00 plan review fee.
- 4.8 The A.H.J. assumes no responsibility for items omitted on the blueprints but required by code or this document. Final approval is given only after completion of all aspects of this Agreement and is signified by the signing off of the Acushnet Fire Department's section of the building occupancy permit, or the final alarm acceptance.

**Section 5.0** **Alarm Disconnection & Alternation Notice**

- 5.1 Whenever an alarm system or equipment is disconnected, removed, or substantially altered, the owner or user shall notify the Acushnet Fire Department in writing so that an appropriate notation may be made on the permit. An approval by the head of the Acushnet Fire Department is required before any work is started.

**Section 6.0** **Alarm System Regulations and Maintenance**

- 6.1 Each alarm user shall submit to the Fire Chief the names, addresses and telephone numbers of two (2) persons who can be reached at any time, day or night, who are authorized to gain access to the protected premises for the purposes of silencing and resetting the alarm system. It shall be the alarm user's responsibility to keep this information up to date. In addition, each control panel shall have located inside the door the above information and also the name of the company and phone numbers of the company who currently services the system.
- 6.2 Written instructions shall be clearly visible for resetting a fire alarm control panel, on or near the unit. Permission to attempt a system reset must be on file with the Acushnet Fire Department if the user wishes the Department to reset the control unit. If after three (3) attempts a system will not reset, the zone, or if necessary, the system, shall be left not restored. In this event, attempts shall be made to contact the parties from data given by the user. The Town assumes no liability for the inability to contact listed persons. The Town also assumes no liability for alarms or zones that are taken out of service.
- 6.3 Any building which has a fire alarm system or other fire protection system shall provide a "Knox Box" brand secured key box installed in a location of the exterior of the building accessible to the Acushnet Fire Department in case of emergency. This key box shall contain keys to the facility, the fire alarm control panels and other keys necessary to operate or service fire protection systems. The key box shall be typed approved by the Chief of the Acushnet Fire Department and shall be located and installed as approved by the Chief. Only the Fire Chief, the Deputy Fire Chief, or his designee shall have the keys

to each key box, and the key box itself shall be alarmed. Right to know documents may require a Knox vault.

- 6.4 All premises shall have their legal street number clearly visible as per existing Town By-Law prior to connection of any alarm to the Acushnet Fire Department.
- 6.5 There shall be a building graphic located at the fire alarm panel showing zone information and location for arriving firefighters. The graphic will meet with the approval of the Fire Chief.
- 6.6 Each fire alarm panel will have zone information clearly and permanently affixed to the fire alarm box. This will not be necessary with addressable systems approved by the A.H.J.

**Section 7.0** **Alarm Tests**

- 7.1 No alarm system designed to transmit emergency messages or signals directly to the Acushnet Fire Department shall be worked on, tested or demonstrated without obtaining permission from the Acushnet Fire Department.
- 7.2 A complete system accuracy test will be conducted on the entire system before the occupancy permit is issued by the Building Inspector.
- 7.3 No work shall be performed on a fire alarm system or a sprinkler system without first obtaining a permit from the Acushnet Fire Department.

**Section 8.0** **Connection and Monitoring Fees**

- 8.1 The Acushnet Fire Department shall assess an annual fee, set by the Board of Selectmen, for the continuous monitoring of each alarm system.
- 8.2 Every alarm now connected to the Acushnet Fire Department on the effective date of this law shall pay an annual monitoring fee as determined by the Board of Selectmen.
- 8.3 All fees are to be deposited in a revolving account for the express purpose of maintenance and capital improvement of Public Safety alarm circuits, equipment and labor necessary to maintain said Town alarm system. Said revolving account shall be subject to the requirements of General Laws, Chapter 44, Section 53E 1/2.
- 8.4 Billing period will be from January 1<sup>st</sup> to December 31<sup>st</sup>.

**Section 9.0** **System Malfunctions**

- 9.1 If there is a Fire Alarm System Malfunction as defined herein, the Fire Chief may assess a fine against the Fire Alarm System Owner for each Fire Alarm System Malfunction per



calendar year starting January 1 and ending December 31, as more fully set forth in Section 9.4 hereof.

- 9.2 A Fire Alarm System Malfunction is the transmittal of a fire alarm which is caused by improper installation of a Fire Alarm System, a mechanical defect, lack of maintenance, or any other reason that will cause a fire alarm to sound, even though there is no actual fire or situation that reasonably could evolve into a fire, including but not limited to; the operation of a faulty smoke or heat detection device; faulty control panel or associated equipment; a water pressure surge in automatic sprinkler equipment; and/or an action of the owner or occupant of the protected premises, or any contractor, agent or employee of the owner or occupant of the protected premises, causing an accidental activation of the Fire Alarm System.
- 9.3 Any failure of the Fire Alarm System Owner, or the owner or occupant of the protected premises to notify the Acushnet Fire Department of any repairs, maintenance, or testing of a Fire Alarm System, or any other violation of this By-Law, shall be considered a Fire Alarm Malfunction within the meaning of this section.
- 9.4 The Fire Alarm System Owner shall be fined for each Fire Alarm System Malfunction, as set forth below:
- |                                       |               |
|---------------------------------------|---------------|
| First through Third -----             | No Charge     |
| Fourth and Fifth -----                | \$40.00 each  |
| Sixth and Seventh -----               | \$100.00 each |
| Eighth through Tenth -----            | \$150.00 each |
| Eleventh and each one thereafter----- | \$300.00 each |
- \*Single family residential alarms are exempt  
\*Weather related activations are exempt
- 9.5 The Fire schedule shall be subject to review and amendment by the Board of Selectmen on an annual basis.
- 9.6 Property owner will be billed once a month for the previous month's malfunctions.
- 9.7 Any fire alarm owner who is aggrieved by an action taken by the Fire Chief under this by-law may within ten (10) days of such action file an appeal in writing to the Board of Selectmen of the Town of Acushnet. The Board shall render a decision and notify the owner by first class mail within ten (10) days of the hearing. The decision of the Board shall be the final administrative hearing. The owner shall have thirty (30) days from the date of the written decision to seek judicial review in the District Court.

**Section 10.0 Adoption of Certain State Regulations**

- 10.1 In order to protect and enhance public safety by reducing the risk of fire hazards, the provisions of the Code of Massachusetts Regulation 527 C.M.R. 1.00 to 50.00, as from

time to time amended, are hereby incorporated in and made part of this by-law and any violation of any provision thereof shall constitute a violation of this section.

- 10.2 Whoever violates any provision of Section 10 shall be punished by a fine of fifty dollars (\$50.00) for each offense. In the case of continuing violations, each day said violation continues shall constitute a separate offense. Said Section shall be enforceable by the Chief of the Fire Department or his authorized designee, as well as by Town Officers having police powers.
- 10.3 The marshal, the Chief of the Fire Department or any person to whom the marshal or the Chief of the Fire Department may delegate his authority in writing may, and upon complaint of a person having an interest in any building or premises or property adjacent thereto, shall, at any reasonable hour, enter into buildings and upon premises, which term for the purposes of the remainder of this section shall include alleys adjacent thereto, within their jurisdiction and make an investigation as to the existence of conditions likely to cause fire. They shall, in writing, order such conditions to be remedied, and wherever such officers or persons find in any building or upon any premises any accumulation of combustible rubbish including, but not limited to, waste paper, rags, sticks, waste leather or rubber, broken boxes or barrels or any other refuse or useable materials that is or may become dangerous as a fire menace or as an obstacle to easy ingress into or egress from such buildings or premises, they shall, in writing, order the same to be removed or such conditions to be remedied. Notice of such authorized agent by a member of the fire or police department. If said order is not complied within twenty-four hours, the person making such order, or any person designated by him, may enter into such building or upon such premises and remove such refuse or any useable materials or abate such conditions at the expense of such owner or occupant. Any expenses so incurred by or on behalf of the Commonwealth or any city or town, shall be a lien upon such building or premises, effective upon the filing in the proper registry of deeds of a claim thereof signed by such person and setting forth the amount for which the lien is claimed; and the lien shall be enforced within the time and in the manner provided for the collection of taxes upon real estate. Any such owner or occupant who fails or refuses to comply with said order shall be punished by a fine of not more than fifty dollars (\$50.00) for each day the non-compliance continues shall constitute a separate offense.

## **Section 11.0**

### **Violations**

- 11.1 The following acts and omission shall constitute a violation of these regulations. The responsible person or party shall be punished by a fine of not less than \$50.00 per offense as follows. Each day in which a violation occurs may be considered a separate offense.
- (a) Failure to follow an order issued by the Fire Chief to disconnect an alarm system from the municipal radio box, or to disable a telephone dialer arranged to dial the digital alarm console or the special alarm telephone numbers.

- (b) One year after the effective date of these regulations, using a telephone dialing device arranged to dial an Acushnet Fire number without authorization under this bylaw.
- (c) Failure to pay two (2) or more consecutive fees assess under Section 11 of these regulations, within sixty (60) days from the date of the second assessment.
- (d) Failure to comply with the requirements set forth in Sections 3 through 8 of these by-laws.

**Section 12.0**

**Severability**

12.1 The provisions of this ordinance are severable. If any provision of this by-law or its application to any person or circumstance is held invalid, such invalidity shall not affect the remaining provisions or applications of this by-law.

(10/15/2001 b 9 p 185-194)

**ARTICLE XII**

**CARBON MONOXIDE DETECTORS**

**Section 1: Carbon Monoxide Detectors**

Upon the sale or transfer of any building or structure occupied in whole or in part for residential purposes, the seller shall submit to an inspection by the head of the fire department or his or her designee for purposes of compliance with this section.

Any building or structure occupied in whole or in part for residential purposes and is heated by a fossil fuel powered heating unit contained within the interior of the building or structure shall, upon the sale or transfer of such building or structure, be equipped with approved carbon monoxide detectors by the seller. Owner(s) of such building or structure shall install either an approved battery powered carbon monoxide detector, an approved primary powered carbon monoxide detector or a combination powered carbon monoxide detector. The carbon monoxide detector shall be placed outside the sleeping area but not less than fifteen (15) feet from the heating unit. The carbon monoxide detector shall be installed per the manufacturer's specifications. The head of the fire department may require the installation of additional units.

The owner of the building or structure, which is subject to the provisions of this by-law, shall supply, install, test as per the manufacturer's specifications, and maintain required carbon monoxide detectors. The owner shall also supply all the necessary equipment required for the operation of carbon monoxide detectors.

The head of the fire department or his or her designee shall, upon inspecting carbon monoxide detectors required by this section, issue a stamp of endorsement affixed to the Certificate of

Compliance (MGL Chapter 148, Section 26F) required upon sale or transfer of all structures used in whole or in part for residential purposes. Only Certificates of Compliance with the carbon monoxide detector endorsement will be released to the property owner.

No additional fee will be charged for the inspection required by this section.

It shall be unlawful for any person to, in any way, make inoperable a carbon monoxide detector required under this section, except in the normal procedure of maintenance, including the replacement of batteries. Whoever causes a carbon monoxide detector, located in a building or structure occupied in whole or in part for residential purposes, to become inoperable shall be punished by a fine of not more than \$100.00.

A carbon monoxide detector is deemed approved for the purposes of this by-law if it complies with all applicable state and federal regulations, and bears the label of a nationally recognized standard testing laboratory, and meets the revised standard of at least UL 2034 dated October 1, 1995 and subsequent revisions or its equivalent or to take any other action relative thereto.

(4/25/2006 b 9 p 352 a 9)  
Attorney General approved

### **ARTICLE XIII**

#### **TRUSS CONSTRUCTION IDENTIFICATION OF COMMERCIAL AND INDUSTRIAL BUILDINGS**

##### **Section 1.0 Introduction:**

1.1 This by-law provides that commercial and industrial buildings that utilize truss type construction shall be marked by an emblem that informs persons conducting fire control and other emergency operations of the existence of truss construction.

##### **Section 2.0 Definitions**

2.1 For the purpose of this by-law, commercial and industrial buildings and structures classified as such by the Acushnet Building Commissioner using the classification system found in 780 CMR (The Massachusetts State Building Code) or its successors.

2.2 For the purpose of this by-law, truss construction shall mean a fabricated structure of wood or steel, made up of a series of members connected at their ends to form a series of triangles to span a distance greater than would be possible with any of the individual members on their own. Truss type construction shall not include:

1. Individual wind or seismic bracing components which form triangles when diagonally connected to a main structure system.

**Section 3.0 Enforcement**

- 3.1 The head of the fire department or his or her designee shall be responsible for ensuring the proper placement of emblems on building or structures covered by this by-law. The Acushnet Building Commissioner shall only release certificates of occupancy to those new businesses found to be in compliance with the requirements of this by-law.
- 3.2 All commercial and industrial businesses in operation at the time this by-law is ratified shall be required to have an emblem or emblems placed in the locations by the Fire Chief within six months.
- 3.3 Any person who fails to permit the posting of a structure as set forth in this by-law, or who removes or willingly obstructs from view the fire official's designated posting, shall be punished by a fine not exceeding fifty dollars (\$50.00) 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.
- 3.4 The emblems will be made available by the Acushnet Fire/Rescue Department at no cost to the building owner/manger.

**Section 4.0 Emblems**

- 4.1 The shape of the emblem shall be a circle of six inches in diameter. The emblem background shall be reflective white in color. The circle border and contents shall be reflective red in color, conforming to Pantone matching (PMS) # 187.

**Section 5.0 Truss Designations:**

- 5.1 The following letter shall be printed on the emblem identifying the existence of truss construction using the alphabetic designation for the structural components that are of truss construction, as follows:

“F” shall mean floor framing, including girders and beams

“R” shall mean roof framing

“FR” shall mean floor and roof framing

**Section 6.0 Emblem Locations:**

- 6.1 Emblems identifying the existence of truss construction shall be permanently affixed in the locations directed and in a manner approved by the Fire Chief.
- 6.2 Table#1 will be used as an emblem location guide for fire officials. Every effort is to be made as to not interfere with advertising or graphic designs located on the doors, windows or face of the buildings covered by this by-law.

(05/21/07 b10 p 4 a9)

## ARTICLE XIV

### TOWN BY-LAWS ENFORCEMENT AND CHANGES

Any person who shall violate any provision of the by-laws of the town, except in cases otherwise provided for herein or by the statutes of the Commonwealth, shall forfeit and pay for each offense a fine not exceeding twenty dollars (\$20.), the amount of the fine within said limit to be in the discretion of the court trying the case; and in all town by-laws where the forfeiture or penalty named is a sum not exceeding a certain amount or within a minimum and maximum limit, the amount of the fine within such limits prescribed shall be in the discretion of the court trying the case.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

Any citizen may, and it shall be the duty of the Selectmen and Police Officers to prosecute every violation of any of the foregoing by-laws, by complaint before any court of competent jurisdiction in the County of Bristol.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

These by-laws may be repealed or amended by a two-thirds vote of those present at any annual town meeting, or special town meeting, but in no case unless the particular by-law to be repealed or amended is specified in the warrant calling the meeting.

(5/7/1902 b 2 p 333-334)  
(9/2/1926 b 3 p 192 a 4)

### NON-CRIMINAL DISPOSITION

Any bylaw of the Town of Acushnet, or rule or regulation of its officers, boards or departments, the violation of which is subject to a specific penalty, may in the discretion of the Town official who is the appropriate enforcing person, be enforced in the method provided in Section 21D of Chapter 40 of the Massachusetts General Laws. The non-criminal fine for each such violation, if not otherwise specified, shall be \$300.00. Prior to any individual being fined, the enforcement officer will provide such individual written notice of the violation and allow such individual at least 7 days, but not more than 30 days, to cure said violation.

“Enforcing person” as used in this bylaw, shall mean: any Town of Acushnet police officer with respect to any offense; as well as the Building Inspector and his designee, the members of the Conservation Commission and its designee, the members of the Board of Health, its Health Agent or other designee, the Sealer of Weights and Measures and his designee, and such other officials as the Board of Selectmen may from time to time designate, each with respect to violation of bylaws and rules and regulations within their respective jurisdictions. If more than one official has jurisdiction in a given case, any such official may be an enforcing person with respect thereto.

(6/9/2003 b 9 p 275 a 8)  
Attorney General approved 9/11/2003

## ARTICLE XV

### COMMUNITY PRESERVATION ACT BYLAW

Sections 3 to 7 of Chapter 44B of the General Laws of Massachusetts, also known as the Community Preservation Act (“Act”), establish a dedicated funding source to enable cities and towns to: (1) acquire, create, and preserve open space, which includes land for park and recreational uses and the protection of public drinking water well fields, aquifers and recharge areas, wetlands, farm land, forests, marshes, beaches, scenic areas, wildlife preserves and other conservation areas; (2) acquire, preserve, rehabilitate and restore historic resources; (3) acquire, create, and preserve land for recreational use; (4) acquire, preserve, and support community housing, and (5) rehabilitate and restore open spaces, land for recreational use and community housing that is acquired or created by using monies from the Community Preservation Fund.

In the Town of Acushnet, the funding source for these community preservation purposes will be a surcharge of one and one-half percent (1½ %) on the annual tax levy on real property and annual distributions made by the state from a trust fund created by the Act. If approved, the first \$100,000 of value of each taxable parcel of residential real estate shall be exempt from this surcharge. A taxpayer receiving a regular property tax abatement or exemption will also receive a pro rata reduction in surcharge.

A Community Preservation Committee will be established by by-law to study community preservation resources, possibilities and needs and to make annual recommendations to Town Meeting on spending the funds. At least ten percent (10%) of the funds for each fiscal year will be spent or reserved for later spending on each of the Act’s three community preservation purposes: (1) open space (excluding land for recreational use); (2) historic resources; and (3) affordable housing.

(4/7/03 C44B S 3 to 7 b 9 p 257)

### COMMUNITY PRESERVATION COMMITTEE BY-LAW

#### Section 1 – Establishment

Pursuant to Massachusetts General Laws chapter 44B, §5 a Community Preservation Committee consisting of nine (9) members is hereby established for the purpose of making recommendations to the Town Meeting for community preservation in accordance with the said statute, the Town ballot voter acceptance and this by-law. The composition of the Committee, the appointing authorities and the terms of office of its members shall be as follows:

One member of the Conservation Commission as designated by the Commission for a term of three years.

One member of the Historical Commission as designated by the Commission for a term of three years.

One member of the Housing Authority as designated by the Authority for a term of three years.

One member of the Park Commission as designated by the Commission for an initial term of one year and thereafter for a term of three years.

One member of the Planning Board as designated by the Board for an initial term of two years and thereafter for a term of three years.

Four citizen members to be appointed by the Board of Selectmen; two members to be appointed for a term of one year and thereafter for a term of three years; and two members to be appointed for a term of two years and thereafter for a term of three years.

Each member of the Committee shall serve for a term of three years or until the person no longer serves in the position or on the board or committee as set forth above, whichever is earlier.

Should any of the officers and commissions, boards, or committees who have appointing authority under this by-law be no longer in existence for whatever reason, the Board of Selectmen shall appoint a suitable person to serve on the Committee.

Any member of the Committee may be removed for cause by their respective appointing authority after hearing.

## **Section 2 – Duties**

- a) The Community Preservation Committee shall study the needs, possibilities and resources of the Town of Acushnet regarding community preservation. The Committee shall consult with existing municipal boards, including but not limited to, the Conservation Commission, the Historical Commission, the Planning Board, the Park Commission and the Housing Authority. As part of its study, the Committee shall hold one or more public information hearings annually on the needs, possibilities and resources of the Town of Acushnet regarding community preservation possibilities and resources, notice of which shall be posted publicly and published for each of two weeks preceding a hearing in a newspaper of general circulation in the Town.
- b) The Community Preservation Committee shall make recommendations to the Town Meeting for the acquisition, creation, and preservation of open space; for the acquisition, rehabilitation, preservation and restoration of historic resources; for the acquisition and preservation of land for recreational use; for the creation, preservation and support of community housing and for the rehabilitation or restoration of such open space, land for recreational use and community housing that is acquired or created as provided in Sections 3 through 7, inclusive, of Chapter 44B of the Massachusetts General Laws (the "Community Preservation Act"), and within the framework of this Bylaw. With respect to community housing, the Committee shall, whenever possible, recommend use of funds for housing for senior citizens or modifications that allow senior citizens to remain in their homes and, wherever possible, the Committee shall recommend use of funds, the reuse of existing



buildings or construction of new buildings on previously developed sites. Recommendations to Town Meeting shall include their anticipated costs.

- c) The Community Preservation Committee may include, in its recommendation to the Town Meeting, a recommendation to set aside for later spending funds for specific purposes that are consistent with community preservation but for which sufficient revenues are not then available in the Community Preservation Fund to accomplish that specific purpose or to set aside for later spending for general purposes that are consistent with community preservation. The Community Preservation Committee may recommend the issuance of general obligation bonds or notes in anticipation of revenues to be raised pursuant to section 3 of the Act, the proceeds of which shall be deposited in the Community Preservation Fund. Bonds or notes so issued may be at such rates of interest as shall be necessary and shall be repaid as soon after such revenues are collected as is expedient. The Town shall make every effort to limit the administrative costs of issuing such bonds by cooperating with other cities and towns using methods including, but not limited to, common issuance of bonds or common retention of bond counsel. Except as otherwise provided in this chapter, bonds or notes issued pursuant to this section shall be subject to the applicable provisions of Chapter 44. The maturities of each issue of bonds or notes issued under this chapter may be arranged so that for each issue the amounts payable in the several years for principal and interest combined shall be as nearly equal as practicable in the opinion of the officers authorized to issue bonds or notes or, in the alternative, in accordance with a schedule providing for a more rapid amortization of principal.
- d) As provided in the Massachusetts Community Preservation Act, no expenditures shall be made from the Community Preservation Fund without the approval of Town Meeting.
- e) The Community Preservation Committee will submit an annual administrative and operating budget for the Community Preservation Committee, which cannot exceed five percent (5%) of the annual revenues in the Community Preservation Fund, to Town Meeting for approval.

### **Section 3 – Requirements for a quorum**

The Community Preservation Committee shall not meet or conduct business without the presence of a quorum. A majority of members of the Community Preservation Committee shall constitute a quorum. The Community Preservation Committee shall approve its actions by a majority vote.

### **Section 4 – Amendments**

This Chapter may be amended from time to time by a majority vote of the Town Meeting, provided the amendments would not cause a conflict to occur with MGL, Chapter 44B.

### **Section 5 – Severability**

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

**Section 6 – Effective Date**

This by-law shall take effect upon approval by the Attorney General of the Commonwealth, and after all requirements of G.L. c.40, §32 have been met. Each appointing authority shall have thirty days after approval by the Attorney General to make their initial appointments.

(6/9/03 b 9 p 279 a 10)

Attorney General Approved 9/11/03

## ARTICLE XVI

### ALARMS

- 1) Automotive shut off devices; Service Fees.
- 2) Records
- 3) Recorder messages; Service Fees
- 4) False Alarms

#### Definitions

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

**ALARM:** A signaling device that emits or transmits a remote or local audible, visual or electronic signal indication an alarm has been activated and is intended to or is reasonably calculated to summons the Acushnet Police Department, including, but not limited to, so called “burlar alarms,” holdup alarms” and “panic Alarms”. Motor vehicle alarms, fire alarms, and alarms on governmental buildins shall be exempt from the provisions of this chapter.

**FALSE ALARM:** Activation of an Alarm resulting in a response by the Acushnet Police Department where, after investigation, there is no actual or threatened criminal activity, emergency or harm to person or property. False Alarms include, but are not limited to, an Alarm activated by a mechanical failure, a malfunction due to improper installation, negligence or human error. Activation of an Alarm shall not be considered a False Alarm when it is cause by a power outage, earthquake, damage to a building or severe weather conditions.

#### Records

Whenever an Alarm is activated in any manner with the result that there is a response to the location of the Alarm by the Acushnet Police Department, a record or the Alarm shall be made and kept by the Acushnet Police Department, and notice shall be posted at the property. If such alarm is a False Alarm, the notice shall so specify.

#### False Alarms; Service Fees

It shall be unlawful for a False Alarm to occur more than three times in a calendar year. Beginning with the fourth False Alarm in a calendar year, the owner, tenant or responsible person in control of such premises shall pay a service fee of \$25.00 per subsequent occurrence to the Town of Acushnet. Starting with the fifth False Alarm and up to and including the ninth False Alarm in a calendar year, the owner, tenant or responsible person in control of the such premises shall pay a service fee of \$50.00 per False Alarm occurrence. Starting with the tenth False Alarm in a calendar year, the service fee shall be \$100.00 per False Alarm occurrence. Notice of such service fee shall be posted at the premises or mailed to the owner, tenant or responsible person in control of such premises. The service fee shall be paid to the Town of Acushnet within 30 days of notice. After 30 days, interest shall accrue at the maximum statutory

rate as provided for in Section 21E of Chapter 40 of the Massachusetts General Laws under the provisions of Section 57 of Chapter 59 of the Massachusetts General Laws.

This by-law may be enforced by any means available in law or in equity, including non-criminal disposition in accordance with Section 21D or Chapter 40 of the Massachusetts General Laws and Article XIV of the Town's Bylaws.

### **Automatic Shut Off Devices; Service Fees**

Any audible Alarm installed after April 1, 2003 shall be equipped with an automatic shut off device that shall shut off the audible component of the alarm within thirty (30) minutes of activation. In the event of a response by the Acushnet Police Department to an Alarm in violation of this provision, the owner, tenant or responsible person in control of such premises shall pay a service fee of \$50.00 to the Town of Acushnet. Notice of such violation and service fee shall be posted at the premises or mailed to the owner or person in control of such premises, and, if the violation is not corrected within 30 days of said notice, each day thereafter shall be deemed a separate violation, until such Alarm is brought into compliance. The service fee shall be paid to the Town of Acushnet within 30 days of each subsequent notice. After 30 days, interest shall accrue at the maximum statutory rate as provided for in Section 21E of Chapter 40 or the Massachusetts General Laws under the provisions of Section 57 of Chapter 59 of the Massachusetts General Laws.

This bylaw may be enforced by any means available in law or in equity, including non-criminal disposition in accordance with Section 21D of Chapter 40 or the Massachusetts General Laws and Article XIV of the Towns Bylaws.

### **Confidentiality**

The Town recognizes that it is subject to the requirements of the Public Records Law, Section 10 of Chapter 66 of the Massachusetts General Laws. However, in the interests of public safety, it is the intention of the Town, to the extent permitted by law, to maintain confidentially personal information and infrastructure information regarding Alarms, including, but not limited to, that information specifically identifying the location, operations or other proprietary information contained in the information it receives.

### **Government Immunity**

Notwithstanding the provisions of this bylaw, the Town, its departments, officials, officers, agents and employees shall be under no duty or obligation, either express or implied, of response or the adequacy, operation or maintenance of any Alarm or of the alarm monitoring facilities at Police Department. Any and all liability resulting from the Town's failure to respond to a notification is hereby disclaimed; governmental immunity, as provided by law, is retained.

(5/23/2011 b10 p 251 a13)

## **ARTICLE XVII**

### **AGRICULTURAL COMMISSION**

The Town of Acushnet Agricultural Commission shall serve as a facilitator and advocate for encouraging the pursuit of farming and agriculture in Acushnet, shall promote agricultural-based economic opportunities in the Town, and shall work with town officials and boards to promote and protect agricultural interests.

The Commission shall consist of five members appointed by the Board of Selectmen. The initial term of two members shall be three years, of two members shall be two years, and of one member shall be one year. After the initial term, the term of a member shall be three years. A maximum of the three alternate members may be appointed by the Board of Selectmen. The term of an alternate member shall be one year, or to take any other action relative thereto.

## **ARTICLE XVIII**

### **RIGHT TO FARM BYLAW**

#### **Section 1 Legislative Purpose and Intent**

A. The purpose and intent of this Bylaw is to state with emphasis, The Right to Farm accorded to all citizens of the Commonwealth under Article 97, of the Constitution, and all state statutes and regulations thereunder including but not limited to Massachusetts General Laws Chapter 40A, Section 3, Paragraph 1; Chapter 90, Section 9 , Chapter 111, Section 125A and Chapter 128, Section 1A. We the citizens of Acushnet restate and republish these rights pursuant to the Town's authority conferred by Article 89 of the Articles of Amendment of the Massachusetts Constitution, ("Home Rule Amendment").

B. This General Bylaw encourages the pursuit of agriculture, promotes agriculture-based economic opportunities, and protects farmland within the Town of Acushnet by allowing agricultural uses and related activities to function with minimal conflict with abutters and Town agencies. This Bylaw shall apply to all jurisdictional areas with Town of Acushnet.

#### **Section 2 Definitions**

- A. The word "farm" shall include any parcel or contiguous parcels of land, or water bodies used for the primary purpose of commercial agricultural, or accessory thereto.
- B. The words "farming" or agriculture" or their derivatives shall include, but not be limited to the following:
1. farming in all its branches and the cultivation and tillage of the soil;
  2. dairying;
  3. production, cultivation, growing, and harvesting of any agricultural, aquacultural, floricultural, viticultural, or horticultural commodities;

4. growing and harvesting of forest products upon forest land, and any other forest of lumbering operations;
5. raising of livestock including horses;
6. keeping of horses as a commercial enterprise;
7. keeping and raising of poultry, swine, cattle, ratites (such as emus, ostriches and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including fur-bearing animals (not to exclude exotic animals).
8. cultivation of sugar maple trees for the production of maple products;
9. growing and harvesting Christmas trees;
10. keeping of honey bees
11. fish hatcheries;

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

1. operation and transportation of slow-moving farm equipment over roads within the Town;
2. control of pests, including, but not limited to, insects, weeds, predators and disease organisms of plant and animals;
3. application of manure, fertilizers and pesticides;
4. conducting agriculture-related educational and farm-based recreational activities, including agri-tourism provided that the activities are related to marketing the agricultural output or services of the farm;
5. processing and packaging of the agricultural output of the farm and the operation of a farmer’s market or farm stand including signage thereto;
6. maintenance, repair, or storage of seasonal equipment, or apparatus owned or leased by the farm owner or manager used expressly for the purpose of propagation, processing, management, or sale of the agricultural products; and on-farm relocation of earth and the clearing of ground for farming operations.

### **Section 3 Right to Farm Declaration**

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

### **Section 4 Disclosure Notification**

Within 30 days after this Bylaw becomes effective, the Board of Selectmen shall prominently post in the Town Hall, Public Libraries, Town Notice Boards, the official town website and make

available for distribution the following disclosure: “It is the policy of this community of conserve, protect and encourage the maintenance and improvement of agricultural land for the production of food, and other agricultural products, and also for its natural and ecological value. This disclosure notification is to inform buyers and occupants that the property they are about to acquire or occupy lies within a town where farming activities occur. Such farming activities may include, but are not limited to, activities that cause noise, dust and odors. Buyers and occupants are also informed that the location of property within the Town may be impacted by commercial agricultural operations including the ability to access water services for such property under certain circumstances”

In addition to the above, copies of this disclosure notification shall be available in a public area at the Town Hall.

### **Section 5      Resolution of Disputes**

Any person who seeks to complain about the operation of a farm may, notwithstanding pursuing any other available remedy, file a grievance with the Board of Selectmen, the Building or Zoning Enforcement Officer, the Animal Control Officer of the Board of Health, depending upon the nature of the grievance. The filing of the grievance does not suspend the time within which to pursue any other available remedies that the aggrieved may have. The Board of Selectmen, the Building or Zoning Enforcement Officer, the Animal Control Officer of the Board of Health, shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the referring Town authority within an agreed upon time frame.

The Board of Health, except in cases of imminent danger or public health risk, shall forward a copy of the grievance to the Agricultural Commission or its agent, which shall review and facilitate the resolution of the grievance, and report its recommendations to the Board of Health within an agreed upon time frame.

### **Section 6      Severability Clause**

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

10/19/2015 b11 p99 a17

**ARTICLE XIX**

**PROPERTY MAINTENANCE**

Registration and Maintenance of Abandoned and/or Foreclosed Properties.

Section 1: Purpose; enforcement authority

- A. It is the purpose and intent of this bylaw to protect and preserve public safety, health, welfare and security, and the quiet enjoyment of occupants, abutters, and neighbors, by:
  - 1. Requiring all residential property owners, including lenders, trustees and service companies, to register abandoned and/or foreclosed residential properties with the Town of Acushnet; and by
  - 2. Regulating the maintenance and security of abandoned and/or foreclosed residential properties to help prevent blighted and unsecured residences.
- B. The Building Commissioner or another designee of the Board of Selectmen shall have enforcement authority as to this bylaw and is herein authorized to conduct inspections as authorized under this bylaw.

Section 2: Definitions

When used in this bylaw, the following terms shall have the following meanings, unless a contrary intention clearly appears:

**ABANDONED** – A residential property which is not being used or occupied as a residence despite containing a residential building. "Abandoned" does not include a residential building that is unoccupied while undergoing renovations, or while undergoing repairs due to fire or other casualty. "Abandoned" does not apply to accessory buildings or structures on the premises nor does it apply to residential property that is temporarily vacant due to seasonal absences.

**COMMISSIONER** – The Building Commissioner of the Town of Acushnet or a designee authorized to enforce the terms of this bylaw.

**DAYS** – Consecutive calendar days.

**FORECLOSED** – A property, placed as security for a real estate loan, as to which all rights of the mortgagor or his grantee in the property have been terminated as a result of a default of the loan.

**LOCAL** – Within 20 miles of the property in question.



**MORTGAGEE** – The creditor, including but not limited to service companies, lenders, in a mortgage agreement, or any successor in interest of the mortgagee's rights, interests or obligations under the relevant mortgage agreement.

**PROPERTY** – Any real, residential property or portion thereof, located in the Town of Acushnet, including but not limited to buildings and structures situated on such property.

**RESIDENTIAL PROPERTY** – Any property that contains one or more dwelling units used, intended, or designed to be occupied for living purposes.

**TOWN** – The Town of Acushnet.

### Section 3: Registration required

- A. All owners or mortgagees of abandoned and/or foreclosed residential properties shall register such properties with the Commissioner on forms provided by the Commissioner. If the owner is an out-of-state corporation, person, or other entity, the owner shall appoint an in-state agent authorized to accept service of process and other documents under this bylaw.
1. Each registration must state the owner's, mortgagee's or agent's name, telephone number and mailing address located within the Commonwealth of Massachusetts, including the name of the owner, street number, street name, city or town, and zip code; the mailing address shall not be a post office box.
  2. Each registration must also certify that the property has been inspected by the owner and must identify whether the property is abandoned, and if abandoned, the condition of the property and the status of maintenance thereof. Each registration must designate a local individual or local property management company responsible for the maintenance and security of this property. This designation must state the individual or company's name, direct telephone number, and local mailing address; the mailing addresses shall not be a post office box.
    - i. If the owner's inspection determines that the property is abandoned, the registration must be received by the Commissioner within seven days of the owner's inspection.
    - ii. If the owner's inspection determines that the property is not abandoned, but has been foreclosed, the registration must be received by the Commissioner within seven days of the foreclosure.

- iii. If an inspection by the Commissioner determines that a property is abandoned and improperly maintained, the Commissioner shall notify the owner, mortgagee or his/her agent accordingly and, subsequently, registration as an abandoned property must be received by the Commissioner within 14 days of the Commissioner's notice.
  
- B. All property registrations pursuant to this section are valid for one calendar year from the date when the registration is received by the Commissioner. An annual registration fee of \$100 must accompany the registration form. Subsequent registrations and fees are due within 30 days after the date of the expiration of the previous registration. Subsequent registrations must certify whether the property remains abandoned and/or remains in foreclosure and shall restate the current condition of such property as required above.
  
- C. Any owner that has registered a property under this section must report any material change in the information contained in the registration within ten (10) days of the change.
  
- D. Once the property is no longer abandoned or is sold, the owner shall provide the Commissioner with written notice of legal occupancy or proof of sale, as the case may be.

#### Section 4: Maintenance and security

- A. Properties subject to this bylaw must be maintained in accordance with the State Building Code and with orders issued by the Commissioner in order to ensure the safety thereof. The local owner or local property management company must inspect and maintain the property on at least a monthly basis for as long as the property is abandoned.
  
- B. In accordance with state law, including but not limited to MGL c. 143, §§ 6 through 10, and 780 CMR 121.0, property that is abandoned must be safe and must be secured so as not to be accessible to unauthorized persons.
  
- C. Compliance with this section does not relieve the owner of any applicable obligations set forth in code regulations, covenant conditions, requirements of the Commissioner, and/or homeowners' association rules and regulations.

## Section 5: Inspections

Pursuant to the State Building Code, the Commissioner or his/her designee shall have the authority and the duty to inspect properties subject to this bylaw for compliance with this bylaw and to issue citations for any violations. The Commissioner or his/her designee shall have the discretion to determine when and how such inspections are to be made, provided such determination is reasonably calculated to ensure that this bylaw and the State Building Code are enforced.

## Section 6: Violations and penalties.

In addition to any other means of enforcement available to the Commissioner, the Commissioner or a designee hereunder may enforce this bylaw by means of noncriminal enforcement pursuant to MGL c. 40, § 21D. The following penalties are established for purposes of said noncriminal disposition:

- A. A failure to initially register with the Commissioner pursuant to §3: \$300.
- B. A failure to properly designate the name of the local individual or local property management company responsible for the maintenance and the security of the property pursuant to §3: \$300 for each violation, and a like penalty for each day's continuation of such violation.
- C. A failure to maintain and/or to secure the property pursuant to §4: \$300 for each week during which the property is not maintained and/or not secured.
- D. The penalties provided in this section shall not be construed to restrict the Town from pursuing other legal remedies available to the Town. Violation of this bylaw shall be subject to a fine not to exceed \$300 for each violation; each day shall be considered a new violation, except as may be otherwise stated herein.

## Section 7: Severability.

If any provision of this bylaw is held to be invalid by a court of competent jurisdiction, then such provisions shall be considered separately and apart from this bylaw's remaining provisions, which shall remain in full force and effect, to the extent feasible.

(05/13/2019 b 11 p **TBD** a 24)

**ARTICLE XX**

**FIRE PREVENTION CODE REGULATIONS  
of the  
TOWN OF ACUSHNET**

Unanimously voted to adopt “The First Edition 1966 BOCA Basic Fire Prevention Code” as the fire prevention by-law and further insert the amount of \$20.00 in Section 143.1 on Page 5 as the penalty per day for violations. (Building Officials Conference of America, Inc. 1313 East 60<sup>th</sup> St., Chicago, Ill. 60637).

(5/7/1902 b 2 p 333-334)

(3/2/1925 b 3 p 159 a 36)

(9/2/1926 b 3 p 193)

(3/16/1968 b 5 p 309 a 27)

(12/1/1969 b 5 p 347 a 3)

(3/11/1970 b 5 p 361 a 16)

Voted to rescind the vote adopting the (BOCA) Basic Fire Prevention Code and any subsequent amendments and replace by CMR 527.

(2/7/2000 b 9 p 103 a 16)

Attorney General Approval 6/30/2000

**BUILDING CODE REGULATIONS  
of the  
TOWN OF ACUSHNET**

Rescinded and revoked all Building By-Laws and amendments thereto as originally adopted by the town on September 2, 1926 and approved by Jay R. Benton, Attorney General, on January 4, 1927 and adopted in place thereof the "BOCA BUILDING CODE Fourth Edition 1965" together with the BOCA Abridged Building Code Accumulative Supplement - 1967, and further insert \$20.00 per day on page 13 Section 104.5 (Building Officials Conference of America, Inc., Chicago, Illinois).

(5/7/1902 b 2 p 333-334)

(3/1/1926 b 3 p 177 a 35)

(9/2/1926 b 3 p 192 a 5)

(3/10/1945 b 4 p 241 a 39)

(3/10/1962 b 5 p 175 a 10)

(3/16/1968 b 5 p 309 a 26)

(5/20/1968 b 5 p 318 a 1)

Supplement: Amended the existing building code by-law as approved by the Attorney General on June 11, 1968 under article 26 of the annual meeting of 1968 by adopting in addition thereto the Accumulative Supplement 1968 of the Building Officials Conference of America, Inc. Abridged Building Code, Fourth Edition 1965.

(3/22/1969 b 5 p 343 a 24)

Voted to rescind the vote adopting the (BOCA) Building Code Regulations and any subsequent amendments and replace by CMR 780.

(2/7/2000 b 9 p 130 a 16)

Attorney General Approval 6/30/2000

# TOWN OF ACUSHNET

## TOWN CHARTER

### Chapter 1: POWER OF THE TOWN

#### Section 1: Incorporation

1-1-1 The present town of Acushnet, Massachusetts, within its corporate limits as now established, shall continue to be a body politic and corporate under the name, Town of Acushnet.

#### Section 2: Powers of the Town

1-2-1 The town shall have all the powers possible for a town to have under the constitution and laws of the Commonwealth of Massachusetts as fully and completely as though they were enumerated specifically in the charter.

#### Section 3: Form of Government

1-3-1 It is the intent of this charter to adopt the open town meeting-selectmen-town administrator form of government.

#### Section 4: Construction of Charter

1-4-1 The charter shall be liberally constructed to the end that the town may have all powers necessary or convenient for the conduct of its affairs, and the mention of specific powers in the charter shall not be constructed as limiting the general powers stated in this chapter.

#### Section 5: Intergovernmental Relations

1-5-1 The town may exercise any of its powers or perform any of its functions and may participate in the financing thereof, jointly or in cooperation, by contract or otherwise, with any one or more states or civil divisions or agencies thereof, or the United States, or any agency thereof.

### Chapter 2: TOWN MEETING

#### Section 1: Definitions

2-1-1 A town meeting is defined as any session of the voters of the town provided for by section 2-4-1 of this charter.

2-1-2 An emergency town meeting is defined as any session of the voters of the town not expressly scheduled by this charter.

2-1-3 It is the intent of this charter that any provision of the constitution or general laws embodying the term "annual town meeting" and which pertains to the legislative affairs of the town, pertains to any town meeting expressly provided for by section 2-4-1 of this charter.

## **Section 2: Composition, Quorum, Adjournment**

- 2-2-1 The legislative powers of the town shall be exercised by a town meeting open to all registered voters of the town.
- 2-2-2 The quorum necessary for the conduct of business may be established through by-law.  
(4/28/97 b 8 p 256 a 11)
- 2-2-3 When the number of voters in attendance at a town meeting is determined to be less than the established quorum, the meeting shall be adjourned forthwith to a stated date, time, and place.

## **Section 3: Powers and Responsibilities**

- 2-3-1 The town meetings shall consider and act upon all proposed by-laws.
- 2-3-2 The town meeting shall consider and act upon, with or without amendments, all proposed operating and capital budgets, bond issues and other financial proposals of the town.
- 2-3-3 The town meeting may require any town official, elected or appointed, as well as any department or division head, to attend any session of the town meeting for the purpose of furnishing information pertinent to the warrant, provided that such person is accorded five days written notice of such requirement.

## **Section 4: Procedures**

- 2-4-1 The town meeting shall meet regularly to consider and adopt an annual operating and capital budget, and to act on other financial matters; as well as to consider and act upon such other business as may properly come before the meeting; and the date shall be set by town by-law.
- 2-4-2 In all procedural matters, the town meeting shall follow the latest edition of "Town Meeting Time," except as provided by general law, this charter, and by-law.
- 2-4-3 Notice of any town meeting shall be given by printing the date, time, and place of the meeting in a newspaper of local circulation at least once during each of two consecutive weeks immediately prior to such meeting.
- 2-4-4 Adjournment of a session of a town meeting must be to a stated date, time, and place.
- 2-4-5 All proposed operating expenditures shall be good in the town warrant, and the same procedure shall prevail for all proposed capital expenditures.
- 2-4-6 The warrant for each town meeting shall be prepared by the Board of Selectmen.
- 2-4-7 The date, time, and place for any emergency town meeting shall be established by the Board of Selectmen, but the calling of such shall be in accordance with general law provisions for calling a special town meeting.

- 2-4-8 The order of consideration of the articles on the warrant may be changed only by a simple majority vote of the town meeting.

### **Section 5: Finance Committee**

- 2-5-1 A finance committee of nine registered voters of the town shall be appointed for three (3) year terms, with each precinct having minimum representation of at least two (2) members. Three members shall be appointed by the Selectmen each year following adjournment of the town meeting. Members shall serve without compensation, but may receive necessary and actual expenses incurred in the performance of their duties within limits of an appropriation made for that purpose.
- 2-5-2 The committee shall make recommendations to the town meeting relative to all articles in the warrants of all town meetings dealing with fiscal matters and such other matters as the committee deems appropriate and all such recommendations should carry the numerical vote of the committee.
- 2-5-3 During their terms of office, committee members shall not hold any other public office in the town or serve on any other board, committee, or commission of the town, except in an advisory capacity.
- 2-5-4 The committee shall have authority to investigate all areas of town government, and all records required for the conduct of such investigations shall be made available to the committee.
- 2-5-5 Any member of the finance committee who shall be appointed or elected to town office or a committee or board other than the personnel board or the capital budget committee shall forthwith, upon his (or hers) qualification in such office, and any member who shall remove from the town shall upon such removal, cease to be a member of the finance committee. Members absent from one third of the regular meetings in any calendar year may be removed by a two-thirds vote of the other members, present and voting.
- 2-5-6 In the event of any vacancy in its membership, the finance committee shall notify the selectmen in writing, and the selectmen shall thereupon fill such vacancy.

## **Chapter 3: ELECTED TOWN BOARDS AND OFFICERS**

### **Section 1: General Provisions**

- 3-1-1 Beginning with the first town election held after the adoption of this charter, the town boards to be elected by vote of the town shall be a Board of Selectmen, a School Committee, Community Planning Commission, Board of Public Works, Moderator, Assessors, Town Clerk and all other boards governed by law.
- 3-1-2 During the term for which he is elected, and for two (2) years following expiration of his term, no member of any of these boards shall be eligible to accept any appointed, paid town position.



3-1-3 Members of these boards shall serve with compensation and necessary expenses as set by town meeting.

3-1-4 Vacancies in the office of the Board of Selectmen, School Committee and Community Planning Commission shall be filled in accordance with the provisions of general law.

3-1-5 **Recall of Elected Officials.**

(a) ***Application*** – Any person who holds an elected town office, with more than six months remaining of the term of the office, may be recalled from the office, by the voters, in the manner provided in this section.

(b) ***Recall Petitions*** – Twenty-five or more voters may file with the town clerk an affidavit containing the name of the officer whose recall is sought and a statement of the grounds upon which the petition is based. The town clerk shall deliver to the said voters petition blanks demanding said recall, printed forms of which he shall keep available. The blanks may be completed by writing or typewriting; they shall be addressed to the board of selectmen; they shall contain the names of the persons who filed the affidavit and the grounds for recall as stated in the affidavit; they shall demand a successor to the office; and they shall be dated and signed by the town clerk. A copy of the petition shall be kept on file in the office of the town clerk in a record book maintained for that purpose. The recall petition shall be returned and filed in the office of the town clerk within fourteen days following the date the petitions were issued, signed by at least ten percent of the total number of registered voters duly recorded on the registration list of the town clerk as of the preceding town election. The town clerk shall, within twenty-five hours following such filing, submit said petitions to the registrars of voters who shall forthwith certify thereon the number of signatures which are names of voters.

(c) ***Recall Election*** – If the petition shall be certified by the registrars of voters to be sufficient, the town clerk shall forthwith submit the same to the board of selectmen. Upon its receipt of the certified petition, the board of selectmen shall forthwith give written notice of said petition and certificate to the person whose recall is sought. If said officer does not resign his office within five days following the delivery of the said notice, the board of selectmen shall order an election to be held not less than sixty-five nor more than ninety days after the date of the registrars' certificate of the sufficiency of the petition. If however another town election is to occur within ninety days after the date of the said certificate, the board of selectmen shall hold the recall election on the date of said other town election. If a vacancy occurs in the office after a recall election has been ordered, the election shall nevertheless proceed as provided in this section, but only the ballots for candidates need be counted.

(d) ***Nomination of Candidates*** – An officer whose recall is sought may not be a Candidate to succeed himself at the recall election, and the conduct of the same

shall all be in accordance with the provisions of other laws relating to elections, unless otherwise provided in this section.

- (e) **Propositions on Ballot** – Ballots used at a recall election shall state the following propositions in the order indicated:

For the recall of (name of officer)  
Against the recall of (name of officer)

Adjacent to each proposition, there shall be a place to vote for either of the said propositions. After the propositions shall appear the word “candidates” and the name of candidates arranged alphabetically, by surname. If a majority of the votes cast upon the question of recall is in the affirmative, and if at least twenty percent of the total number of registered voters duly recorded on the registration list of the town clerk as of the preceding town election casts ballots at said special election, the candidate receiving the highest number of votes shall be declared elected. If a majority of the votes on the question is in the negative, the ballots for candidates need not be counted, except as provided in paragraph (c).

- (f) **Officeholder** – The incumbent shall continue to perform the duties of his office until the recall election. If he is not recalled in the election he shall continue in office for the remainder of his unexpired term, subject to recall as before, except as provided in this section.

- (g) **Repeat of Recall Petition** – No recall petition shall be filed against an officer within three months after he takes office, or in the case of an officer subjected to a recall election and not recalled thereby, until at least six months after the election at which his recall was submitted to the voters.

(6/3/93 b 8 p 106 a 1)

## **Section 2: The Board of Selectmen**

- 3-2-1 A Board of Selectmen of three members shall be elected for three year overlapping terms. The regular election for the office of selectmen shall be held in accordance with chapter six of this charter.

## **Section 3: Powers of Investigation**

- 3-3-1 The Board of Selectmen may investigate the affairs of the town and conduct of any town department, office, or agency, including any doubtful claims against the town, and for this purpose may subpoena witnesses, administer oaths, take testimony, and require the production of evidence. The report of such investigation shall be placed on file in the office of the town administrator, and a report summarizing such investigation shall be printed in the next annual town report.

## **Section 4: The Power to Appoint**

- 3-4-1 The power to appoint a board of registrars, election officials, a conservation commission, a town counsel; constables, treasurer, collector, board of appeals,

and other boards or commissions as may be established, shall be vested in the board of selectmen, except otherwise provided in this charter. The term of office for the town counsel, and commissions shall be for such terms as may be fixed by the board or as otherwise provided by this charter. Notwithstanding anything contained herein, the Board of Selectmen shall have the right to appoint the same person to the positions of treasurer and collector.

**Section 5: The Power to Rescind Appointments**

- 3-5-1 The board of selectmen, under due process of law, by majority vote of its full membership, may rescind for cause any appointment made to any board except the board of appeals or other quasi-judicial body, provided that a majority of said board shall so recommend.

**Section 6: Other Powers**

- 3-6-1 The board of selectmen shall have the power to enact rules and regulations establishing town policies, not otherwise governed by statute this charter, or by-law, provided, however, that whenever an appropriation shall be necessary to implement such action, the vote of the board shall be effective only if such appropriation has been made by the town meeting.
  
- 3-6-2 All executive powers of the town, except as otherwise provided in this charter, shall be vested in the board. It is the intention of this section that the board shall exercise control over town affairs by recommending major courses of action to the town meeting and by setting policies to be carried out by the town administrator. Nothing in this section shall be construed as granting to the board any power to reorganize offices under the jurisdiction of the school committee or of the community planning commission.

**Section 7: School Committee**

- 3-7-1 A school Committee of five members shall be elected for three year overlapping terms in accordance with chapter six of this charter.
  
- 3-7-2 The committee shall exercise all powers and duties of school committee as provided by the constitution and general laws.

**Section 8: Community Planning Commission**

- 3-8-1 A community planning commission of five members, with one member elected each year for a five-year term. All records, minutes, deliberations votes and recommendations of the commission shall be a matter of public record.

Approved January 5, 1993, Acts & Resolves of Massachusetts 1992, Chapter 320

- 3-8-2 The commission shall be responsible for the physical, environmental and economic planning of the town, and it shall serve as, and shall exercise all powers and duties of a planning board established under provision of general law.

- 3-8-3 The commission shall be responsible for the development and annual updating of a comprehensive plan, which shall be used as the basis of its recommendations. The commission shall make a report annually to the town meeting on the status of the comprehensive plan.
- 3-8-4 The commission may employ a professional planning director, staff, and consultants provided that funds for that purpose have previously been appropriated by town meeting. Staff so employed shall function under the direction of the commission. Copies of all commission recommendations and studies shall be submitted to the town administrator and the board of selectmen.
- 3-8-5 The commission may appoint subcommittees of volunteers to assist in carrying out its official duties.

**Section 9: Moderator**

- 3-9-1 The moderator shall be elected for a three year term at the regular election of town officials. He shall not hold any other town office or accept town employment during the term for which he is elected.
- 3-9-2 The moderator shall preside at all town meetings and shall swear in the town clerk. He shall enforce procedural rules as set forth in general law, this charter, and by-law.

**Section 10: Repealed**

(9/14/94 b 8 p 148 a 16)  
(12/09/2013 b 10 p 400 a 2)

**Chapter 4: TOWN ORGANIZATION**

**Section 1:**

- 4-1-1 The administrative functions of the town government shall be performed within the organizational framework of four divisions: a division of finance, a division of public works, a division of public safety, and a division of public service.
- 4-1-2 The board of selectmen may designate those divisions to be headed by a director or by a board composed of members serving without compensation.
- 4-1-3 The administrative responsibility for the collections, and accounting functions, and such other fiscal functions, as may be assigned by this charter or through by-law, shall be vested in the director or supervising board of the division of finance. Work responsibilities and procedures shall be structured so as to insure segregation of the collections function from those of accounting and assessing.

- 4-1-4 The administrative responsibility for establishing and maintaining town physical services, including the functions of highways, water, sanitation, engineering, parks, cemeteries, town buildings except school buildings, and any additional public works services as may be assigned by this charter or through by-law, shall be vested in the director or supervising board of the division of public works.
- 4-1-5 The administrative responsibility for the protection of persons and property including the functions of police, fire, civil defense, public health, sealing of weights and measures, health and safety inspection, and such other public safety services as may be assigned by this charter or through by-law, shall be vested in the director or supervising board of the division of public safety.
- 4-1-6 The administrative responsibility for providing general governmental services, including the functions of the town clerk, the town library, recreation, veterans services as may be assigned by this charter or through by-law, shall be vested in the director or supervising board of the division of public services.

## **Chapter 5: TOWN ADMINISTRATOR**

### **Section 1:**

- 5-1-1 The Town Administrator shall be the chief administrator officer of the Town and be responsible to the Board of Selectmen for the administration of all Town affairs placed in his charge by them or under this Charter.

### **Section 2: Powers and Duties**

- 5-2-1 He shall direct and supervise the administration of all functions under his control.
- 5-2-2 He shall direct and supervise the administration of all offices, boards, committees and commissions under the Board of Selectmen.
- 5-2-3 It shall be his duty to attend all regular and special meetings of the Board of Selectmen, unless excused at his own request.
- 5-2-4 It shall be his duty to attend all regular and special Town Meetings.
- 5-2-5 He shall receive and approve the budgets for those departments, the heads of which, or whose administrative boards are appointed by the Board of Selectmen, or are required to report to a sub-committee of the Board of Selectmen.
- 5-2-6 He shall be responsible for the continuous review of departmental budgets which have been submitted to him under paragraph 5-2-5 above and shall from time to time, as he deems necessary, request said departments and/or boards to meet with him for the purpose of reviewing their receipts and expenditures during the year. Said department heads and boards shall meet with him and shall furnish him with

such information regarding their receipts and expenditures as he shall request for the purpose of said review.

- 5-2-7 He shall have access to the full and complete records of the finances and administrative activities of the Town and to a full and complete inventory of all property of the Town, both real and personal.
- 5-2-8 He shall be the liaison officer of the Board of Selectmen with all of the departments, boards and agencies of the Town.
- 5-2-9 He shall be responsible for purchasing all material, equipment, and supplies for the town except as otherwise provided by law. He shall negotiate contracts, involving any subject within his jurisdiction. These proposed contracts shall be subject to final approval and execution by the selectmen.
- 5-2-10 He may perform such other duties as may be requested of him by any other Town officer, board, committee or commission.
- 5-2-11 He shall have other duties and powers as are provided for in the General Laws of Massachusetts.

**Section 3: Qualifications**

- 5-3-1 The Board of Selectmen shall appoint a Town Administrator for a term of not more than three years, and fix his compensation within the amount appropriated by the Town. He shall be a person especially fitted by education, training or previous experience in public administration to perform the duties of his office. He shall devote full time to the office and shall not hold any other public office, elective or appointive, nor engage in any other business or occupation during his term.

(11/14/2017 b 11 p 179 a 25)

**Chapter 6: ELECTIONS**

**Section 1: General**

- 6-1-1 The regular election for all town offices shall be by official ballot. All provisions of the general laws with regard to the conduct of town elections shall apply.
- 6-1-2 All town elections shall be nonpartisan, and ballots shall be printed without any political party mark, emblem, or designation whatsoever.
- 6-1-3 Any registered voter of the town shall be eligible for election to any town office or board.
- 6-1-4 Any person duly elected to any office or board shall be sworn to duty by the town clerk.

## **Chapter 7: SEVERABILITY**

- 7-1-1 If any provision of this charter is held invalid, the other provisions of this charter shall not be affected thereby. If the application of the charter or any of its provisions to any person or circumstance is held invalid, the application of this charter and its provisions to other persons and circumstances shall not be affected thereby.

## **Chapter 8: CHARTER CHANGES**

### **Section 1: Amendment**

- 8-1-1 This charter may be replaced, revised, or amended in accordance with the provisions of the constitution and general law.

### **Section 2: Specific Provisions Shall Prevail**

- 8-2-1 To the extent that any specific provision of this charter shall conflict with any provision expressed in general terms, the specific provision shall prevail.

### **Section 3: Publication of By-Laws**

- 8-3-1 The board of selectmen shall, not later than November 1, 1971, and at five year intervals thereafter, appoint a special committee for the purpose of reviewing and recodifying all existing by-laws of the town. The report of the committee shall be submitted to the board not less than two weeks prior to the closing of the warrant for the next town meeting. The recommendations of the committee for by-law changes shall appear on the warrant for said town meeting. The board shall publish all by-laws incorporating changes approved by the town meeting, and copies shall be made available at the office of the town clerk, at a cost not less than the cost of printing each copy, within sixty days after receipt of approval or disapproval of the changes by the office of the attorney general, if required or within sixty days after adjournment of the town meeting at which the by-law changes were approved.

## **Chapter 9: TRANSITIONAL PROVISIONS**

### **Section 1: Continuation of By-Laws**

- 9-1-1 All special acts, by-laws, resolutions, rules, regulations and votes of the town meeting in force on the effective date of this charter not inconsistent with its provisions shall continue in force until amended or repealed, including, if any, by-laws which have been passed and have been approved by the attorney general but have not been published, are not in force.

### **Section 2: Continuation of Government**

- 9-2-1 All committees, commissions, boards, departments, offices, and other agencies of the town shall continue to perform their duties until reappointed, reelected, or

until their successors are duly elected or appointed, or their duties have been transferred.

**Section 3: Continuation of Administrative Personnel**

9-3-1 Any person holding an office or position in the administrative service of the town, or any person serving in the employment of the town, shall retain such office or position and shall continue to perform his duties until provisions have been made in accordance with this charter for the performance of said duties by another person or agency, provided, however, that no person in the permanent full-time service or employment of the town shall forfeit his pay grade or time in service. All such persons shall be retained in a capacity as similar to their former capacity as it is practical to do so.

**Section 4: Transfer of Records and Property**

9-4-1 All records, property, and equipment of any office, department, or agency or part thereof, the powers and duties of which are assigned in whole or in part to another office or agency, shall be transferred forthwith to the office, department, or agency to which such powers and duties are assigned.

**Section 5: Continuance of Contracts and Other Obligations**

9-5-1 All leases, contracts, franchises, and obligations entered into by the town or for its benefit prior to the effective date of this charter shall continue in full force and effect.

**Section 6: Pending Actions and Proceedings**

9-6-2 No action or proceedings, civil or criminal, in law or in equity, pending at the time this charter takes effect, brought by or against the town or any office, department, or other agency thereof, shall be affected or abated by the adoption of this charter.

**Section 7: Effective Date**

9-7-1 This charter shall become fully effective, provided that it has first received a majority vote of the voters voting thereon. Immediately following ratification of this charter, the board of selectmen shall commence searching for a person qualified to fill the position of executive secretary. The selectmen shall appoint the executive secretary at the earliest date possible thereafter .

Town Charter  
Approved March 1, 1971