

**CODE OF ORDINANCES
Town of
SCITUATE, RHODE ISLAND**

**Codified through
Ordinance of January 8, 2004.
(Supplement No. 14)**

Preliminaries

**CODE OF ORDINANCES
TOWN OF
SCITUATE, RHODE ISLAND**

**CONTAINING
THE GENERAL ORDINANCES
OF THE TOWN**

Published by Order of the Council

_____;logo;

OFFICIALS

of the

**TOWN OF SCITUATE, RHODE ISLAND
AT THE TIME OF THIS CODIFICATION**

Richard A. Iverson, President

Richard O. Brown, Vice President

David D. Ellingwood

Charles A. Masso

Norma C. Gauthier

Judith W. Loven

Robert A. Crowley

Town Council

John Gorham
Town Solicitor

Roger D. Medbury
Town Clerk

PREFACE

This Code is a codification of the ordinances of the Town of Scituate of a general and permanent nature.

Source materials used in the preparation of this Code were the ordinances adopted by the town council. The source of each section is included in the history note appearing in parentheses at the end thereof.

The chapters of the Code have been conveniently arranged in alphabetical order and the various sections within each chapter have been catchlined to facilitate usage. Notes which tie related sections of the Code together and which refer to relevant state law have been included. A table listing the state law citations and setting forth their location within the Code is included at the back of this Code.

Numbering System

The numbering system used in this Code is the same system used in many state and local government codes. Each section number consists of two component parts separated by a dash, the figure before the dash referring to the chapter number and the figure after the dash referring to the position of the section within the chapter. Thus, the second section of Chapter 1 is numbered 1-2 and the first section of Chapter 4 is 4-1. Under this system, each section is identified with its chapter and at the same time new sections or even whole chapters can be inserted in their proper place simply by using the decimal system for amendments. By way of illustration: If new material consisting of one section that would logically come between sections 3-1 and 3-2 is desired to be added, such new section would be numbered 3-1.5. New chapters may be included in the same manner. If the new material is to be included between Chapters 12 and 13, it will be designated as Chapter 12.5. Care should be taken that the alphabetical arrangement of chapters is maintained when including new chapters. New articles and new divisions may be included in the same way or, in the case of articles, may be placed at the end of the chapter embracing the subject, and, in the case of divisions, may be placed at the end of the article embracing the subject, the next successive number being assigned to the article or division.

Indices

The indices have been prepared with the greatest of care. Each particular item has been placed under several headings, some of the headings being couched in lay phraseology, others in legal terminology, and still others in language generally used by local government officials and employees. There are numerous cross references within each index which stand as guideposts to direct the user to the particular item in which the user is interested.

Looseleaf Supplements

A special feature of this publication to which the attention of the user is especially directed is the looseleaf system of binding and supplemental servicing for the publication. With this system, the publication will be kept up-to-date periodically. Subsequent amendatory legislation will be properly edited and the appropriate page or pages affected will be reprinted. These new pages will be distributed to holders of copies of the publication, with instructions for the manner of inserting the new pages and deleting the obsolete pages.

Successfully keeping this publication up-to-date at all times will depend largely upon the holder of the publication. As revised sheets are received, it will then become the responsibility of the holder to have the amendments inserted according to the attached instructions. It is strongly recommended by the publisher that all such amendments be inserted immediately upon receipt to avoid misplacing them and, in addition, that all deleted pages be saved and filed for historical reference purposes.

Acknowledgments

This publication was under the direct supervision of Jan Shekitka, Supervising Editor, and of the Municipal Code Corporation, Tallahassee, Florida. Credit is gratefully given to the other members of the publisher's staff for their sincere interest and able assistance throughout the project.

The publisher is most grateful to Mr. Roger D. Medbury, Town Clerk, Ms. Pat S. Salley, Assistant Town Clerk, and Mr. John Gorham, Town Solicitor, for their cooperation and assistance during the progress of the work on this publication. It is hoped that their efforts and those of the publisher have resulted in a Code of Ordinances which will make the active law of the town readily accessible to all citizens and which will be a valuable tool in the day-to-day administration of the town's affairs.

MUNICIPAL CODE CORPORATION

Tallahassee, Florida

PART I CHARTER*

***Editor's note:** Printed in Part I of this volume is the original act of the General Assembly of Rhode Island incorporating the Town of Scituate. The act was passed in 1730 and is considered the basic Charter for the town.

An Act incorporating the Out-Lands of the Town of Providence into three Towns.

Section 1. *Be it enacted by the General Assembly, and by the authority thereof it is enacted, that from Warwick township, eight miles and an half be measured on the seven-mile line (so called) in said Providence, and a boundary there fixed, and from the said boundary a line be drawn to Pawtucket river, to a place called the Weir, about half a mile northerly from*

Pawtucket falls; and that, for the time to come, the Town of Providence extend no farther west and north than the aforesaid lines.

Section 2. *And be it further enacted*, that all the rest of the aforesaid out-lands to the eastward of the aforesaid seven-mile line, and to the northward of the bounds of the Town of Providence, be and they are hereby incorporated and erected into a township, to be called and known by the name of Smithfield; And that the inhabitants thereof, from time to time, shall have and enjoy the like benefits and privileges which other towns in this State generally have and do enjoy.

Section 3. *And be it further enacted*, that all the rest of the aforesaid out-lands, to the westward of the aforesaid seven-mile line, be erected and made into two towns, the dividing line between them to begin at the northeast bounds of the Town of Providence, at the bounds and monuments there made and erected on the aforesaid seven-mile line, and from thence to extend west, fix degrees and thirty minutes north, to the State of Connecticut.

And that all the lands to the westward of the said Town of Providence, and to the southward of the said dividing line, and to the northward of the Town of Warwick, be and they are hereby erected and incorporated into a township, to be called and known by the name of Scituate: And that the inhabitants thereof, from time to time, shall have and enjoy the like liberties and privileges as other towns in this State generally have and do enjoy.

Section 4. *And be it further enacted*, that the rest and residue of the aforesaid out-lands, that lie to the westward of the aforesaid seven-mile line, and to the northward of the west line, drawn from the northwest corner of the Town of Providence, bounded north on the Commonwealth of Massachusetts, and west on the State of Connecticut, be and they are hereby erected and incorporated into a township, and called by the name of Glocester: And that the inhabitants thereof, for the time being, shall have and enjoy the like liberties and privileges which other towns in the State generally have and do enjoy.

CHARTER COMPARATIVE TABLE

This table shows the location of the sections of the basic Charter and any amendments thereto.

TABLE INSET:

| Adoption Date | Section | Section this Charter |
|------------------|---------|-------------------------|
| - 1730 | 1--4 | 1--4 |

PART II CODE OF ORDINANCES

Chapter 1 GENERAL PROVISIONS

Sec. 1-1. How Code designated and cited.

The ordinances embraced in the following chapters and sections shall constitute and be designated "The Code of Ordinances of the Town of Scituate, Rhode Island," and may be so cited.

Sec. 1-2. Definitions and rules of construction.

In the construction of this Code and of all ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the town council:

Charter. Whenever the words "Charter" or "the Charter" are used they shall be held to mean the Charter of the Town of Scituate, Rhode Island, as printed in Part I of this volume.

Code. The word "Code" shall mean the Ordinances of the Town of Scituate, Rhode Island, as designated in section 1-1.

Compact part of the town. The words "compact part of the town" shall mean and include all territory included within the boundaries of each of the villages of the Town of Scituate.

Computation of time. Unless otherwise specifically provided, the time within which an act is required by law to be done shall be computed by excluding the first day and including the last; except, that the last shall be excluded if it be Sunday.

State law references: Similar provisions, G.L. 1956, § 43-3-3.

Council. Wherever the word "council" is used, the same shall be held to mean the town council of Scituate.

County. The words "the county" or "this county" shall mean Providence County, Rhode Island.

Gender. A word importing the masculine gender only shall extend and be applied to females and to firms, partnerships and corporations as well as to males.

State law references: Similar provisions, G.L. 1956, § 43-3-3.

In the town. The words "in the town" or "within the town" shall mean and include all territory over which the town now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

Joint authority. All words giving a joint authority to three (3) or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

Keeper and proprietor. The words "keeper" and "proprietor" shall mean and include persons, firms, associations, corporations, clubs and copartnerships, whether acting by themselves or as a servant, agent or employee.

Land. "Land" and "real estate" include rights and easements of incorporeal nature.

Month. The word "month" shall mean a calendar month.

State law references: Similar provisions, G.L. 1956, § 43-3-12.

Number. A word importing the singular number only may extend and be applied to several persons and things as well as to one (1) person or thing.

State law references: Similar provisions, G.L. 1956, § 43-3-4.

Oath. When an oath is required or authorized by law, an affirmation in lieu thereof may be taken by a person having conscientious scruples against taking an oath. An affirmation has

the same effect as an oath.

State law references: Similar provisions, G.L. 1956, § 43-3-11.

Owner. The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common, tenant in partnership or joint tenant of the whole or of a part of such building or land.

Person. The word "person" shall extend and be applied to associations, societies, clubs, firms, partnerships, bodies politic, foreign and domestic corporations as well as to individuals.

State law references: Similar provisions, G.L. 1956, § 43-3-6.

Personal property. "Personal property" includes every species of property except real property, as defined in this section.

Preceding, following. The words "preceding" and "following" mean next before and next after, respectively.

Property. "Property" includes real, personal and mixed estates and interests.

Public place. The term "public place" shall include any park, cemetery, schoolyard or open space adjacent thereto and any lake or stream.

Real property. "Real property" shall include lands, tenements and hereditaments.

Shall, may. "Shall" is mandatory; "may" is permissive.

Sidewalk. "Sidewalk" shall mean that part of the street exclusively reserved for pedestrians and constructed for such purpose.

Signature or subscription. "Signature" or "subscription" includes a mark when the person cannot write.

State. The words "the state" or "this state" shall be construed to mean the State of Rhode Island.

State law references. Whenever reference is made to the "General Laws" or "G.L.," this shall mean the General Laws of Rhode Island, 1956. Whenever reference is made to "Public Laws" or "P.L.," this shall mean the Public Laws of Rhode Island.

Street. The word "street" shall be construed to embrace streets, avenues, boulevards, roads, alleys, lanes, viaducts and all other public highways in the town.

Tenant or occupant. The word "tenant" or "occupant," applied to a building or land, shall include any person holding a written or oral lease of, or who occupies, the whole or a part of such building or land, either alone or with others.

Time. Words used in the past or present tense include the future as well as the past and present.

Town. The words "the town" or "this town" shall be construed as if the words "of Scituate" followed them.

Written, in writing. The words "written" or "in writing" shall be construed to include any representation of words, letters or figures, whether by printing or otherwise.

Year. The word "year" shall mean a calendar year.

State law references: Similar provisions, G.L. 1956, § 4-3-12.

Sec. 1-3. Catchlines of sections.

The catchlines of the several sections of this Code printed in boldface type are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of the sections, nor unless expressly so provided shall they be so deemed when any of such sections, including the catchlines, are amended or reenacted.

Sec. 1-4. General penalty; continuing violations.

- (a) Except where otherwise provided in this Code or other ordinances of the town, whenever in this Code any act is prohibited or is made or declared to be unlawful or an offense, or whenever the doing of any act is required or the failure to do any act is declared to be unlawful, the violation of any such provision shall be punished by a fine not exceeding five hundred dollars (\$500.00) and cost of prosecution or by imprisonment not exceeding thirty (30) days, or by both such fine and imprisonment.
- (b) Each day any violation of any provision of this Code or other ordinance of the town shall continue shall constitute a separate offense.

State law references: Limitation of penalty for ordinance violations, G.L. 1956, § 45-6-2.

Sec. 1-5. Manner of prosecution for ordinance violations; recovery of costs; statute of limitations.

- (a) It shall be the duty of every police officer and constable of the town to preserve the peace and good order and see that all the ordinances of the town are properly enforced.
- (b) The town sergeant, chief of police and every constable and police constable of the town are designated and appointed prosecuting officers in accordance with the provisions of the General Laws of the state.
- (c) All violations of the ordinances of the town shall be prosecuted by complaint and warrant and shall be directed to the sheriff of Providence County, his deputies, the town sergeant, chief of police or either of the constables of this town or such other person or persons as may be authorized by statute and returnable to the District Court of the Eighth Judicial District of the State of Rhode Island or such other court as shall be authorized by statute.
- (d) In all cases of complaint under the ordinances of the town the fines or forfeitures and penalties shall belong to the town except as otherwise provided by statute. Whenever complaint is made for violation of any ordinance of this town by any of the officers designated in this section, the officer shall not be required to give surety for costs.
- (e) In all prosecutions under the ordinances of the town the costs shall be the same as in criminal proceedings before the District Court of the Eighth Judicial District and upon conviction the payment of such costs shall be a part of the sentence of the defendant who may be committed to the Adult Correctional Institutions on default of payment of the fine or costs or both until the same are paid or ordered omitted by the town council. In all

cases where any complaint under the ordinances of the town is dismissed, the costs shall be taxed against the complainant and collected as provided by statute; provided, however, that where such complaint is made by any of the officers designated in this ordinance or otherwise appointed by the town council or authorized by statute for such purpose, such costs shall be paid by the town.

- (f) All complaints made under the ordinances of the town shall be made within one (1) year after the commission of the offense unless otherwise provided by statute.

Sec. 1-6. Severability.

It is hereby declared to be the intention of the town council that the sections, paragraphs, sentences, clauses and phrases of this Code are severable, and if any phrase, clause, sentence, paragraph or section of this Code shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Code, since the same would have been enacted by the town council without incorporation in this Code of any such unconstitutional phrase, clause, sentence, paragraph or section.

Sec. 1-7. Provisions considered as continuations of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those ordinances existing at the time of the effective date of this Code, shall be considered as continuations thereof and not as new enactments.

Sec. 1-8. Certain ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall be construed to repeal or otherwise affect the validity of any of the following when not inconsistent with this Code:

- (1) Any ordinance promising or guaranteeing the payment of money by the town, or authorizing the issuance of any bonds of the town, or any evidence of the town's indebtedness, or any contract, agreement, lease, deed or other instrument or obligation assumed by the town or creating interest and sinking funds;
- (2) Any right or franchise, permit, or other right granted by any ordinance;
- (3) Any personnel regulations; any ordinance establishing salaries of town officers and employees or civil service rules;
- (4) Any ordinance dedicating, naming, establishing, locating, relocating, opening, paving, widening, repairing or vacating any street, alley or other public way in the town;
- (5) Any ordinance establishing and prescribing the street grades in the town;
- (6) Any appropriation ordinance or any ordinance levying or imposing taxes;
- (7) Any ordinance providing for local improvements and assessing taxes therefor;
- (8) Any ordinance dedicating or accepting any plat or subdivision in the town;
- (9) Any ordinance establishing the official plat of the town;

- (10) Any zoning map amendment or load use, rezoning or zoning ordinance;
- (11) Any ordinance annexing territory or excluding territory from the town;
- (12) Any ordinance prescribing traffic regulations for specific locations, prescribing through streets, parking limitations, parking prohibitions, one-way traffic, limitations on loads of vehicles or loading zones, not inconsistent with such Code;
- (13) Any subdivision ordinance or regulations;
- (14) Any ordinance creating special districts or assessing taxes therefor;
- (15) Any ordinance granting specific tax exemptions;
- (16) Any temporary or special ordinance;
- (17) Any administrative ordinance;

and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length herein.

Sec. 1-9. Amendments to Code.

- (a) All ordinances passed subsequent to this Code, which amend, repeal or in any way affect this Code, may be numbered in accordance with the numbering system of this Code and printed for inclusion herein, or in the case of repealed chapters, sections and subsections, or any part thereof, by subsequent ordinances, such repealed portions may be excluded from the Code by omission thereof from reprinted pages affected thereby, and the subsequent ordinances, as numbered and printed, or omitted in the case of repeal, shall be prima facie evidence of such subsequent ordinances until such time that this Code and subsequent ordinances numbered or omitted are readopted as a new Code by the town council.
- (b) Amendments to any of the provisions of this Code should be made by amending such provisions by specific reference to the section of the Code in substantially the following language: "That section _____ of the Code of Ordinances, Town of Scituate, Rhode Island, is hereby amended to read as follows: _____ (Set out new provisions in full) _____."
- (c) In the event a new section not heretofore existing in the Code is to be added, the following language may be used: "That the Code of Ordinances, Town of Scituate, Rhode Island, is hereby amended by adding a section (or article, chapter or other designation, as the case may be), to be numbered _____, which reads as follows: _____ (Set out new provisions in full) _____."
- (d) All sections, articles, chapters or other provisions of this Code desired to be repealed should be specifically repealed by section number, article number, chapter number or other number, as the case may be.

Sec. 1-10. Supplementation of Code.

- (a) By contract or by town personnel, supplements to this Code shall be prepared and

printed whenever authorized or directed by the town council. A supplement to the Code shall include all substantive permanent and general parts of ordinances passed by the town council or adopted by initiative and referendum during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement.

- (b) In the preparation of a supplement to this Code, all portions of the Code which have been repealed shall be excluded from the Code by the omission thereof from reprinted pages.
- (c) When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions;
 - (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement, and make changes in such catchlines, headings and titles;
 - (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers;
 - (4) Change the words "this ordinance" or words of the same meaning to "this chapter," "this article," "this division," etc., as the case may be, or to "sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code); and
 - (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code, but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code.

Chapter 2 ADMINISTRATION*

***Cross references:** Licenses and miscellaneous business regulations, Ch. 6; parks and recreation, Ch. 9; planning, Ch. 10; land trust, § 10-57 et seq.; police department, Ch. 11.

State law references: Towns and cities, G.L. 1956, Title 45.

- Art. I. In General, §§ 2-1--2-25
- Art. II. Town Council, §§ 2-26--2-45
- Art. III. Officers and Employees, §§ 2-46--2-110
 - Div. 1. Generally, §§ 2-46--2-65
 - Div. 2. Indemnification, §§ 2-66--2-90

Div. 3. Director of Public Works, §§ 2-91--2-110
Art. IV. Departments, §§ 2-111--2-133
Div. 1. Generally, §§ 2-111--2-125
Div. 2. Highway Department, §§ 2-126--2-145
Art. V. Controlled Substance and Alcohol Testing Policy for Employees (CMV Drivers), §§
2-146--2-180
Art. VI. Purchasing Regulations, §§ 2-181--2-187

ARTICLE I. IN GENERAL

Sec. 2-1. Access to public records.

- (a) Any person seeking access to any public record which is required to be made available by General Laws section 38-2-1 et seq. shall make a written, signed request to the custodian of such records stating specifically which records are sought for inspection and/or copying.
- (b) The custodian shall within ten (10) business days of such request either permit or deny such request; provided, however, that failure to take any action within such ten (10) days, shall be deemed to be a denial. Furthermore, the person to whom the request is made may, for good cause, extend the period for permitting or denying a request to thirty (30) days.
- (c) The custodian shall designate the time and place at which records may be inspected or copied. In no case shall records be required to be removed from the town offices and in no case shall records be required to be made available outside normal business hours.
- (d) As provided in General Laws section 38-2-4 all reasonable expenses involved in retrieval and/or copying of records shall be levied as a charge to the person requesting such printout or copy.
- (e) The person making the request shall be informed at the time the request is received of the charges and shall be furnished an estimate of the costs which will be incurred. Before any copies are made, the person making the request shall pay the estimated cost, and before any copies are delivered, the person making the request shall pay any balance due after credit for estimated costs paid.
- (f) Any person denied the right to inspect may, within twenty (20) days of the date of denial, petition the town council for a review as provided in General Laws section 38-2-8, and the town council shall make a decision within ten (10) days after the submission of the review petition.

(Ord. of 9-13-79)

Sec. 2-2. No smoking policy.

- (a) Effective October 9, 1986, there shall be no smoking in facilities occupied by the town, except in areas specifically designated by the town council.
- (b) Smoking is not permitted at meetings or conferences held in any town facilities.
- (c) There shall be no smoking in private offices. Visitors to private work areas must honor this policy.

- (d) Consistent with state law, smoking is not permitted, except as specifically provided in this policy, and "no smoking" signs shall be posted in all departments and buildings in the town.
- (e) Police dispatchers, working eight-hour shifts, are allowed to smoke at their desks during mealtime and when no other personnel or member of the public are in the department. Smoking will not be allowed in any other part of the police department. A smoke filter must be in operation while the dispatcher is smoking and all ashtrays must be put away when not in use.
- (f) Enforcement of the town smoking policy shall be placed as a responsibility on all employees in order to make the policy most equitable and effective.
- (g) Unresolved complaints or problems related to employee smoking practices must be referred to the department head or the town council. All complaints to the town council must be filed with the town clerk and must be submitted in writing.
- (h) The department heads and town council will continue to monitor nonsmoking situations in the town buildings and make additional recommendations as appropriate to promote and protect the health of the town employees.
- (i) The town nonsmoking policy and a copy of the state law relating to the "Rhode Island Workplace Smoking Pollution Control Act" shall be distributed to all town employees.
- (j) This policy shall take effect upon its passage.

(Ord. of 10-9-86, §§ 1--10)

Editor's note: An ordinance adopted October 9, 1986 did not specifically amend the Code. Therefore, inclusion of §§ 1--10 as § 2-2 was at the discretion of the editor.

Secs. 2-3--2-25. Reserved.

ARTICLE II. TOWN COUNCIL*

***State law references:** Town councils, G.L. 1956, § 45-5-1 et seq.

Sec. 2-26. Designation of council as statutory body.

- (a) Whenever any public law, general law or regulation of the state shall require action by or confer jurisdiction upon a "board of police commissioners," "police commission," "bureau of licenses", "license board", or similarly named body, the town council hereby designates and constitutes itself as such body.
- (b) In any proceeding before the town council in any of its aforesaid capacities, it shall not be necessary for it to specifically convene in any of such capacities, as convening as a town council shall be deemed to include convening as the appropriate board or bureau, etc.

(Ord. of 2-12-81)

Sec. 2-27. Rules of conduct for council meetings.

- (a) The order of procedures herein contained shall govern deliberations and the conduct of meetings of the town council.
- (b) The regular meeting of the town council shall be conducted on the second Thursday of each month. The fourth Thursday of each month shall serve as a council work session when so designated by the town council president. Unless otherwise designated all meetings of the council shall begin at 7:30 p.m.
 - (1) The council will hold regular "work sessions" for the purpose of developing policy, gaining information; and/or recommendations from staff, committees or commissions; addressing citizens' concerns or suggestions brought to their attention through correspondence, meetings or comments to councilors; and regular review of financial status.
 - (2) Work sessions will be less formal than regular meetings; however, the public should understand that work sessions are primarily for the purpose of information gathering by the council and public comment will be allowed as long as it does not interfere or untimely delay council business.
 - (3) No action will be taken on items brought before the council for "work sessions" consideration other than action to place an item on a future agenda for action or to direct further study as the council may consider necessary.
- (c) Special meetings may be called at any time by the president of the council or by four (4) or more members, subject to availability of a quorum and with notice to each member at least forty-eight (48) hours in advance (except in the case of an emergency).
- (d) At all meetings of the council, a majority of its members shall constitute a quorum for the transaction of business. Votes made by a quorum at any meeting shall be recorded by the clerk or clerk pro tempore, by name and vote of council members. No action of the town council, shall be valid or binding unless adopted by the affirmative vote of the majority of council members in attendance.
- (e) All meetings of the council shall be presided over by the council president, or in his or her absence, by the council vice-president; in the absence of both, a president pro tempore may be appointed by the council president from among the remaining members.
- (f) The town clerk shall serve as the clerk of the town council, or his or her absence, the deputy clerk. In the absence of both, the council shall appoint a clerk pro tempore for the official recording of council business at all meetings of the council.
- (g) The order of business for all regular council meetings and for those special meetings open to the public, shall be as follows:
 - (1) Call to order by the presiding officer;
 - (2) Roll call recorded;
 - (3) Reading and approving of minutes of previous meetings (or resolution to

dispense with such and approve as submitted by the town clerk);

- (4) Consent agenda (Note: all items with an (*) are considered to be routine by the town council and will be enacted by one motion. There will be no separate discussions of these items; however, upon request of a council member an item will be removed from the consent agenda and considered in its normal sequence on the agenda. No item delaying with appointments, expenditure or receipt of funds shall be part of the consent agenda.);
- (5) Public hearings;
- (6) Old business;
- (7) New business;
- (8) Correspondence;
- (9) Council remarks;
- (10) Public comment;
- (11) Bills;
- (12) Adjournment.

(Public hearings shall be held in the sequence in which they appear on the agenda).

- (h) No person, not a member of the council, shall be allowed to address the same while in session without permission of the presiding officer. Public comment on any matter shall generally be limited in the discretion of the presiding officer to the comment period (set forth below) reserved for interested citizens.
 - (1) A period for "public comment" shall be reserved prior to adjournment at which time the public may bring issues to the council's attention which are not on the evening's agenda and may request that the council consider the issue at a future meeting or work session. Presentation should be limited to a reasonable time.
 - (2) The council reserves the right to limit the total time devoted to any issue; and will, by vote of the council, agree to continue a discussion to a "time specific" in order to give everyone a reasonable time to be heard.
- (i) Motions made at any session shall be reduced to writing if so requested by any other council member. Resolutions shall be reduced to writing in all cases and entered into the official minutes of the meetings kept by the clerk of the council.
- (j) Motions to reconsider any matter previously resolved by vote shall be entertained only from a council member who voted with the majority at the time of the initial decision at the next scheduled council meeting.
- (k) The clerk shall keep a correct record of all proceedings of regular and work session meetings, in accordance with section 42-46-7(b) and (c) of the General Laws.
- (l) All questions of order shall be decided by the presiding officer, with the right of appeal to the council as a body for vote upon the issue by any member.
- (m) The presiding officer may, at his or her discretion, call upon any member to take the chair temporarily for the purpose of allowing such former presiding officer to address the

council and make a motion on any issue.

- (n) The period reserved on the agenda for council remarks shall be for the purpose of allowing council members to request that an item be added to a future agenda, offering general comment on a matter or sharing information which may not have been brought to the attention of the council. Matters previously discussed during the meeting shall not be brought up during council remarks and debate shall not take place.
- (o) All meetings of the council, except those exempted by the open meetings law, shall be conducted publicly, and no ordinance, resolution, rule, regulation, order or directive shall be adopted at the same session that it is introduced unless the council finds, by a two-thirds (2/3) vote, that public health and safety is in imminent danger. A special meeting held under the provisions of subsection (c) of this section, and for the purpose clearly stated of conducting official business, shall be considered a regular meeting under this section.
- (p) The rules and procedures of this resolution may be altered, amended or temporarily suspended by the affirmative vote of two-thirds (2/3) of the majority present.
- (q) The council, through its president, shall be authorized to request the presence of any town official at any and all regular meetings of the council; such officials shall honor such requests in all cases, or show cause why they should not be required to do so. The following town officials, or their designee should be in attendance: town solicitor, tax assessor, town treasurer, chief of police, zoning board member, planning board member, building official, director of public works, town clerk.
- (r) The town clerk shall forward the council meeting agenda and packets to all council members and town solicitor each Friday preceding a regular council meeting for review. The police will act as courier for the delivery of such packets.
- (s) The agenda of all council meetings shall be set by the town clerk and council president. The agenda will be considered closed at the end of town hall workday on the eighth (8th) day preceding the scheduled meeting (except in the case of "special" meetings or work sessions as may be necessary). Agendas will be posted at the following locations: Town Hall, Police Department, N. Scituate Library, Hope Library, Clayville Post Office, N. Scituate Post Office and the Hope Post Office.

A council member may move to add an item to the current agenda for council consideration. Such motion shall be voted upon by roll call of the council. A council member may request that an item be placed on a future council agenda by notifying the town clerk. Any citizen may request that a subject be brought to a council agenda by contacting the town clerk.

- (t) It shall be the duty of the presiding officer at any council meeting to:
 - (1) Call the meeting to order;
 - (2) Keep the meeting to its order of business;
 - (3) Restate each motion made and require a second to that motion before allowing discussion;
 - (4) Control discussion to assure order by:
 - a. Enforcing the provisions of this section;

- b. Allowing all council members wishing to speak the opportunity to do so, one at a time;
- c. Giving pro and con speakers alternating opportunities to speak;
- d. Controlling public participation in accordance with subsection (h) hereof;
- e. Closing the discussion and putting the issue to a vote when it is clear the matter has been adequately addressed by all council members;
- f. Permitting audience participation when appropriate;
- g. Keeping discussions to the question or issue only;
- h. Suggesting, but not making, motions for recess or adjournment.

(u) The council president shall serve as an ex-officio member of all council committees.

(Res. of 2-13-97, §§ 1--21)

Secs. 2-28--2-45. Reserved.

ARTICLE III. OFFICERS AND EMPLOYEES*

***State law references:** Election and qualification of officers, G.L. 1956, § 45-4-1 et seq.

DIVISION 1. GENERALLY

Sec. 2-46. Residence in town required.

- (a) All employees of the town, other than employees of the school department, law enforcement officers of the police department and except as otherwise provided herein, shall reside in the town.
- (b) All employees of the police department as of the date of enactment of this section shall be exempt from its provisions.
- (c) In the event the town council determines that to obtain an employee with the required skills for a particular job it is necessary to hire a nonresident, the town council may by majority vote do so.
- (d) The town council may grant an exemption to this section to any town employee who has worked for the town for a period of at least ten consecutive years and who has moved out of town for good cause.

(Ord. of 8-8-96(1))

State law references: Residency of police officers and firefighters, G.L. 1956, § 45-2-15.

Sec. 2-47. Policy on town vehicles.

The following guidelines shall apply to the use of town vehicles assigned to specific personnel on a "take-home" basis:

- (1) Town vehicles shall be used only for town business. They shall not be used for personal convenience or personal business. If you are called out in the evening or on a weekend, you should use your assigned vehicle. Employees who are not assigned a town vehicle shall be compensated at the rate of thirty cents (\$0.30) per mile when they are required to use their private vehicle for town business, unless a flat rate of compensation has been negotiated prior to the adoption of this policy. Department heads will develop appropriate forms for reporting such business use.
- (2) Fuel is available for town assigned vehicles at the police station or public work's complex.
- (3) Maintenance and repair of town vehicles will be the responsibility of the public work's department.
- (4) In return for the privilege of using the vehicles for transportation to and from work, it will be your responsibility to keep the interior and exterior of the vehicle clean and washed.
- (5) Optional equipment requires prior approval by the appropriate department head. If approved, you may, at your option and personal expense, add accessories to the vehicle (radio, tape player, etc.). Once added, however, they will become the property of the town unless they can be removed from the vehicle at the time of disposal without causing a reduction in the disposal or resale value of the vehicle. Should one of these items be stolen, the town will not reimburse you or replace the item.
- (6) If you are to be away from the office for more than three (3) days for personal reasons, vacation, prolonged sickness, etc., your keys should be left with the department so the vehicle can be assigned if needed to another employee.
- (7) Do not take the vehicle out of town for more than one (1) night without first receiving proper authorization from the town council.

(Ord. of 7-11-96)

Secs. 2-47--2-65. Reserved.

DIVISION 2. INDEMNIFICATION

Sec. 2-66. Authority.

This division is enacted pursuant to General Laws section 45-15-16.

(Ord. of 2-12-87, § 1)

Sec. 2-67. Definition.

For purposes of this division, the words "employees and officials" shall not include

employees of the town whose terms and conditions of employment are the subject of a collective bargaining agreement; otherwise, "employees and officials" shall include for coverage under this division any and all public employees, officials, members of boards, agencies and commissions and also to town council members, and school committee members. Indemnification shall be provided hereunder whether or not such employees, officials or members are paid.

(Ord. of 2-12-87, § 3)

Sec. 2-68. Generally.

Except to the extent that an employee is covered by either his own insurance or by insurance purchased by the town, the town shall defend and indemnify any and all public employees and officials from all reasonable loss, cost, expense and damage, including legal fees and court costs, if any, not to exceed the sum of one hundred thousand dollars (\$100,000.00), exclusive of legal fees and court costs, for any one (1) employee or official arising out of any claim, action, compromise, settlement or judgment by reason or any intentional tort or by reason of any alleged error or misstatement or act or omission, or neglect or violation of the rights of any person under any federal or state law, including misfeasance, malfeasance or nonfeasance or any act, omission or neglect contrary to any federal or state law which imposes personal liability on any such employee or official, if such employee or official, at the time of such intentional tort or act, omission or neglect, was acting within the scope of his official duties or employment. The town council may decline to indemnify any such employee or official for any misstatement, error, act, omission or neglect if the same resulted from wilful, wanton or malicious conduct on the part of such employee or official.

(Ord. of 2-12-87, § 2)

Sec. 2-69. Control of case.

The town shall have the right to settle any claim or suit as the town council in its sole and absolute discretion deems appropriate. The town shall have the right to assert, or not to assert any defense, as it deems advisable. Payment by the town of the liability limit set forth in this division ends its duty to defend or settle.

(Ord. of 2-12-87, § 4)

Sec. 2-70. Duties of employees and officials.

Employees or officials who claim coverage under this division have the duty:

- (1) To promptly notify the town council of any accident or claim.
- (2) To cooperate with the town council and its attorney in the investigation, settlement or defense of any claim or suit.
- (3) Immediately deliver to the town council or its attorney copies of any notices or legal papers received in connection with any claim or suit.

Failure to comply with any of these conditions shall be sufficient grounds for the town council to withdraw and terminate its obligations under this division.

(Ord. of 2-12-87, § 5)

Sec. 2-71. Right to recover from others.

If the town makes any payment pursuant to this division, it is entitled to recover what it paid from other parties. Any employee or official for whom the town makes payment must transfer to the town his right of recovery against any other party, and shall have been deemed to have done so by electing to be defended pursuant to the terms of this division. Such employee or official must do everything necessary to secure these rights and must do nothing that would jeopardize them.

(Ord. of 2-12-87, § 6)

Sec. 2-72. Other insurance.

Where an official or employee is covered by other insurance the liability of the town under this division shall be limited to the difference between the amount covered by the other insurance and the sum of one hundred thousand dollars (\$100,000.00). This division shall not create any obligation on the part of the town to indemnify any insurer, guarantor, collective bargaining unit or its parent organization, or any other person who shall have paid or assumed the obligation to pay, indemnify or insure any employee or official for any claim of the type covered by this division.

(Ord. of 2-12-87, § 7)

Sec. 2-73. No right to sue directly.

This division shall not be deemed to create any right in any person having a claim against any employee or official to sue the town directly, nor shall any person obtaining a judgment against any employee or official have any right to sue the town directly to recover such judgment or any part thereof.

(Ord. of 2-12-87, § 8)

Sec. 2-74. Legal counsel.

The town solicitor shall act as counsel in the defense of all claims covered by this division at no cost to the employee or official. The town council, in its sole discretion, may decide in a particular case to engage the services of outside counsel at no cost to the employee or official. The town shall not be liable for the fees of counsel engaged by the employee or official nor shall the town be liable to indemnify the employee or official for any loss, cost, expense or damage where the official or employee declines the services of counsel provided by the town.

(Ord. of 2-12-87, § 9)

Sec. 2-75. Indemnification fund, source of funds.

The town council may establish a fund into which it may deposit monies appropriate from time to time to carry out the purposes of this division. The amounts in any such fund at the end of the fiscal year may be carried forward to subsequent fiscal years without any reappropriation unless the town council in a particular fiscal year affirmatively votes to do

otherwise. Except to the extent paid from the indemnification fund, all amounts paid pursuant to this division on account of claims against school department officials or employees shall be paid from school department funds and all other claims shall be paid from the general funds of the town.

(Ord. of 2-12-87, § 10)

Sec. 2-76. Right to indemnify other officials and employees.

The town council reserves the right with respect to officials and employees who are not covered by this division to decide on a case-by-case basis whether or not, and to what extent and on what terms and conditions to cover them. Such decision shall be within the sole and absolute discretion of the town council. Furthermore, the town council may, in the exercise of its sole and absolute discretion, on a case-by-case basis decide whether or not to provide indemnity above the limit of one hundred thousand dollars (\$100,000.00) established by section 2-68.

(Ord. of 2-12-87, § 11)

Secs. 2-77--2-90. Reserved.

DIVISION 3. DIRECTOR OF PUBLIC WORKS*

*Cross references: Parks and recreation, Ch. 9; streets and sidewalks, Ch. 13.

Sec. 2-91. Office created.

There is hereby created the office of director of public works in and for the town.

(Ord. of 4-13-78(2), § 1)

Sec. 2-92. Appointment, term.

The director of public works shall serve at the pleasure of the town council and shall be appointed annually for a term of one (1) year. Such appointment shall be made in January of each year.

(Ord. of 4-13-78(2), § 3)

Sec. 2-93. Duties.

The duties of the director of public works shall be to:

- (1) Supervise the highway department.
- (2) Be in charge of the care and maintenance of all town parks and recreational facilities.
- (3) Be in charge of the maintenance of all other town properties and buildings.

(4) Perform all the duties of highway surveyor.
(Ord. of 4-13-78(2), § 2)

Secs. 2-94--2-110. Reserved.

ARTICLE IV. DEPARTMENTS

DIVISION 1. GENERALLY

Secs. 2-111--2-125. Reserved.

DIVISION 2. HIGHWAY DEPARTMENT*

***Cross references:** Streets and sidewalks, Ch. 13.

Sec. 2-126. Authority.

This division is enacted pursuant to Chapter 279 of Public Laws 1974.
(Ord. of 6-13-74, § 1)

Sec. 2-127. Definitions.

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Continuous employment shall mean full-time employment for a period of two (2) years with time out for vacations, holidays and normal sick leave.

Full-time employee shall mean an employee who regularly works at least a thirty-hour workweek.

(Ord. of 6-13-74, § 3)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 2-128. Appointment as permanent employee; tenure.

Full-time employees of the highway department who satisfactorily complete two (2) years of continuous employment shall be eligible, upon appointment by the town council, to become permanent employees of the highway department and shall thereafter hold a job in such department until vacated by death, disability, or retirement except as hereafter provided. All employees of the department who are not permanent employees shall serve at the pleasure of the town council.

(Ord. of 6-13-74, § 2)

Sec. 2-129. Transitional provision.

All full-time members of the highway department who have been employed for at least two (2) years immediately preceding June 13, 1974, shall immediately become permanent employees. Except as provided in this section no person shall become a permanent employee unless the town council shall appoint him as such.

(Ord. of 6-13-74, § 4)

Sec. 2-130. Residence of employees.

All employees of the highway department, whether permanent employees or not, shall, except as otherwise provided in this section, reside in the town. Any employee of the highway department who ceases to reside within the town shall be deemed by reason of such removal from the town to have resigned as an employee of the highway department, except that the town council may by special resolution continue his employment for such time as may be required to obtain a replacement.

(Ord. of 11-11-76(2), § 1)

Sec. 2-131. Suspension.

- (a) *Generally.* The town council or the president of the town council may, at any time, suspend any permanent employee of the highway department until the next regular meeting of the town council at which meeting the president shall report any and all suspensions, with the reasons therefor. The town council may continue such suspension until the next regular meeting following, at which meeting such employee shall either be reinstated or appropriate action shall be taken under subsections (b) and (c) of this section.
- (b) *Grounds.* Any permanent employee of the highway department shall be subject to suspension without pay for a period not to exceed thirty (30) days or discharge from employment by order of the town council at any regular meeting thereof for misconduct, mental or physical incapacity, neglect of duty, insubordination of such a character as the town council may deem a disqualification for employment, or other proper cause.
- (c) *Procedure.* No permanent employee of the highway department shall be suspended or discharged under subsection (b) of this section without being given, if he so requests in writing, a statement of charges and a hearing before the town council.

(Ord. of 6-13-74, §§ 5--7)

Sec. 2-132. Appeal from discharge, suspension.

Any permanent employee of the highway department aggrieved by an order of discharge or suspension by the town council may appeal therefrom to the county superior court within twenty (20) days next after such order by filing a complaint with the clerk of the superior court.

(Ord. of 6-13-74, § 8)

Sec. 2-133. Scope of employment.

Permanent employment shall be limited to permanent employment within the highway department only, and it shall not be construed as providing permanent employment in a particular job or grade, including the position of director of public works within the department.

(Ord. of 6-13-74, § 10)

Secs. 2-134--2-145. Reserved.

**ARTICLE V. CONTROLLED SUBSTANCE AND ALCOHOL TESTING POLICY
FOR EMPLOYEES (CMV DRIVERS)**

Sec. 2-146. Introduction.

The following is the policy of the town, department of public works regarding testing for controlled substances and alcohol of those employees who operate certain commercial motor vehicles which require a commercial driver's license. A discussion of the physical effects of alcohol and certain controlled substances on the body is also included. The name and telephone number of the person who can answer any questions about this controlled substance and alcohol policy and assist you in any abuse situation appears on the last page of this policy.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-147. Terms and abbreviations.

(a) *Terms:*

TABLE INSET:

| | |
|------|---|
| BAT | Breath alcohol technician |
| CDL | Commercial driver's license |
| CFR | Code of Federal Regulations |
| CMV | Commercial motor vehicle |
| DHHS | Department of health and human services |
| DOT | Department of transportation |
| EBT | Evidential breath testing device |
| FHWA | Federal Highway Administration |
| MRO | Medical review officer |
| SAP | Substance abuse professional |
| STT | Screening test technician |

(b) *Definitions:*

Alcohol. The intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohol, including methyl and isopropyl alcohol.

Alcohol concentration or content. The alcohol in a volume of breath expressed in terms of grams of alcohol per two hundred ten (210) liters of breath as indicated by an evidential breath test. For alcohol screening tests, certain approved nonevidential tests may be used.

Alcohol use. The consumption of any beverage, mixture or preparation, including any medication, containing alcohol.

Breath alcohol technician. An individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing (EBT) device.

Confirmation test. For alcohol testing, a second test, following a screening test with a result of 0.02 or greater, that provides quantitative data of alcohol concentration. For controlled substances testing, a second analytical procedure to identify the presence of a specific drug or metabolite that is independent of the screening test and that uses a different technique and chemical principle from that of the screening test to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC/MS) is the only authorized confirmation method for cocaine, marijuana, opiates, amphetamines, and phencyclidine.

Controlled substance. Unless otherwise provided, this term refers to:

- (1) Marijuana
- (2) Cocaine
- (3) Opiates
- (4) Phencyclidine (PCP)
- (5) Amphetamines, including methamphetamines

Disabling damage. Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Inclusions: Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) Exclusions:
 - a. Damage which can be remedied temporarily at the scene of the accident without special tools or parts;
 - b. Tire disablement without other damage, even if no spare tire is available;
 - c. Headlight or taillight damage;
 - d. Damage to turn signals, horn or windshield wipers which may make them inoperable.

Driver. Any person who operates a commercial motor vehicle, including, but not limited to:

- (1) Full time, regularly employed drivers;
- (2) Casual, intermittent or occasional drivers;
- (3) Leased drivers and independent, owner-operator contractors who are either directly employed by or under lease to an employer or operate a commercial

motor vehicle at the direction of or with the consent of an employer.

Evidential breath testing device. An EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified in the CPL as conforming with the model specifications available from the NHTSA, office of alcohol and state programs.

Licensed medical practitioner. A person who is licensed, certified and/or registered, in accordance with applicable federal, state, local or foreign laws and regulations, to prescribe controlled substances and other drugs.

Medical review officer. A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's controlled substances testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test results together with his or her medical history and any other relevant bio-medical information.

Screening test. (Also known as an initial test.) In alcohol testing, an analytic procedure to determine whether a driver may have a prohibited concentration of alcohol in a breath or other specimen. In controlled substances testing, an immunoassay screen to eliminate "negative" urine specimens from further analysis.

Substance abuse. Refers to patterns of controlled substance and/or alcohol abuse that results in health consequences and/or impairment in social, psychological and occupational functioning.

Substance abuse professional. A licensed physician (medical doctor or doctor of osteopathy), or licensed or certified psychologist, social worker, or employee assistance professional or an addition counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse). All must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

Screening test technician. An individual who instructs and assists individuals in the alcohol screening testing process and operates a nonevidential alcohol screening device.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-148. Drivers subject to controlled substances and alcohol testing.

- (a) As mandated by the Omnibus Transportation Employee Testing Act of 1991, DOT/FHWA controlled substances and alcohol testing regulations apply to every person who operates a commercial motor vehicle in commerce in any state, and is subject to the commercial driver's license requirements of 49 C.F.R. Part 383, the Licencia Federal de Conductor (Mexico) requirements, or the CDL requirements of the Canadian National Safety Code, collectively referred to as "CDL".
- (b) The drivers tested under this policy are those required to have a commercial driver's license (CDL), as outlined above, and operate a commercial motor vehicle which is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- (1) Has a gross combination weight rating of twenty-six thousand one (26,001) or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand (10,000) pounds;
 - (2) Has a gross vehicle weight rating of twenty-six thousand one (26,001) or more pounds;
 - (3) Is designed to transport sixteen (16) or more passengers, including the driver; or
 - (4) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the hazardous materials regulations, 49 C.F.R. Part 172, Subpart F.
- (c) There are three (3) exceptions to the testing requirements. Part 382 does not apply to employers and their drivers:
- (1) Required to comply with the alcohol and/or controlled substances testing requirements of Parts 653 and 654 of Title 49 of the C.F.R. (Federal Transit Administration alcohol and controlled substances testing regulations); or
 - (2) Who a state must waive from the requirements of 49 C.F.R. Part 383, including active duty military personnel; members of the reserves, members of the national guard on active duty, including personnel on full-time national guard duty, personnel on part-time national guard training and national guard military technicians (civilians who are required to wear military uniforms), and active duty U.S. Coast Guard personnel; or
 - (3) Who have been granted an optional waiver from the requirements of 49 C.F.R. Part 383 by the state.

(Ord. of 2-8-96; Ord. 1-8-98)

Sec. 2-149. Safety sensitive functions.

A safety sensitive function means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Performing a safety-sensitive function means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive function. A safety-sensitive function includes all time by a driver spent:

- (1) At an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty from the employer;
- (2) Inspecting service brakes, including trailer brake connections, parking (hand) brakes, steering mechanism, lighting devices and reflectors, tires, horn, windshield wiper(s), rear vision mirrors, coupling devices, fire extinguisher, spare fuses, warning devices for stopped vehicles, flare producing devices, emergency reflective triangles, red emergency reflectors, fuses or liquid burning flares, or red flags;

- (3) Inspecting, servicing, or conditioning any CMV at any time;
- (4) At the driving controls of a CMV in operation;
- (5) Other than driving time, in or upon any CMV except time spent resting in a sleeper berth conforming to the requirements of 49 C.F.R. 393.76;
- (6) Loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
- (7) Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-150. Prohibited conduct by drivers.

(a) *Controlled substances prohibitions:*

- (1) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any controlled substance, except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in this policy, who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a CMV.
- (2) No driver shall report for duty, remain on duty or perform a safety-sensitive function, if the driver tests positive for controlled substances.

The town, department of public works requires a driver to inform the town, department of public works of any therapeutic drug use.

(b) *Alcohol prohibitions:*

- (1) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- (2) No driver shall use alcohol while performing safety-sensitive functions.
- (3) No driver shall perform safety-sensitive functions within four (4) hours of using alcohol.
- (4) No driver required to take a post-accident alcohol test under 49 C.F.R. 382.3039 shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.

(c) *General prohibitions:* No driver shall refuse to submit to a post-accident alcohol or controlled substance test required under 49 C.F.R. 382.303, a random alcohol or controlled substances test under 49 C.F.R. 382.305, a reasonable suspicion alcohol or controlled substances test required under 49 C.F.R. 382.307, or a follow-up alcohol or controlled substances test required under 49 C.F.R. 382.311.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-151. When a driver can be tested.

There are five (5) situations when controlled substances and/or alcohol testing must be done under DOT/FHWA regulations, 49 C.F.R. Part 382. Drivers are required by federal law to submit to alcohol and controlled substances testing as described in this policy.

(1) *Pre-employment testing.*

- a. Prior to the first time a driver performs safety-sensitive functions for the town, department of public works, the driver will undergo testing for controlled substances.
- b. No driver will be hired or allowed to perform a safety-sensitive function for the town, department of public works until the driver has received a controlled substances test result from the MRO indicating a verified negative test result.
- c. Such testing is not performed if the driver meets the exceptions of 49 C.F.R. 382.301(c), which states that an employer is not required to administer controlled substances test required by 382.301(a) if (1) the driver has participated in a controlled substances testing program that meets the requirements of 49 C.F.R. Part 382 within the previous thirty (30) days; and (2) while participating in that program, either: (i) was tested for controlled substances with the past six (6) months (from the date of application with the employer) or (ii) participated in a random controlled substances testing program for the previous twelve (12) months (from the date of application with the employer); and (3) the employer ensures that no prior employer of the driver of whom the employer has knowledge has records of a violation of 49 C.F.R. Part 32 or the controlled substance use rule of another DOT agency within the previous six (6) months.

(2) *Post accident testing.*

- a. As soon as practicable following an accident involving a CMV operating on a public road in commerce, the town, department of public works will test for alcohol and controlled substances each surviving driver:
 1. Who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; or
 2. Who receives a citation under state or local law for a moving traffic violation arising from the accident, if the accident involved:
 - i. Bodily injury to any person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - ii. One (1) or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by tow truck or other motor vehicle.

- b. This section does not apply to: (a) an occurrence involving only boarding or alighting (dismounting) from a stationary motor vehicle; or (b) an occurrence involving only the loading or unloading of cargo; or (c) an occurrence in the course of the operation of a passenger car or multi-passenger vehicle (as defined in 49 C.F.R. 571.3) by an employer unless the motor vehicle is transporting passengers to for hire or hazardous materials of a type and quality that require the motor vehicle to be marked or placarded in accordance with 49 C.F.R. 177.823.
- c. Alcohol tests will be administered within eight (8) hours of the accident, and controlled substances tests will be administered within thirty-two (32) hours after the accident.
- d. A driver who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the town, department of public works to have refused to submit to testing.
- e. Nothing in this section shall be construed to require the delay of necessary medical attention for injured people following or to prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.
- f. The results of a breath or blood test for the use of alcohol, conducted by Federal, state, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, state, or local alcohol testing requirements, and that the results of the tests are obtained by the town, department of public works. The results of a urine test for the use of controlled substances, conducted by Federal, state, or local officials having independent authority for the test, shall be considered to meet the requirements of this section, provided such tests conform to the applicable Federal, state, or local controlled substances testing requirements, and that the results of the tests are obtained by the town, department of public works.

(3) *Random testing:*

- a. Unannounced random testing will be conducted at certain rates for both alcohol and controlled substances, and will be spread throughout the calendar year.
- b. Each driver will have an equal chance of being tested each time selections for random testing are made.
- c. Random alcohol testing will be performed while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
- d. Random controlled substances testing will be conducted at any time the driver is working for the town, department of public works.

- e. Each driver who is notified of selection for random alcohol and/or controlled substance testing shall proceed immediately to the test site; provided, however, that if the driver is performing a safety-sensitive function other than driving a commercial motor vehicle, at the time of notification, the town, department of public works will instead ensure that the driver ceases to perform the safety-sensitive function and proceed to the testing site as soon as possible.

(4) *Reasonable suspicion testing:*

- a. The required observations for reasonable suspicion testing for controlled substances and/or alcohol must be made by a town, department of public works supervisor or official who is trained in accordance with 49 C.F.R. 382.603.
- b. The person who makes the determination that reasonable suspicion exists to conduct an alcohol test cannot conduct the alcohol test of the driver.
- c. A driver must submit to a controlled substances test when the town, department of public works has reasonable suspicion to believe that the driver has violated the alcohol prohibitions listed in this policy.
- d. A driver must submit to a controlled substances test when the town, department of public works has reasonable suspicion to believe that the driver has violated the controlled substances prohibitions listed in this policy.
- e. The town, department of public works determination that reasonable suspicion exists to require the driver to undergo an alcohol and/or controlled substances test must be based on specific, contemporaneous, articulable observations concerning the appearance, speech or body odors of the driver. Observations for a controlled substances test may include indications of the chronic and withdrawal effects of controlled substances.
- f. Reasonable suspicion alcohol testing may only be performed if the required observations are made during, just preceding, or just after the period of the work day that the driver is required to be in compliance with this policy.
- g. Drivers may be directed by the town, department of public works to undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
- h. Reasonable suspicion alcohol tests will be performed within eight (8) hours of the determination that such testing is required.
- i. Notwithstanding the absence of a reasonable suspicion alcohol test, no driver shall report for or remain on duty requiring the performance of safety-sensitive functions while the driver is under the influence of or

impaired by alcohol, as shown by the behavioral, speech, and performance indicators of alcohol misuse, until:

1. An alcohol test is administered and the driver's alcohol concentration measures less than 0.02; or
2. Twenty-four (24) hours have elapsed following the determination under this section that there has been reasonable suspicion to believe that the driver has violated the prohibitions listed in this policy concerning the use of alcohol.

(5) *Return to duty and follow-up testing.*

- a. Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging the alcohol prohibitions listed in this policy, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
- b. Before a driver returns to duty requiring the performance of a safety-sensitive function after engaging the controlled substances prohibitions listed in this policy, the driver shall undergo a return-to-duty controlled substances with a result indicating a verified negative result for controlled substance use.
- c. Following a determination under the procedure outlined in 49 C.F.R. 382.605(b) that a driver is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the driver will be subject to unannounced follow-up alcohol and/or controlled substances testing as directed by a substance abuse professional in accordance with 49 C.F.R. 382.605(c)(2)(ii).
- d. Follow-up alcohol testing will be conducted only when the driver is performing safety-sensitive functions, just before performing safety-sensitive functions, or just after the driver has ceased performing safety-sensitive functions.
- e. A driver identified as needed assistance in resolving problems associated with alcohol misuses or controlled substances use will (1) be evaluated by a substance abuse professional to determine that the driver has properly followed any rehabilitation program prescribed under 49 C.F.R. 382.605(b), and (2) be subject to unannounced follow-up alcohol and controlled substances tests administered by the employer following the driver's return to duty. The number and frequency of such follow-up tests will be as directed by the SAP, and will consist of at least six (6) tests in the first twelve (12) months following the driver's return to duty. Follow-up testing will not exceed sixty (60) months from the date of the driver's return to duty. The SAP may terminate the requirement for follow-up testing at any time after the first six (6) tests have been administered, if the SAP determines that such testing is no longer necessary.
- f. Drivers may be directed by the town, department of public works to undergo return-to-duty and follow-up testing for both alcohol and controlled substances, if the SAP determines that return-to-duty and

follow-up testing for both alcohol and controlled substances are necessary for that particular driver.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-152. Refusal to submit to testing.

- (a) Refusal to submit to an alcohol or controlled substances test means that a driver:
 - (1) Fails to provide adequate breath for alcohol testing as required by 49 C.F.R. Part 40 without a valid medical explanation after he or she has received notice of the requirement for breath testing in accordance with the provisions of 49 C.F.R. Part 382;
 - (2) Fails to provide an adequate urine sample for controlled substances testing as required by 49 C.F.R. Part 40 without a genuine inability to provide a specimen (as determined by a medical evaluation) after he or she has received notice of the requirement for urine testing in accordance with the provisions of 49 C.F.R. Part 382; or
 - (3) Engages in conduct that clearly obstructs the testing process.
- (b) The testing required by this policy is mandated by department of transportation/Federal Highway Administration regulations pursuant to the Omnibus Transportation Employee Testing Act of 1991, and is not optional for employers and drivers unless indicated. A driver's refusal to submit to testing is discussed above in the section on prohibited conduct by drivers. In short, a driver who refuses to be tested cannot perform a safety-sensitive function. An applicant for a driver position cannot be hired for that position if he or she refuses to submit to the required testing.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-153. Testing procedure.

The town, department of public work's testing will be conducted pursuant to applicable federal laws and regulations, including but not limited to, 49 C.F.R. Parts 40 and 382. Portions of the actual procedures for both controlled substances and alcohol testing are highlighted below.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-154. Controlled substance testing procedure.

The procedures used to test for the presence of controlled substances are designed to protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver. The DOT regulations specifically set forth how this is accomplished. The exact procedures are set forth in 49 C.F.R. Parts 40 and 382. The town, department of public works' third party administrator for controlled substances and alcohol testing, occupational health and rehabilitation, will also comply with these federally mandated requirements. Employees should, however, be aware of the following:

- (1) Testing will be done by urine sample.

- (2) With certain exceptions, collection of samples will be done in private.
- (3) Certain precautions will be taken to ensure the integrity and identity of the specimen. See 49 C.F.R. 40.25(f), (g), (h).
- (4) A MRO will review confirmed positive results.
- (5) After a confirmed positive test result, the MRO will contact the employee to inform the employee that he or she has seventy-two (72) hours to request reanalysis of the original specimen or analysis of the split specimen, depending on the method of collection used.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-155. Alcohol testing procedures.

The procedures used to test for the presence of alcohol are designed to protect the driver and the integrity of the testing processes, safeguard the validity of the test results, and ensure that those results are attributed to the correct driver. The DOT regulations specifically set forth how this is accomplished. The exact procedures are set forth in 49 C.F.R. Parts 40 and 382. The town, department of public works' third party test administrator for controlled substances and alcohol testing, Occupational Health and Rehabilitation, will also comply with these federally mandated requirements. Employees should, however, be aware of the following:

- (1) With certain exceptions, alcohol tests will be conducted in private.
- (2) The employee being tested is required to provide the BAT with positive identification.
- (3) Upon request by the employee, the BAT will provide positive identification to the employee.
- (4) The BAT will explain the testing procedure to the employee.
- (5) Screening tests will follow the procedures set forth in 49 C.F.R. 40.63, and confirmation tests will follow the procedures set forth in 49 C.F.R. 40.65.
- (6) If the result of the screening test is an alcohol concentration of 0.02 or greater, a confirmation test will be conducted.
- (7) If the confirmation test is to be conducted at a different site from the screening test, the employee cannot drive, perform safety-sensitive duties, or operate heavy equipment.
- (8) If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required, and the result will be transmitted to the town, department of public works.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-156. Consequences of violating the controlled substances and alcohol prohibitions.

- (a) Except as otherwise provided in this policy, no driver shall perform safety-sensitive

functions, including driving a CMV, if the driver has engaged in the conduct prohibited by this policy in the section entitled "PROHIBITED CONDUCT" (section 2-150) or an alcohol or controlled substances rule of another United States Department of Transportation agency. For the purposes of this section, "CMV" means a CMV in commerce as identified in this policy and a CMV in interstate commerce as defined in 49 C.F.R., Part 390. No driver who has engaged in the conduct prohibited by this policy in the section entitled "PROHIBITED CONDUCT" (section 2-150) shall perform safety-sensitive functions, including driving a CMV, unless the driver has met the requirements for referral, evaluation and treatment listed in this policy.

- (b) No driver tested under the alcohol testing requirements of the DOT/FHWA listed in this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall perform or continue to perform safety-sensitive functions for the town, department of public works, including driving a CMV, until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following the administration of the test.
- (c) Drivers who have engaged in conduct prohibited by this policy in the section entitled "PROHIBITED CONDUCT" (section 2-150) will be advised by the town, department of public works of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names addresses and telephone numbers of substance abuse professionals and counseling and treatment programs. Some of this information is listed in this policy under the heading "AVAILABLE ASSISTANCE" (section 2-157).
- (d) Drivers who have engaged in conduct prohibited by this policy in the section entitled "PROHIBITED CONDUCT" (section 2-150) will be evaluated by a SAP who will determine what assistance, if any, the employee needs in resolving problems associated with alcohol misuse and controlled substance use.
- (e) In the event that a driver is returned to duty requiring the performance of a safety-sensitive function after engaging in conduct prohibited by this policy in the section entitled "PROHIBITED CONDUCT," (section 2-150) the driver shall undergo a return-to-duty alcohol testing with a result indicating an alcohol concentration of less than 0.02 if the conduct involved alcohol, or a controlled substances test with a verified negative result if the conduct involved a controlled substance.
- (f) The requirements of this policy with respect to referral, evaluation and rehabilitation do not apply to applicants who refuse to submit to a pre-employment controlled substances test or who have a pre-employment controlled substances test with a verified positive result.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-157. Available assistance.

- (a) The DOT/FHWA regulations require the town, department of public works to provide employees who have violated the prohibitions in listed in the section entitled "PROHIBITED CONDUCT" (section 2-150) with evaluation by a substance abuse professional.
- (b) If an employee would like further information or assistance on alcohol or controlled

substance issues, the employee may do so on a confidential basis through the town, department of public works' employee assistance program (EAP).

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-158. Effects of controlled substances and alcohol on health, work and personal life.

The hazards of use of illegal controlled substances and misuse of alcohol extend far beyond the individual user. Impaired employees endanger themselves, are more likely to injure fellow workers and other users of our highways. Employees with controlled substances or alcohol in their systems are less productive and more likely to injure themselves or other persons in an accident. Such abusing employees increase the costs related lost productivity, absenteeism, accidents, theft, and treatment and deterrence programs. Also, medical costs are high and are passed on to the employee. Alcohol remains the number one abused substance in this country. Alcohol consumption causes a number of changes in behavior. Even low doses can impair the judgment and coordination required for driving. Low to moderate doses increase the incidents of a variety of aggressive acts. Moderate to high doses caused marked impairments in heightened mental functions, severely altering a person's ability to learn and remember information. Very high doses of alcohol will cause respiratory depression and death. If combined with other depressant drugs, much lower doses of alcohol will produce the effects just described. Long-term consumption of large quantities of alcohol can lead to permanent damage to vital organs such as the brain and the liver.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-159. Signs and symptoms of a controlled substance or alcohol problem.

- (a) Alcohol, a nervous system depressant, is the most widely abused substance. About half of all auto accident fatalities in this country are related to alcohol use. A twelve-ounce can of beer, a 5-ounce glass of wine and a one and one-half-ounce shot of hard liquor all contain the same amount of alcohol. Each one-half-ounce of alcohol takes the average body about one hour to absorb and eliminate. Coffee, cold showers and exercise do not hasten sobriety.
- (b) Alcohol first acts on those parts of the brain that affect self-control and other learned behaviors. Low self-control often leads to the aggressive behavior associated with some people who drink. In large doses, alcohol can dull sensation and impair muscular coordination, memory, and judgment. Taken in larger quantities over a long period of time, alcohol can damage the liver and heart and can cause permanent brain damage. On the average, heavy drinkers shorten their life spans by about ten (10) years.
- (c) Controlled substances can show their effects in many different ways. Some of the most noticeable signs of controlled substance use are drowsiness, respiratory depression, constricted pupils, nausea, slurred speech, excitement, loss of appetite, poor perception of time and distance, related inhibitions, disoriented behavior, watery eyes, runny nose, chills and sweats, convulsions, apathy, depression and the use of drug paraphernalia.
- (d) Some of the signs and symptoms of alcohol use are the odor of alcohol, slurred speech, staggering, tremors, vomiting, cramps, delirium, loss of appetite, using arms for balance, leaning against walls and doorways, swaying while maintaining balance, and

confusion.

- (e) Multiple substance abuse is abuse of more than one (1) controlled substance, either at the same time or over a period of time and it may involve any combination of:
 - (1) Alcohol.
 - (2) Prescription drugs.
 - (3) Over-the-counter drugs.
 - (4) Illegal drugs.

Multiple substance abuse is especially dangerous because different substances interact with each other to produce unexpected effects and danger.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-160. Methods of intervention for suspect controlled substance or alcohol problems.

- (a) Substance and alcohol abuse is a complex problem calling for specialized supervision and care. Don't help or aid a person who you think has an alcohol or substance abuse problem. Don't make excuses for them, don't do their work for them, don't look the other way. The problem is not going to go away. Don't enable the person to continue the controlled substance or alcohol abuse. If an employee thinks a co-worker has a controlled substance or alcohol problem, referral to management is one option to attempt to resolve the problem.
- (b) Leave the treatment and counseling of a person with an abuse problem to the professionals. The DOT regulations require that the person with a problem be evaluated by a professional such as a physician, psychologist, or other person with knowledge of abuse and clinical experience in the diagnosis and treatment of controlled substance and alcohol related disorders.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-161. Discipline.

- (a) The town, department of public works has adopted additional employee policies with respect to the use or possession of alcohol or controlled substances, including consequences for a driver found to have a specified alcohol or controlled substance level, based upon the employer's authority independent of the DOT/FHWA Federal Regulations.
- (b) The town, department of public works adopts the following discipline policy which is to be appended and implemented in conjunction with the town substance and alcohol testing policy reviewed by the town council on January 11, 1996.
- (c) In addition to all of the consequences set forth in such policy, such consequences being incorporated herein by reference, any employee found to have violated the policy shall be disciplined as follows:
 - (1) *First offense:* Suspension from job without pay for up to fourteen (14) days and a

letter of reprimand in personnel file at the discretion of the director of public works.

- (2) *Second offense:* Suspension from job without pay for at least fourteen (14) days up to and including termination and a letter of reprimand in the personnel file at the discretion of the director of public works.

- (3) *Third offense:* Termination.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-162. Sources of assistance and help.

- (a) Listed below are sources of help and information:

National Clearinghouse for Drug and Alcohol Information

Monday--Friday

1-800-729-6686

The National Federation of Parents for Drug-Free Youth

Monday--Friday

1-900-554-Kids

National Council on Alcoholism

7 days a week, 24 hours a day

1-800-622-2255

Parents' Resource Institute for Drug Education (PRIDE)

Monday--Friday

1-800-241-9746

Cocaine Helpline

Monday--Friday

Saturday and Sunday, 12:00 p.m.--3:00 a.m.

- (b) For information on where to find treatment for controlled substance and alcohol problems, the best place to look in the yellow pages is under "drug abuse and addiction" or "alcoholism information." Usually there is a listing of the nearest council on alcoholism (or council on drug and alcohol abuse). These councils provide information over the phone on the availability of the nearest alcohol treatment programs. Alcoholics anonymous (AA) or narcotics anonymous (NA) may also be listed. Both offer immeasurable help in enabling people to cope with problems with alcohol and other controlled substances.

(Ord. of 2-8-96; Ord. of 1-8-98)

Sec. 2-163. Person identified to answer questions.

As part of the town, department of public works' policy to ensure fair and equal treatment of drivers, the town, department of public works understands that there may be questions and concerns involving the controlled substances and alcohol testing policy. To assist drivers in understanding the requirements placed on drivers and the town, department of public works, the risk and claims control manager at the Rhode Island Interlocal Risk Management Trust (401-438-6511) and the director of public works and services in the town (401-647-3366) have been designated to answer any questions that may arise concerning the controlled substances and alcohol testing policy.

(Ord. of 2-8-96; Ord. of 1-8-98)

Secs. 2-164--2-180. Reserved.

ARTICLE VI. PURCHASING REGULATIONS

Sec. 2-181. Purchasing agent.

David Dugdale shall act as purchasing agent for all except the school department under these regulations.

(Ord. of 1-14-93(1), art. I, § 1)

Sec. 2-182. Small purchases.

Procurements not exceeding an aggregate amount of ten thousand dollars (\$10,000.00) for construction and five thousand dollars (\$5,000.00) for all other purchases shall be made in accordance with the directives of the purchasing agent, as these may change from time to time. The stated purchase limits shall be increased or decreased annually hereafter at the same rate as the Boston Regional Consumer Price Index.

(Ord. of 1-14-93(1), art. II, § 1)

Sec. 2-183. Competitive sealed bidding.

- (a) All purchases of supplies or services not described in article II hereof, except for medical, dental and legal services, shall be awarded by competitive sealed bidding unless the purchasing agent determines in writing that this method is not practicable. The factors to be considered by the purchasing agent in determining whether competitive sealed bidding is practicable shall includewhether specifications can be prepared that permit an awardon the basis of either the lowest qualified bid price or the lowest qualified evaluated bid price, as well as the available sources, the time and place of performance and other relevant circumstances.
- (b) The invitation for bids shall state whether the award shall be made on the basis of the lowest qualified bid price or the lowest qualified evaluated or responsive bid price. If the latter basis is used, the objective measurable criteria to be utilized shall be set forth in the invitation for bids, if available.
- (c) Public notice of the invitations for bids shall include at a minimum that the notice be published in a newspaper of general circulation in the State of Rhode Island not less

than seven (7) days nor more than twenty-one (21) days before the date set for the opening of bids. The purchasing agent may make a written determination that the twenty-one (21) day limitation needs to be waived. Such waiver shall state the reason why the twenty-one (21) day period is being waived and shall state the number of days, giving a minimum and maximum, before the date set for the opening of bids when public notice is to be given.

- (d) Bids shall be opened publicly in full view of the public at the time and place designated in the invitation for bids. Each bid, together with the name of the bidder, shall be recorded and an abstract made available for public inspection and retained in the bid file. The bid file shall contain all documents pertinent to the awarding of the bid and shall be open to public inspection after the awarding of the contract.
- (e) The contract shall be awarded with reasonable promptness by written notice to the responsive and responsible bidder whose bid is either the lowest qualified bid price or the lowest qualified evaluated or responsive bid price.
- (f) A bidder may submit an amended bid within the period of time for the submission of bids and may withdraw any bid prior to the opening of the same. Bids shall be submitted in a sealed envelope which is clearly marked as a bid with a reference to the contract being bid on.
- (g) Oral, telephonic, facsimile, telex or telegraphic bids are invalid and will not receive consideration.

(Ord. of 1-14-93(1), art. III, §§ 1--7)

Sec. 2-184. Competitive negotiation.

- (a) When the purchasing agent determines in writing that the use of competitive sealed bidding is not practicable, a contract may be awarded by competitive negotiation.
- (b) Public notice of the request for proposals for a contract to be awarded by competitive negotiation shall be given in the same manner as a contract to be awarded by competitive sealed bidding.
- (c) Contracts may be competitively negotiated when it is determined in writing by the purchasing agent that the bid prices received by competitive sealed bidding either are unreasonable as to all or a part of the requirements or were not independently reached in open competition. In such case, each such competitive bidder shall be notified of the intention to negotiate and be given reasonable opportunity to negotiate. In such a case, the negotiated price must be lower than the lowest rejected bid by any competitive bidder and the negotiated price must be the lowest negotiated price offered by a competitive offeror. The request for proposals must indicate the relative importance of price and other evaluation factors. An award shall be made to the responsible offeror whose proposal is determined in writing to be the most advantageous to the town taking into consideration price and the evaluation factors set forth in the request for proposals. Written or oral discussion shall be conducted with all responsible offerors who submit proposals determined in writing to be reasonably susceptible of being selected for award. Discussions shall not disclose any information derived from proposals submitted by competing offerors.
- (d) Discussions in competitive negotiation need not be conducted with respect to prices,

where such prices are fixed by law or regulation, except that consideration shall be given to competitive terms and conditions; or where time of delivery or performance will not permit discussions; or here it can be clearly documented from the existence of adequate competition or accurate prior cost experience with the particular supply, service or construction item that acceptance of an initial offer without discussion will result in fair and reasonable prices, and the request for proposals notifies all offerors of the possibility that an award may be made on the basis of the initial offers.

(Ord. of 1-14-93(1), art. IV, §§ 1--4)

Sec. 2-185. Sole source procurement and emergency procurement.

- (a) A contract may be awarded for a supply, service or construction item without competition when the purchasing agent determines in writing that there is only one source for the required supply, service or construction item.
- (b) Notwithstanding any provision herein to the contrary, the purchasing agent may make or authorize others to take emergency procurements where there exists a threat to public health, welfare or safety in the judgment of the purchasing agent; provided that such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file.

(Ord. of 1-14-93(1), art. V, §§ 1, 2)

Sec. 2-186. Cancellation or rejection of bids.

An invitation for bids, a request for proposals, or other solicitation may be canceled, or all bids or proposals may be rejected, if it is determined in writing by the purchasing agent that such action is taken in the best interests of the town.

(Ord. of 1-14-93(1), art. VI, § 1)

Sec. 2-187. Responsibility of bidders.

- (a) The purchasing agent may make a written determination of responsibility of a bidder after reasonable inquiry. Any bidder shall supply such information as is required by the purchasing agent in order to make such a determination. The failure of a bidder to promptly supply such information may be grounds for a determination of non-responsibility. Except as otherwise provided by law, information furnished by a bidder under this section shall not be disclosed outside of the department administering the contract without prior written consent of the bidder.
- (b) The purchasing agent may pre-qualify suppliers as reasonable prospective contractors for particular types of supplies, services and construction. In making such determination, the purchasing agent shall make reasonable inquiry and any prospective supplier shall furnish to the purchasing agent all information requested in order to complete said inquiry. Solicitation mailing lists of potential contractors of such supplies, services and construction shall include but need not be limited to such pre-qualified contractors. Pre-qualification shall not foreclose a written determination between the time of the bid opening or receipt of offers and the making of an award that a pre-qualified supplier is

not responsible or that a supplier who is not pre-qualified at the time of bid opening or receipt of offers is responsible.

(Ord. of 1-14-93(1), art. VII, §§ 1, 2)

Chapter 3 ANIMALS*

***Cross references:** Animals and pets in trailer parks restricted.

State law references: Animals generally, G.L. 1956, Tit. 4; maximum penalty for violation of dog ordinance, G.L. 1956, § 4-13-1; cruelty to animals, G.L. 1956, § 4-1-1 et seq.; poisoning animals, G.L. 1956, § 4-13-13; power of council to regulate dogs, G.L. 1956, § 4-13-1; town ordinances, contagious diseases, G.L. 1956, § 4-4-18; municipal regulation of animals, G.L. 1956, § 23-19.2-1; animals at large, G.L. 1956, § 4-15-1 et seq.

Art. I. In General, §§ 3-1--3-30
Art. II. Dogs, §§ 3-31--3-40

ARTICLE I. IN GENERAL

Sec. 3-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Animal control officer means the person employed by the town as its enforcement officer and shall include any police officer of the town.

At large. Any dog shall be deemed to be at large when it is off the property of his owner and not under control of a competent person.

Dog pound means any premises designated by action of the town for the purpose of impounding and caring for all animals found running at large in violation of this chapter.

Exposed to rabies. A dog has been exposed to rabies within the meaning of this chapter if it has been bitten by, or been exposed to, any animal known to have been infected with rabies.

Kenel means any person engaged in the commercial business of breeding, buying, selling or boarding dogs or for hobby and recreation.

Owner means any person owning, keeping or harboring a dog.

Restraint. A dog is under restraint within the meaning of this chapter if he is controlled, or at "heel" beside a competent person and obedient to that person's commands, on or within a vehicle being driven or parked on the streets, or within the property limits of its owner or keeper.

Spayed female means any bitch which has been operated upon to prevent conception.

(Ord. of 11-11-71, § 1)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 3-2. Enforcement.

The provisions of this chapter shall be enforced by the animal control officer and any police officer of the town.

(Ord. of 6-14-45(2), § 7; Ord. of 11-11-71, § 2)

Sec. 3-3. Penalty for violations.

Except as otherwise provided in this chapter, any person violating any of the provisions of this chapter shall be fined in accordance with section 1-4. Upon conviction of any person for violation of this chapter, the court convicting such person may authorize the animal control officer to destroy the animal which is the subject of the offense for which the person is convicted. All money received as fines hereunder shall be credited to the dog fund of the town.

(Ord. of 6-14-45(2), § 4)

Sec. 3-4. Redemption of impounded dogs or other animals.

- (a) The owner shall be entitled to regain possession of any impounded dog or other animal, except as hereinafter provided in the cases of certain dogs, at any time upon the payment of impoundment fees set forth herein.
- (b) Any dog or other animal impounded under the provisions of this chapter and not reclaimed by its owner within five (5) days, may be humanely destroyed by the animal control officer, or placed in the custody of some person deemed to be a responsible and suitable person, who will agree to comply with the provisions of this chapter and such other regulations as shall be fixed by the animal control officer.

(Ord. of 11-11-71, § 5)

Sec. 3-5. Impoundment fees.

Any animal impounded under this chapter may be reclaimed as herein provided upon payment by the owner to the animal control officer of the required impoundment fees which shall be set from time to time and a schedule of such fees is on file in the town clerk's office.

(Ord. of 11-11-71, § 6)

Sec. 3-6. Confinement of certain dogs and other animals.

- (a) The owner shall confine within a building or secure enclosure, every known fierce, dangerous or vicious dog or other animal, and not take such dog or other animal out of such building or secure enclosure unless such dog or other animal is securely muzzled. Secure enclosures may include fences capable of confining such dog or other animal but shall not include so-called electronic or invisible fences.
- (b) Every female dog or other animals in heat shall be kept confined in a building or secure enclosure, or in a veterinary hospital or boarding kennel or under control of a competent

agent, in such a manner that such female dog or other animals cannot come in contact with another dog or animal, except for intentional breeding purposes.

- (c) Any animal described in the foregoing subsections of this section found at large or not confined as prescribed, may be impounded by the animal control officer or the owners thereof may be cited to appear in the district court to answer charges of violation of this section. If the animal is impounded, and if the owner is known, the officers shall notify the owner within seventy-two (72) hours from the time the animal is impounded for a hearing to determine whether there has been a violation of this section.

(Code of 11-11-71, § 7; Ord. of 11-9-95(1))

Sec. 3-7. Nuisance abatement.

- (a) The keeping or harboring of any dog, or other animal or fowl, whether licensed or not, which by unreasonable and habitual howling, yelping, barking or other noise disturbs or annoys three (3) or more persons having separate residences is unlawful and is hereby declared to be a public nuisance and each day shall constitute a separate offense.
- (b) It shall be unlawful to allow or permit any animal to trespass on private or public property so as to damage or destroy any property or thing of value and the same is hereby declared to be a nuisance and any such animal may be impounded by the animal control officer whenever it shall be alleged in writing by three (3) or more persons having separate residences, or regularly employed in the neighborhood that any animal is a nuisance by reason of barking, howling, yelping or other noise, trespassing, causing damage to property, or is vicious or in any manner causing undue annoyance, the animal control officer if he/she finds such nuisance to exist, shall serve notice upon the owner or custodian that such nuisance must be abated.
- (c) If the nuisance is not abated, the animal control officer may impound the animal and/or notify the owner to appear before the district court for a hearing to determine if there has been a violation of this section. Each day shall constitute a separate offense.

(Ord. of 11-11-71, § 8; Ord. of 11-14-96; Ord. of 2-12-98)

Sec. 3-8. Miscellaneous provisions.

All complaints made under the provisions of this chapter shall be made to the animal control officer or the police department, and may be made orally; provided, however, that such complaint is within forty-eight (48) hours, reduced to writing on forms provided by the animal control officer and shall be signed by the complainant showing his address and telephone number, if any.

(Ord. of 11-11-71, § 9)

Sec. 3-9. Records.

- (a) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate and detailed records of the impoundment and disposition of all animals coming into his custody.
- (b) It shall be the duty of the animal control officer to keep, or cause to be kept, accurate

and detailed records of all bite cases reported to him and his investigation of the same.
(Ord. of 11-11-71, § 10)

Sec. 3-10. Keeping of hogs.

No person shall keep or cause, suffer or permit to be kept any hog in this town to the annoyance of his neighbors.

(Ord. of 4-15-65, § 1)

Sec. 3-11. Keeping of fowl.

No person shall keep in this town, or cause, or allow to be kept, any fowl of any kind to be kept in any part of a dwelling house or allow any fowl to go at large off his premises.

(Ord. of 4-15-65, § 2)

Sec. 3-12. Disposal of carcasses of dead animals.

If any domestic animal shall die, the owner or person having charge thereof shall forthwith cause the body of the same to be sanitarily disposed of by burial or by burning or shall remove the body from the town.

(Ord. of 4-15-65, § 4)

Sec. 3-13. Keeping animals where food served.

No person shall keep any dog or other animal in any place of business where food is served without first obtaining a permit from the town council.

(Ord. of 6-14-45(2), § 3)

Sec. 3-14. Fees, renewal.

The annual fee for each permit and/or license required to be obtained under this chapter shall be set from time to time and a schedule of such fees is on file in the town clerk's office. All money received hereunder shall be credited to the dog fund of the town. All permits and/or licenses shall expire on the thirtieth (30th) day of April of each year, and application for renewal must be made annually.

(Ord. of 6-14-45(2), § 5; Ord. of 7-8-99, § 1)

Sec. 3-15. Animals prohibited from town ballfields.

- (a) It shall be unlawful for any person to allow or permit any animal to trespass on any ballfield within the town and the same is hereby declared to be a nuisance.
- (b) Ballfield is defined as any area owned and maintained by the town for ballgames including, but not limited to baseball, softball, soccer and tennis.

(Ord. of 7-9-92)

Secs. 3-16--3-29. Reserved.

ARTICLE II. DOGS

Sec. 3-30. Licensing of dogs.

Any person who becomes the owner or keeper of a dog shall obtain a license for that dog within thirty (30) days of becoming the owner or keeper of said dog or within thirty (30) days of said dog attaining the age of six (6) months. Said license shall be renewed annually in accordance with section 3-14 of this chapter.

(Ord. of 7-8-99, § 1)

Sec. 3-31. Restraint.

- (a) The owner shall keep his dog under restraint at all times and shall not permit such dog to be at large, off the premises or property of the owner, unless under the control of a competent person.
- (b) *Restraint* means when the animal is leashed, within a motor vehicle, on the property of its owner or keeper, or on the property of a person other than its owner or keeper, provided that such person is agreeable to the animal's presence.

(Ord. of 11-11-71, § 3; Ord. of 9-9-93)

Sec. 3-32. Impoundment.

- (a) Any dog found running at large in the town shall be taken up by the animal control officer, and impounded in the shelter designated as the town dog pound, and confined there in a humane manner for a period of not less than five (5) days, unless first claimed by owner thereof in accordance with section 3-37, and may thereafter be disposed of in a humane manner if not claimed by their owners.
- (b) When dogs are found running at large, and their ownership is known to the animal control officer, such officer may:
 - (1) Cite the owners of such dogs to appear in the Eighth District Court to answer charges of violation of this article;
 - (2) Impound the dog; or
 - (3) Both cite the owners to appear in the Eighth District Court and impound the dog.
- (c) Immediately upon impounding dogs, the animal control officer shall make every possible reasonable effort to notify the owners of such dogs so impounded, and inform such owners of the conditions whereby they may regain custody of such dogs.
- (d) Any animal, other than a dog, found running at large within the town may be impounded or disposed of according to law when such action is required either to protect the animal or to protect the residents of the town.

(Ord. of 11-11-71, § 4)

Sec. 3-33. Number of dogs restricted.

No person shall keep, other than in a duly licensed breeding kennel, in any household (or on the premises thereof) occupied by such person more than two (2) dogs over the age of six (6) months without first obtaining a permit from the town council.

(Ord. of 6-14-45(2), § 1)

Sec. 3-34. Penalty for violations; citations.

- (a) The animal control officer of the town is authorized to issue citations which may be paid by mail to the owners or keepers of dogs for the violation of any provision of this article.
- (b) Citations paid by mail shall be by check or money order payable to "Town of Scituate," postmarked within ten (10) days of the date of the citation and mailed by regular mail, postage prepaid, addressed to:

Animal Control Officer

Town of Scituate

P.O. Box _____

North Scituate, RI 02857

- (c) Fines for violation of any dog ordinance of the town shall be as set forth in General Laws Section 14-13-1(b)(13)(i) as follows:
 - (1) Twenty dollars (\$20.00) for the first offense within a calendar year;
 - (2) Thirty dollars (\$30.00) for the second offense within a calendar year; and
 - (3) Fifty dollars (\$50.00) for the third and each subsequent offense within a calendar year.
- (d) All fines for violation of any provision of this article shall be added to the general fund of the town.

(Ord. of 11-14-85; Ord. of 7-8-99, § 1)

Sec. 3-35. Control of biting dogs.

- (a) Every dog which bites a person shall be promptly reported to the animal control officer, and shall thereupon be securely quarantined at the direction of the animal control officer for a period of fourteen (14) days. Upon demand of the animal control officer the owner or keeper of such dog shall, at his own expense, cause such dog to be examined for rabies by a licensed veterinarian who shall furnish a written report of his examination to the animal control officer. In cases where such examination has been demanded the dog shall remain quarantined until the animal control officer has received the veterinarian's report.
- (b) In addition to the quarantine and examination set forth in (a) above, every dog which bites a person for a second time while off the premises of its owner or keeper shall

thereafter be kept confined on the premises of its owner or keeper or in a kennel, except that it shall be allowed to leave such premises or kennel confined in a motor vehicle or under control on a leash.

- (c) Every dog which habitually bites or attacks other dogs or domestic animals while off the premises of its owner or keeper shall, at the direction of the animal control officer, be kept confined as provided in paragraph (b) above.

(Ord. of 3-9-67, §§ 1--3)

Sec. 3-36. Control of unspayed female dogs.

The animal control officer may from time to time direct the owner or keeper of any unspayed female dog to keep such dog confined as provided in section 3-35(b). Such period of confinement shall not exceed twenty-one (21) days at any one (1) time.

(Ord. of 3-9-67, § 4)

Sec. 3-37. Confinement by town.

If the owner or keeper of any dog shall fail to obey an order of the animal control officer as to quarantine, confinement or veterinarian examination, the animal control officer is empowered to seize such dog and may enter upon the premises of the owner or keeper to do so. Thereafter, the owner or keeper shall be liable to the town for the cost of picking up such dog, for the cost of impoundment and for the expense of examination by a veterinarian. The animal control officer shall not be obliged to surrender such dog to the owner or keeper until all such fees and expenses are paid in full. If after five (5) days the owner or keeper does not reclaim such dog and pay such fees and expenses, the animal control officer is empowered and authorized to kill such dog and charge the expense of execution and disposal, to the owner or keeper.

(Ord. of 3-9-67, § 5)

Sec. 3-38. Seizure of nuisance dogs.

The animal control officer is authorized to seize any dog which is causing a nuisance while off the premises of its owner. After seizing such dog the animal control officer shall notify the owner or keeper of such dog, if such owner or keeper is known to the animal control officer, and the officer shall surrender such dog to its owner or keeper upon payment for the cost of picking up such dog and the cost of impoundment. If five (5) days after notified the owner or keeper does not reclaim such dog and pay such fees and expenses, the animal control officer is empowered and authorized to kill such dog and charge the expense of execution and disposal, to the owner or keeper.

(Ord. of 3-9-67, § 6)

Sec. 3-39. Penalty for violation of sections 3-35 through 3-38.

Any person violating the provisions of sections 3-35 through 3-38 shall be punished in accordance with section 1-4.

(Ord. of 3-9-67, § 7)

Sec. 3-40. Late licensing fee.

- (a) This section is to supplement chapter 196 of Public Laws 1970 (amending General Laws section 4-13) in that such statute neglects to provide for the licensing of dogs which are required to be licensed during the month of April of any year but are not so licensed.
- (b) Every person owning or keeping a dog which by statute is required to be licensed during the month of April of any year but is not so licensed may have such dog licensed during any subsequent month upon paying to the town clerk seven dollars (\$7.00); otherwise the town clerk shall not issue a license for such dog.

(Ord. of 2-11-71, § 2)

Chapter 4 BUILDINGS AND BUILDING REGULATIONS*

***Cross references:** Fire prevention and protection, Ch. 5; planning, Ch. 10; soil erosion and sedimentation control, Ch. 12; streets and sidewalks, Ch. 13; subdivisions, Ch. 14; trailers and trailer parks, Ch. 16; utilities, Ch. 17; zoning, App. A.

State law references: State Building Code, G.L. 1956, § 23-27.3-1 et seq.

Art. I. In General, §§ 4-1--4-50
Art. II. Alarm Systems, §§ 4-51--4-55

ARTICLE I. IN GENERAL

Sec. 4-1. Permit required for moving buildings.

No building of any kind or description shall be moved over or upon any highway within the town without a permit in writing first having been obtained from the town council. Anyone violating the provisions of this section shall, upon conviction, be punished in accordance with section 1-4.

(Ord. of 4-15-65, § 1)

State law references: Moving buildings, G.L. 1956, § 23-27.3-116.0 et seq.

Sec. 4-2. Numbering of dwelling houses and other buildings.

- (a) This section is enacted for the purpose of enabling public safety organizations to locate properties when responding to calls and to enable them to make full use of the Rhode Island Emergency Telephone System (911 System).
- (b) Whenever the Town of Scituate shall have assigned numbers to dwelling houses or other buildings or shall have re-numbered them, the owner and/or occupant shall within thirty (30) days after notice affix to such premises figures indicating the numbers assigned.
- (c) *Size and location of building numbers.* In affixing building numbers, the property owner

shall conform with the following specifications:

- (1) Building numbers shall be plain block numerals. Script or written numbers shall not count toward satisfaction of this section.
 - (2) All numerals shall be at least three (3) inches in height.
 - (3) Numerals shall be of a color contrasting with the color of the background provided by the material to which they are affixed. Owners are encouraged, but not required to use numbers made of reflective material and to illuminate building numbers so as to be easily visible at night.
 - (4) If a building is less than one hundred (100) feet from the center line of the street on which it fronts, building numbers shall be located on the front of the building which they identify or on a sign, post, mailbox or other device located between the building and street such that numbers shall be visible and readable from both left and right approach.
 - (5) If a building is set back more than one hundred (100) feet from the center line of the street on which it fronts, or if the numerals cannot be read from such center line because of obstruction, the aforesaid numerals shall be affixed to a post, sign, mailbox or other device which shall be located within ten (10) feet of the driveway or walkway entrance to the premises and which shall otherwise conform to the specification herein.
 - (6) In general, when affixed, all building numerals shall be positioned not less than four (4) feet nor more than twelve (12) feet from the surface of the ground directly below them. Exception to this provision of this section may be granted by the building inspector in cases where he determines visibility is adequate.
 - (7) On a corner lot, the building number shall face the street named in the address.
- (d) Any person violating this section shall be fined not exceeding fifty dollars (\$50.00)
- (Ord. of 1-14-93, §§ 1--4)

Sec. 4-3. Water wells.

- (a) Any person, firm or agency intending to construct a new water well or alter an existing well shall register the site location with the town engineer prior to commencing any work. Only one (1) registration per property shall be required; re-registration following re-drilling or secondary well holes is not necessary. Registration for alterations that involve pump, pipe or electrical repairs or replacement only, shall not be required.
- (b) The well registration shall include the following information:
 - (1) Name, address and telephone number of the property owner; assessor's plat and lot number.
 - (2) Name, address, telephone number and contact person of contractor; contractor's Rhode Island well drillers license number.
 - (3) Description/purpose of project activity, including site sketch.
- (c) Upon completion of the well activity, the registrant must submit a copy of any well drillers

report log and the results of any water quality testing to the town engineer.

- (d) There shall be a registration fee of ten dollars (\$10.00).
- (e) The town engineer shall maintain copies of all well information as registered and make such information publicly available within forty-eight (48) hours upon request.
- (f) The location of all new wells shall be in accordance with the town zoning ordinance and state rules and regulations.

(Ord. of 8-14-00(1))

Secs. 4-4--4-50. Reserved.

ARTICLE II. ALARM SYSTEMS*

***Editor's note:** An ordinance of September 13, 1990, §§ 1--5, did not specifically amend the Code; therefore, inclusion as §§ 4-51--4-55 was at the discretion of the editor. This article shall take effect September 13, 1990.

Cross references: Fire prevention and protection, Ch. 5; police department, Ch. 11.

Sec. 4-51. Intent and purpose.

It is the intent and purpose of this article to provide minimum standards and regulations applicable to users and installers of burglar, fire, hold-up and automatic telephone dialer alarms within the Town of Scituate, to provide penalties for noncompliance, and to encourage the installation of protective alarm systems in all dwellings and commercial structures.

(Ord. of 9-13-90, § 1)

Sec. 4-52. Definitions.

The following definitions shall apply to this article:

Alarm system means an assembly of equipment and devices (or a single device, such as a solid state unit, which may operate from a 110-volt AC line) arranged to signal the presence of a hazard requiring urgent attention and to which police or fire department personnel are expected to respond. This includes all burglar alarms, fire alarms, hold-up alarms and automatic telephone dialer alarms, but does not include smoke detectors which do not signal outside an alarmed premises or alarm systems on motor vehicles.

Alarm user means any person, firm or corporation on whose premises any alarm system is maintained within the Town of Scituate.

Automatic telephone dialing device refers to an alarm system which automatically sends over regular telephone lines, by direct connection or otherwise, a prerecorded voice message indicating the existence of the emergency situation that the alarm system is designed to detect.

Calendar year. The period commencing January 1 and ending December 31.

False alarm means the activation of an alarm system through mechanical failure, malfunction, improper installation, or the negligence of the owner or lessee of an alarm system or of his employees or agents. "False alarm" does not include alarms caused by hurricanes, tornadoes, earthquakes or other normally infrequent violent natural conditions or acts of God.

Fire alarm is an alarm system designed to detect fire hazards or emergencies.

Town shall mean the Town of Scituate.

(Ord. of 9-13-90, § 2)

Sec. 4-53. Registration.

Any person, firm or corporation installing an alarm system other than a fire alarm within the town shall register with the Scituate Police Department at least ten (10) days prior to the installation. Alarm users shall register all unregistered alarms systems except for fire alarms with the Scituate Police Department within sixty (60) days of the effective date of this article or within ten (10) days of installation, whichever date is later.

Any person, firm or corporation installing a fire alarm within the town shall register with the Scituate Fire Department at least ten (10) days prior to the installation. Alarm users shall register all unregistered fire alarms with the Scituate Fire Department within sixty (60) days of the effective date of this article, or within ten (10) days of installation, whichever date is later.

(Ord. of 9-13-90, § 3)

Sec. 4-54. Installation and requirements.

- (a) No alarm system shall be installed by other than a licensed person or other person meeting the requirements set forth in the building and electrical codes of the State of Rhode Island. No alarm system shall be installed unless an electrical permit to install an alarm system has been obtained from the town building official, or his designated representative as required by the building and electrical codes of the State of Rhode Island.
- (b) Automatic telephone dialing devices in existence as of the effective date of this article shall be programmed to a special telephone number or numbers which are to be designated by the chief of police, within sixty (60) days of the effective date of this article.
- (c) No person, firm or corporation shall install or maintain an automatic telephone dialing device within the town terminating at any number other than the numbers referred to in subsection (b) above after the effective date of this article.
- (d) All alarm systems which sound an audible signal which may be heard outside of the protected premises shall be equipped with a device which shall limit the duration of such audible signal to not more than thirty (30) minutes.
- (e) A maximum of two (2) false alarms per calendar year shall be allowed from any alarm system of any person, firm or corporation. Upon receipt of a third or fourth false alarm during the calendar year, the alarm user shall be assessed a user fee by the chief of police or, in the case of fire alarms, by the fire chief, in the amount of fifty dollars

(\$50.00). Upon receipt of a fifth false alarm during the calendar year, and for each subsequent false alarm in the calendar year, the alarm user shall be assessed a user fee by the chief of police, or in the case of fire alarms, by the fire chief, in the amount of one hundred dollars (\$100.00). Said fee shall be paid to the Scituate Police Department. Alarms originating from any building owned by any federal, state or local government shall be exempt from the user fee requirement. The determination of whether a particular alarm was false shall be made by the chief of police except that with respect to fire alarms, the determination shall be made by the fire chief.

(Ord. of 9-13-90, § 4)

Sec. 4-55. Violations and penalties.

- (a) Any person, firm or corporation found to be in violation of subsection 4-54(c) of this article shall be fined one hundred dollars (\$100.00) for each violation.
- (b) Any person, firm or corporation who shall fail to pay a user fee assessed as provided in subsection 4-54(e) of this article within thirty (30) days of written notice thereof by the town shall be fined one hundred dollars (\$100.00). Each day a user fee remains delinquent shall constitute a separate offense.
- (c) Any person, firm or corporation found to be in violation of any other provisions of this article shall be fined fifty dollars (\$50.00) for each violation.

(Ord. of 9-13-90, § 5)

Chapter 5 FIRE PREVENTION AND PROTECTION*

***Cross references:** Buildings and building regulations, Ch. 4; fire lanes, § 7-57; police department, Ch. 11; subdivisions, Ch. 14; trailers and trailer parks, Ch. 16.

State law references: Fire safety, G.L. 1956, § 23-28.1-1 et seq.

Sec. 5-1. Sale, storage of explosives.

- (a) No person, unless on military duty of the United States or police or military duty of the state, shall keep, store, or possess or suffer or permit to be kept, stored or possessed more than five (5) pounds of gunpowder, giant powder, guncotton, dynamite, nitroglycerine, fireworks or fixed ammunition in any building or place in the town without a license from the town council, especially describing the place where the same shall be kept or stored.
- (b) No person shall sell or permit to be sold any explosives mentioned in (a) above without a license from the town council.
- (c) The fee for a license required by this section shall be five dollars (\$5.00) and the privilege of storing or selling or both storing and selling any of the such explosives shall be included in one (1) and the same license. All licenses issued under this section shall expire on the thirty-first day of December of each year.

- (d) Any person violating this section shall be punished in accordance with section 1-4.
(Ord. of 4-15-65, § 4)

Chapter 6 LICENSES AND MISCELLANEOUS BUSINESS REGULATIONS*

***Cross references:** License to operate trailer parks, § 16-43.

State law references: Businesses and professions, G.L. 1956, Title 5; Sunday business, G.L. 1956, § 5-23-1 et seq.; work permits on Sunday, G.L. 1956, § 25-3-1 et seq.; Sunday laws, G.L. 1956, § 11-40-1 et seq.

- Art. I. In General, §§ 6-1--6-25
- Art. II. Amusement Devices and Game Rooms, §§ 6-26--6-55
- Art. III. Garage and Yard Sales, §§ 6-56--6-80
- Art. IV. Hawkers and Peddlers, §§ 6-81--6-105
- Art. V. Junk and Secondhand Goods Dealers, §§ 6-106--6-130
- Art. VI. Kennels, §§ 6-131--6-155
- Art. VII. Public Entertainment, §§ 6-156--6-180
- Art. VIII. Restaurants, Cafes and Victualing Houses, §§ 6-181--6-205
- Art. IX. Scituate Art Festival, §§ 6-206--6-230
- Art. X. Vehicle Tracks and Amusement Parks, §§ 6-231--6-250
- Art. XI. Class F Retail Licenses, §§ 6-251--6-255

ARTICLE I. IN GENERAL

Sec. 6-1. Renewal of licenses.

No license issued by the town shall be renewed unless all taxes assessed by the town against the tangible personal property of the holder of such license are current.

(Ord. of 11-8-73, § 1)

Cross references: Taxation, Ch. 15.

Sec. 6-2. Transfer of licenses.

No license issued by the town shall be transferred unless all taxes assessed by the town against the tangible personal property of the holder of such license are paid in full.

(Ord. of 11-8-73, § 2)

Cross references: Taxation, Ch. 15.

Sec. 6-3. Required statement on license.

The following language shall appear on every license which is renewed, transferred or issued by the town:

"It is a condition of the renewal or transfer of this license that all taxes be paid as provided in An Ordinance Concerning the Renewal and Transfer of Licenses."

(Ord. of 11-8-73, § 3)

Sec. 6-4. Liquor licenses limited.

The maximum number of alcoholic beverage licenses which may be issued and outstanding within the town is as follows:

TABLE INSET:

| CLASS | MAXIMUM NUMBER |
|-----------------------------|----------------|
| Retailer's License--Class A | Two (2) |
| Retailer's License--Class B | Three (3) |
| All Others | One (1) each |

(Ord. of 12-12-57; Ord. of 2-10-72; Ord. of 11-14-74; Ord. of 8-27-81; Ord. of 7-26-84; Ord. of 2-12-87; Ord. of 12-12-96)

Cross references: Alcoholic beverages restricted in cafes, etc., § 6-186.

State law references: Municipal authority to limit the number of alcoholic beverage licenses, G.L. 1956, § 3-5-15.

Secs. 6-5--6-25. Reserved.

ARTICLE II. AMUSEMENT DEVICES AND GAME ROOMS*

***State law references:** Pinball and game room licensing, G.L. 1956, § 5-2-10.

Sec. 6-26. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement device or game shall be defined as any mechanical, electric, electronic or video device used or designed to be operated for entertainment or as a game by the insertion of a coin, slug, token, plate or disk or in similar fashion, whether or not registering a score and whether or not its operation demands skill or chance or both. It shall include but not be limited to such devices as marble machines, pinball machines, skillball, mechanical grab or displayed games, air games, video display or computer games, so-called and all games similar thereto under whatever name they may be called.

Game room means any establishment containing four (4) or more amusement games.

(Ord. of 4-8-82, §§ 2, 3)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 6-27. Penalty for violations.

Any person violating any of the provisions of this article, in addition to the revocation of his license, shall be liable to the provisions of section 1-4.

(Ord. of 4-8-82, § 14)

Sec. 6-28. License required.

No person shall keep for public patronage any amusement device or game within the town without a license from the town.

(Ord. of 4-8-82, § 1)

Sec. 6-29. Application for license; fee; sticker.

- (a) Application for a license required by this article shall be made to the town council upon a form to be supplied by the town clerk. The fee for a license is fifty dollars (\$50.00) per machine and twenty-five dollars (\$25.00) per pool table per year commencing on January 1st of each year and expiring on December 31st of each year. The town clerk shall issue a sticker to be attached to such machine on a yearly basis.
- (b) An applicant for a license shall upon filing the application form pay an application fee of ten dollars (\$10.00) and an advertising fee. The town clerk shall forward each new application to the chief of police for his report to the town council and a public hearing will be held on the application after notice in a local newspaper for three (3) weeks. The application for such license shall contain the following information:
 - (1) Name and address of the applicant, age, date and place of birth;
 - (2) Prior convictions of applicant, if any;
 - (3) Place where machine or device is to be operated and the business conducted at that place; and
 - (4) Description of machine to be covered by the license, name of manufacturer and serial number.

(Ord. of 4-8-82, §§ 4, 6; Ord. of 1-13-94)

Sec. 6-30. Number of licenses limited, variance.

No more than three (3) licenses shall be issued under this article for any one (1) establishment, except that an establishment wishing to operate four (4) or more amusement games must first obtain a variance or special exception from the zoning board of review.

(Ord. of 4-8-82, § 5)

Sec. 6-31. Transfer of license.

- (a) A license issued under this article shall not be transferrable from person to person or place to place and shall be usable only at the place and by the person designated in the license.
- (b) A license may be transferred from one (1) machine or device to another similar machine upon application to the town clerk to such effect and giving of a description and a serial number of the new machine or device. Not more than one (1) machine shall be operated under one (1) license and the applicant or licensee shall be required to secure a license for each and every machine displayed or operated by him.

(Ord. of 4-8-82, §§ 7, 8)

Sec. 6-32. Revocation of license.

Every license issued under this article is subject to the right, which is hereby expressly reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of any mechanical or electrical amusement device contrary to the provisions of this article or state law. Such license may be revoked by the town council after written notice of hearing to the licensee, which notice shall specify the article or law violations with which the licensee is charged and, after a hearing, if the licensee is found to be guilty of such violations. Ten (10) days' notice of the hearing shall be given the licensee.

(Ord. of 4-8-82, § 12)

Sec. 6-33. Play by minors.

No person holding a license under this article shall permit persons under the age of sixteen (16) years to play or operate any amusement device or machine unless such person is accompanied by a parent or guardian.

(Ord. of 4-8-82, § 9)

Sec. 6-34. Proximity to schools.

No license required by this article shall be issued for any location which is within one thousand (1,000) feet from a school building as measured from the closest point of the school building to the main entrance of the building in which the game room or amusement machines or devices are located.

(Ord. of 4-8-82, § 10)

Sec. 6-35. Days, hours of operation.

No game room or amusement machines shall be operated on Sunday. No game room or amusement devices shall be operated after the hours of 10:00 p.m. or before 12:00 noon. This section shall not apply to establishments which hold a Class B tavern license. Such establishments may keep their game rooms and amusement machines open for operation during the hours which their Class B license permits them to be open.

(Ord. of 4-8-82, § 11)

Sec. 6-36. Seizure of machines used for gambling.

If the chief of police shall have reason to believe that any amusement device is used as a gambling device, such device may be seized by the police and impounded and if upon trial of the exhibitor for allowing it to be used as a gambling device, such exhibitor is found guilty, such machine shall be destroyed by the police.

(Ord. of 4-8-82, § 13)

Secs. 6-37--6-55. Reserved.

ARTICLE III. GARAGE AND YARD SALES

Sec. 6-56. Definitions.

For the purpose of this article, a garage or yard sale shall be any general sale of used or second-hand tangible personal property held on the premises of a home, or land or buildings abutting thereto, within the boundaries of the town.

- (1) Tangible personal property is limited to goods, wares, merchandise or other articles or substances belonging to the owner of the premises or said owner's immediate family;
- (2) No items of tangible personal property shall be sold on consignment at a garage or yard sale except on behalf of immediate family members;
- (3) Immediate family is limited to the said owner's spouse, children, daughter or son-in-law and parents;
- (4) Hawkers and peddlers are expressly prohibited from selling or offering for sale any goods, wares, merchandise, ice cream or other articles or substances at a garage or yard sale;
- (5) Any person violating this article shall be fined in accordance with section 1-4.

(Ord. of 3-6-75, § 2; Ord. of 6-11-92)

Sec. 6-57. License required.

No person shall sell or offer for sale any goods, wares, merchandise or other articles or substances at any garage or yard sale within the boundaries of the town without first obtaining a license to do so from the town clerk.

(Ord. of 3-6-75, § 1)

Sec. 6-58. Churches exempt.

All churches within the boundaries of the town are exempt from the necessity of obtaining a license under this article and may conduct church sales provided such sale is within the confines or grounds of such church.

(Ord. of 3-6-75, § 8)

Sec. 6-59. Exemption for zoning classifications.

This article shall not apply to sales which are authorized under the zoning classification of the property from which the sales are conducted.

(Ord. of 3-6-75, § 9)

Cross references: Zoning, App. A.

Sec. 6-60. Frequency limited.

There shall be no more than two (2) garage or yard sales at any one (1) location per year, one in each six-month period.

(Ord. of 3-6-75, § 3)

Sec. 6-61. License fee.

The fee for a license required by this article shall be five dollars (\$5.00) per license.

(Ord. of 3-6-75, § 4; Res. of 4-1-79)

Sec. 6-62. Duration of license.

All licenses issued under the provisions of this article shall be for the term of not more than forty-eight (48) hours.

(Ord. of 3-6-75, § 5)

Sec. 6-63. Issuance of license restricted.

A license required by this article may be issued only to the owner of the property upon which the sale is to be held.

(Ord. of 3-6-75, § 6)

Sec. 6-64. License nontransferable.

A license issued under this article shall not be transferable.

(Ord. of 3-6-75, § 7)

Secs. 6-65--6-80. Reserved.

ARTICLE IV. HAWKERS AND PEDDLERS*

***State law references:** Hawkers and peddlers, G.L. 1956, § 5-11-1 et seq.; itinerant vendors, G.L. 1956, § 5-15-1 et seq.

Sec. 6-81. License required.

No person shall sell or offer for sale any goods, wares, merchandise, ice cream or other articles or substances on the street, nor shall any person sell fruits or vegetables from carts or baskets nor shall any person offer for sale any articles or substances as a hawker or peddler within this town without first having obtained a license from the town council.

(Ord. of 4-15-65, § 1)

Sec. 6-82. Exemptions.

The provisions of this article shall not apply to:

- (1) Any person selling religious books and publications in behalf of Bible, tract or other religious or moral societies for the purpose of promoting religious or moral improvement, and which are sold for that purpose and not for pecuniary profit.
- (2) Any butcher retailing meats, or fisherman selling fish or shellfish from carts or otherwise.
- (3) Any person peddling or selling any tow-cloth, knit stockings, gloves, mitts or other articles of household manufacture, or articles manufactured with his own hands.
- (4) Any milkman or to any farmer selling the produce of his farm or selling both the produce of his farm and the produce of other farms.
- (5) Any person who has been licensed under General Laws 1956, sections 5-11-1 through 5-11-3.

(Ord. of 4-15-65, § 3)

Sec. 6-83. Expiration, fee.

All licenses issued under this article shall expire on the 31st day of December of each year. The annual fee for such license shall be five dollars (\$5.00) for a person and fifty dollars (\$50.00) per truck.

(Ord. of 4-15-65, § 2; Res. of 4-1-79; Ord. of 1-13-94)

Secs. 6-84--6-105. Reserved.

ARTICLE V. JUNK AND SECONDHAND GOODS DEALERS*

***State law references:** Authority to license secondhand dealers, G.L. 1956, § 5-21-1 et seq.; junkyards, G.L. 1956, § 24-14-1 et seq.; automobile wrecking and salvage yards, G.L. 1956, § 42-14.2-1 et seq.

Sec. 6-106. Definition.

For the purposes of this article, the words "automobile junkyard" mean a place where one (1) or more unserviceable, discarded, worn-out or junked automobiles, or bodies, engines, tires, parts or accessories thereof are gathered together.

(Ord. of 4-15-65, § 5)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 6-107. License required.

All persons selling, purchasing, bartering and dealing in junk, old metals and any other secondhand articles and all persons establishing, operating or maintaining automobile junkyards shall be required to obtain a license from the town council.

(Ord. of 4-15-65, § 1)

Sec. 6-108. License fees.

The fee for a license for the keeper of a shop or storehouse for the reception of any junk, old metals or secondhand articles which is not an automobile junkyard shall be fifty dollars (\$50.00). The fee for a license for any foundryman or other person receiving the same for the purpose of melting the same or converting the same into castings shall be five dollars (\$5.00). The fee for a license for any gatherer of the same in any bag, wagon or cart shall be five dollars (\$5.00). The fee for a license for any person establishing, operating or maintaining an automobile junkyard shall be one hundred dollars (\$100.00).

(Ord. of 4-15-65, § 2; Ord. of 12-8-66, § 1; Res. of 4-1-79; Ord. of 1-3-94)

Sec. 6-109. Hearing on application.

The town council, before granting a license under this article to keep a shop or storehouse for the reception of any junk, old metals or other secondhand articles or to establish, operate or maintain an automobile junkyard in any location not lawfully occupied for such purpose at the time of the application for such license, shall hold a public hearing notice of which shall be posted at least seven (7) days but not more than fourteen (14) days prior to such hearing in not less than two (2) public places in the town and in a newspaper of general circulation in the town; provided however, that before notice of a hearing shall be posted or published the applicant for such license shall pay a filing fee of ten dollars (\$10.00) plus the cost of posting and publishing such notice.

(Ord. of 4-15-65, § 3)

Sec. 6-110. Objections to application.

No license shall be granted under this article to the keeper of any shop or storehouse for the reception of any junk, old metals, or other secondhand articles or to a person establishing, operating or maintaining an automobile junkyard in any location not lawfully

occupied for such purpose at the time of the application for such license where the owners or occupants of the greater part of the land within two hundred (200) feet of such building or place shall file with the town council their objection to the granting of such license; provided however, that this section shall not apply to any applicant who is the keeper of such a shop or storehouse or automobile junkyard within the town which is being acquired under eminent domain proceedings who is applying for a license within General Laws 1956, section 5-21-1.

(Ord. of 4-15-65, § 4)

Sec. 6-111. Conditions precedent to issuance; exemptions.

- (a) No license shall be granted for an automobile junkyard under this article unless:
 - (1) It is to be operated and maintained entirely within a building; or unless
 - (2) It is to be operated and maintained exclusively for the purpose of salvaging the value as scrap of the material collected, as opposed to reselling parts to be used for the purpose for which they were originally manufactured, and is to be located in a built-up commercial or industrial area, or contiguous to a railroad siding, or on or contiguous to docking facilities; or unless
 - (3) It is:
 - a. More than six hundred (600) feet away from any state highway; and
 - b. More than three hundred (300) feet from any park, bathing beach, playground, school, church or cemetery and is not within ordinary view therefrom; and
 - c. Screened from view either by natural objects or well constructed and properly maintained fences at least six (6) feet high acceptable to the town council and so specified on such license.
- (b) The provisions of subsections (a)(1), (a)(2), (a)(3)a. and (a)(3)b. shall not apply to any automobile junkyard in existence and having a valid license on April 15, 1965.

(Ord. of 4-15-65, §§ 6, 11)

Sec. 6-112. Factors considered by council.

In considering the application for any license under this article the town council shall consider the character and reputation of the applicants and the nature and location of the proposed site with reference to the character of the surrounding neighborhood and the orderly development of the town.

(Ord. of 4-15-65, § 7)

Sec. 6-113. Imposition of conditions by council.

In granting a license under this article the town council may impose such conditions as it may deem fit with respect to burning.

(Ord. of 4-15-65, § 8)

Sec. 6-114. Expiration, revocation.

All licenses issued under this article shall expire on the thirty-first day of December next following the date of issuance and may be revoked at the pleasure of the town council.

(Ord. of 4-15-65, § 9)

Sec. 6-115. Maximum number of licenses.

No more than three (3) licenses for automobile junkyards under this article shall be in effect at any one (1) time.

(Ord. of 4-15-65, § 10)

Sec. 6-116. Penalties for violation.

- (a) Any person carrying on any of the businesses coming under this article without a license shall be fined not exceeding two hundred dollars (\$200.00) or imprisoned for not exceeding six (6) months.
- (b) Any person operating or maintaining an automobile junkyard which violates any of the provisions of section 6-111 shall, upon conviction for the first offense be punished by a fine of not less than fifty dollars (\$50.00) nor more than one hundred dollars (\$100.00), or by imprisonment for not less than ten (10) days nor more than thirty (30) days, or by both such fine and imprisonment, and shall for a second or subsequent conviction be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00), or by imprisonment for not less than thirty (30) days nor more than six (6) months, or by both such fine and imprisonment.

(Ord. of 4-15-65, § 12; Ord. of 10-13-66, § 1)

Secs. 6-117--6-130. Reserved.

ARTICLE VI. KENNELS*

***Cross references:** Animals, Ch. 3; zoning, App. A.

State law references: Kennel licenses, G.L. 1956, § 4-13-10.

Sec. 6-131. Application for license.

- (a) Every owner or keeper of dogs in the town qualified to apply for a kennel license under the provisions of General Laws 1956, section 4-13-10 and any amendments thereof or additions thereto, shall on or before the first day of March in each year file with the town council, in its capacity as board of police commissioners, an application for a kennel license.

- (b) Such application shall state the name or names of the owner and keeper of such kennel, the proposed location of the same and the number of dogs to be kept therein and that the same are to be kept for breeding and stud purposes only or for boarding purposes.

(Ord. of 2-12-81, §§ 1, 2)

Sec. 6-132. Publication of notice of application.

Upon receipt of an application for a license under this article, the town clerk shall cause notice of the application for a kennel license to be published in the Providence Journal or Bulletin at least once, one (1) week prior to the hearing date on such application. Such notice shall state the name of the applicant, the type of license requested and a description of the particular location for which the license is requested. Such notice shall also state that remonstrants are entitled to be heard before the granting of such license and shall name the time and place of the hearing. Furthermore, in the case of an initial license application, the town clerk shall give similar notice by regular mail at least one (1) week prior to the hearing to the owners of all property within three hundred (300) feet of the perimeter of the premises on which a kennel is sought to be located.

(Ord. of 2-12-81, § 3)

Sec. 6-133. Objection by neighbors.

Any owner or occupant of premises within one-fourth of a mile of the location for which a kennel license is sought shall be entitled to remonstrate and to be heard.

(Ord. of 2-12-81, § 4)

Sec. 6-134. License fees.

Each applicant for a kennel license shall pay to the town clerk, upon filing his application, the license fee prescribed by General Laws 1956, section 4-13-10, and shall also pay upon filing such application the expenses of the notice to be given by the town clerk as above specified. In the event that, after hearing any application for a kennel license is denied, the town clerk shall refund to the applicant the fee prescribed by statute for the kennel license.

(Ord. of 2-12-81, § 5)

Sec. 6-135. Conditions for issuance.

After hearing if the town council, in its capacity as board of police commissioners, shall deem that such kennel and the use and operation thereof at such location would not constitute a public nuisance, it shall issue a kennel license authorizing the owner or keeper to keep such kennel in the definite location to be specified in such license; provided, however, that in no event shall any kennel license, (other than renewals of kennel licenses issued prior to the effective date of this ordinance) be issued without a certificate from the zoning inspector that the operation of a kennel is a permitted use on the premises either by the zoning ordinance of the town or by a final decision of the zoning board of review of the town with respect to an application for a variance or special exception.

(Ord. of 2-12-81, § 6)

Sec. 6-136. Expiration.

Every such license shall be for a period not exceeding one (1) year and expiring on the first day of April next following the date thereof.

(Ord. of 2-12-81, § 7)

Sec. 6-137. Penalty for violation.

Any person violating the provisions of this article shall be fined not exceeding five dollars (\$5.00) for each day such kennel is so kept.

(Ord. of 2-12-81, § 8)

Secs. 6-138--6-155. Reserved.

ARTICLE VII. PUBLIC ENTERTAINMENT**Sec. 6-156. License required.**

It shall be unlawful for any person to conduct or operate any entertainment or amusement within the town which is open to the public and for admittance to which a fee is charged, without having first secured a license therefor from the town council.

(Ord. of 10-8-81, § 1)

Sec. 6-157. Application for license.

Written application for a license required by this article shall be made to the town clerk. Each application shall specify the name and address of the applicant, the nature, location and date of the proposed entertainment, as well as what provisions will be made for medical assistance, fire protection, police protection, parking facilities, protection of neighboring property, crowd control, sanitary facilities and sufficient food and water.

(Ord. of 10-8-81, § 2)

Sec. 6-158. Hearing on application, notice.

Upon receipt of an application for a license under this article, the town clerk shall assign it for hearing before the town council and shall cause notice of such hearing to be published in the Providence Journal or Bulletin at least once, one (1) week prior to the hearing date. Such notice shall state the name and address of the applicant, the nature and date of the proposed entertainment, and a description of the particular location for which the license is requested. Such notice shall also state that remonstrants are entitled to be heard before the granting of such license and shall name the time and place of the hearing. Furthermore the town clerk shall give similar notice by regular mail at least one (1) week prior to the hearing to the owners of all property within three hundred (300) feet of the perimeter of the premises in or on which the entertainment is sought to be located. The town clerk shall also give similar notice to the chief of police at least one (1) week prior to the hearing.

(Ord. of 10-8-81, § 3)

Sec. 6-159. Objection by neighbors.

Any owner or occupant of premises within one-fourth of a mile of the location of the proposed entertainment shall be entitled to remonstrate and to be heard.

(Ord. of 10-8-81, § 4)

Sec. 6-160. License fee.

Each applicant for an entertainment license shall pay to the town clerk, upon filing his application, a license fee of one hundred dollars (\$100.00), and shall also pay the expenses of the notice to be given by the town clerk as above specified. In the event that, after hearing, any application for an entertainment license is denied, the town clerk shall refund the applicant the one-hundred-dollar filing fee.

(Ord. of 10-8-81, § 5)

Sec. 6-161. Conditions for issuance.

The town council shall conduct a hearing upon each application for an entertainment license. The town council may grant such a license only if it shall find that the proposed entertainment would not constitute a public nuisance and if it shall find that the applicant has made adequate provisions for medical assistance, fire protection, police protection, parking facilities, protection of neighboring property, crowd control, sanitary facilities, sufficient food and water, and the like. In no event shall any entertainment license be issued without a certificate from the zoning inspector that such entertainment is a permitted use on the premises either pursuant to the zoning ordinance of the town or by a final decision of the zoning board of review of the town with respect to an application for a variance or special exception.

(Ord. of 10-8-81, § 6)

Sec. 6-162. Notice to police; police supervision.

The town clerk, upon the granting by the town council of a license under this article, shall forthwith notify the chief of police of the granting of such license, the time and place that such public entertainment will occur, and deliver to the chief a copy of the license so granted. The chief of police shall assign a police officer or constable who shall be present at the premises at all times when the premises are used for such public entertainment, provided, however, that the licensee shall pay for the services of such police officer or constable at the then prevailing rate therefor. The licensee shall also be required to pay for all other special expenses incurred as a result of the granting of the license. The agreement by the licensee to pay the expenses hereinabove set forth shall be a condition to the granting of the license by the town council.

(Ord. of 10-8-81, § 7)

Sec. 6-163. Issuance restricted.

No entertainment license shall be issued to any applicant currently in arrears in any tax or assessment levied by the town, or for use upon any premises for which any such taxes or assessments are unpaid at the time of the filing of the application. The applicant seeking such license shall submit a certificate from the tax collector that all such taxes and assessments have been paid at the time the application is filed.

(Ord. of 10-8-81, § 8)

Sec. 6-164. Penalty for violation.

Any person violating any of the provisions of this article shall be fined in accordance with section 1-4. Each day of the existence of a violation shall be deemed a separate offense. In addition, any violation of this article shall be grounds for revocation of the entertainment license.

(Ord. of 10-8-81, § 9)

Sec. 6-165. Nudity on premises where alcoholic beverages are offered for sale.

(a) Pursuant to R.I.G.L. § 3-7-7.3 and with reference with any and all Class B license holders:

- (1) It shall be unlawful for any holder of any Class B license maintaining, owning, or operating a commercial establishment located within the town, to suffer or permit any:
 - a. Female person, while on the of such commercial establishment, to expose to the public view that area of the human female breast at or below the areola thereof.
 - b. Female person, while on the premises of such commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breast as described in subsection(1)a.
 - c. Person, while on the premises of such commercial establishment, to expose to public view his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage.
 - d. Person, while on the premises of such commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft and cleavage.
- (2) It shall be unlawful for any female person while on the premises of any Class B license holder located within the town, to expose to public view that area of the human female breast at or below the areola thereof or to employ any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.
- (3) It shall be unlawful for any person while on the premises of any Class B license holder located within the town, to expose to public view his or her genitals, pubic area, buttocks, anus, or anal cleft or cleavage, or to employ any device or

covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, or anal cleft or cleavage.

(b) With reference to any and all other license holders;

(1) It shall be unlawful for any person maintaining, owning, or operating a commercial establishment located within the town at which alcoholic beverages are offered for sale for consumption on the premises, to suffer or permit any:

- a. Female person, while on the premises of such commercial establishment, to expose to the public view that area of the human breast at or below the areola thereof.
- b. Female person, while on the premises of such commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate such portions of the human female breast as described in subsection (1)a.
- c. Person, while on the premises of such commercial establishment to expose to public view his or her genitals, pubic area, buttocks, anus or anal cleft or cleavage.
- d. Person, while on the premises of such commercial establishment, to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, anal cleft and cleavage.

(2) It shall be unlawful for any female person, while on the premises of a commercial establishment located within the town at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view that area of the human female breast at or below the areola thereof or to employ any device or covering which is intended to give the appearance or simulate such areas of the female breast as described herein.

(3) It shall be unlawful for any person, while on the premises of a commercial establishment located within the town at which alcoholic beverages are offered for sale for consumption on the premises, to expose to public view his or her genitals, pubic area, buttocks, anus, or anal cleft or cleavage, or to employ any device or covering which is intended to give the appearance of or simulate the genitals, pubic area, buttocks, anus, or anal cleft or cleavage.

(c) Any person who shall violate any provision of this section shall be guilty of an offense against the town punishable as provided in section 6-164.

(d) If any provision of this section, or its application to any person or circumstances, shall be held invalid, the remainder of the section, or the application of the provision to other persons or circumstances shall not be affected.

(e) If the owner, operator, licensee, lessor, lessee, manager, employee or any other person participating in the operation of the establishment located within the town at which alcoholic beverages are offered for sale for consumption on the premises shall violate or be in violation of any of the provisions of this section, the town council shall revoke the license for such establishment after giving reasonable notice thereof to the holder of such license and affording the holder an opportunity to be heard as to why the

revocation shall not be issued.

(Ord. of 11-9-95(2), §§ 1--3; Ord. of 3-11-99, § 1)

Secs. 6-166--6-180. Reserved.

ARTICLE VIII. RESTAURANTS, CAFES AND VICTUALING HOUSES*

***Cross references:** Zoning, App. A.

State law references: Licensing and regulation of taverns, cookshops, and oyster houses, G.L. 1956, § 5-24-1 et seq.

Sec. 6-181. License required.

- (a) No person shall open or keep open any tavern, victualing house, cookshop, oyster house or oyster cellar, without a license first had and obtained from the town council, or in any place other than that specified in such license.
- (b) Every such person violating the provisions of this section shall be fined fifty dollars (\$50.00) for each offense, one-half thereof to the use of the town and one-half thereof to the use of the state.

(Ord. of 5-2-66, § 1)

Sec. 6-182. Issuance of license, fee.

The town council may grant a license required by this article upon receipt of an application signed by the person seeking to be licensed stating the location for which such license is sought and the business sought to be licensed, accompanied by a fee of fifty dollars (\$50.00), and in the case of application for renewal of the license, a fee of fifty dollars (\$50.00). Such fee shall not be refunded by the town in the event the application is denied.

(Ord. of 5-2-66, § 4; Ord. of 1-13-94)

Sec. 6-183. Contents of license, expiration.

Every license issued under this article shall specify the person licensed, the business licensed, and the building or room in which the same shall be pursued, and shall continue and be in force until the 1st of December of each year, unless sooner revoked for cause.

(Ord. of 5-2-66, § 5)

Sec. 6-184. Duty to maintain order.

- (a) Every person licensed under section 6-181 shall maintain good order in the building licensed, and shall not suffer any person in the licensed building to become intoxicated, nor shall he take in pawn or pledge any article whatsoever; neither shall he suffer the

licensed building to become frequented by any common drunkard or person addicted to the intemperate use of spirituous or intoxicating liquors, or by any person who is a disturber of the peace, or who is wasting his property or earnings and means of supporting himself and family, or by any person under lawful age.

- (b) Every such person violating the provisions of this section shall be deemed the keeper of a disorderly house and shall be fined fifty dollars (\$50.00), one-half thereof to the use of the town and one-half thereof to the use of the state.

(Ord. of 5-2-66, § 2)

Sec. 6-185. Revocation of license.

In case any person licensed under this article shall be convicted of keeping a disorderly house, the town council shall forthwith withdraw and annul his license; and he shall not be licensed during the two (2) years next following his conviction.

(Ord. of 5-2-66, § 3)

Sec. 6-186. Alcoholic beverages restricted.

- (a) Except where there is a retailer's license issued pursuant to General Laws 1956, section 3-7 and in good standing for the premises, no person holding a license pursuant to General Laws 1956, section 5-24-1 for the keeping of a tavern, victualing house, cookshop, oyster house or oyster cellar shall permit consumption of alcoholic beverages on the premises by patrons of the licensed establishment, nor shall patrons be permitted to bring alcoholic beverages onto the licensed premises for purposes of consumption.
- (b) For purposes of this section, the term "alcoholic beverages" shall mean any beverage which is subject to retail license requirements of General Laws 1956, section 3-7.
- (c) Violation of this section shall be considered cause for revocation of license pursuant to General Laws 1956, section 5-24-2.
- (d) Every victualing license to which this section applies shall contain a notice to the effect that it is issued on condition that no alcoholic beverages will be consumed by patrons on the premises or brought into the premises for purposes of consumption.

(Ord. of 10-20-83, §§ 1--4)

Cross references: Liquor licenses limited, § 6-4.

Sec. 6-187. Closing hours.

- (a) It shall be unlawful for any restaurant, cafe or other establishment holding a victualing license or a license for the sale of alcoholic beverages, or both, to remain open between the hours of 1:00 a.m. and 6:00 a.m., except establishments may remain open on December 31 of each year as provided by General Laws section 1956, 5-22-3, as amended.
- (b) For the purposes of this section, the words "remain open" shall be construed to mean the presence of persons (other than employees), in or upon the premises during the hours mentioned in (a) above.

- (c) Nothing contained in this section shall enlarge the hours during which any establishment holding a license to sell alcoholic beverages may remain open, as otherwise provided by law.
- (d) The town council may, for proper cause shown, upon application in writing, grant permission for closing hours different from those set forth in (a) above, applicable only to legal holidays not falling upon Sundays.
- (e) Any person violating the provisions of this section shall be fined not exceeding twenty dollars (\$20.00) for each first violation. In addition thereto, such person shall be subject to having any license issued for the place of establishment suspended or revoked for violation of this section.

(Ord. of 4-15-65, §§ 1--5)

Secs. 6-188--6-205. Reserved.

ARTICLE IX. SCITUATE ART FESTIVAL

Sec. 6-206. Purpose.

This article is enacted to promote the safe and orderly flow of vehicular and pedestrian traffic; to protect the quiet enjoyment of their homes by residents of North Scituate village; to permit access to the North Scituate village area by police, fire, rescue and ambulance vehicles; to confine the area used for art festival events to an area which is manageable in terms of the size of the police department; to control litter and to protect public health with regard to the sale of food and beverages during the Scituate Art Festival.

(Ord. of 6-9-83, § 1)

Sec. 6-207. Application.

This article shall apply during the three-day period in October of each year when the Scituate Art Festival is held.

(Ord. of 6-9-83, § 2)

Sec. 6-208. License required.

During the Scituate Art Festival no person, organization or corporation, except as exempted by this article, shall sell or offer for sale from any cart, vehicle, stand, building or otherwise, any food or beverages within North Scituate Village, which is hereby for purposes of this article designated as Assessor's Plats 16, 19 and 39 of the records of the town tax assessor, without first obtaining either an art festival arts and crafts license or an art festival victualing license from the town council.

(Ord. of 6-9-83, § 3; Ord. of 9-9-99(1))

Sec. 6-209. Exemption.

Persons holding regular victualing licenses shall be excepted from the requirement of an art festival victualing license, but only for the premises for which they hold a regular victualing license. Such exception shall not be construed to permit sale of food or beverages outside the building where their victualing license permits them to operate.

(Ord. of 6-9-83, § 4)

Sec. 6-210. Issuance restricted.

- (a) The town council shall grant, upon application, art festival arts and crafts licenses and art festival victualing licenses to the following organizations provided that such licenses shall only be for the premises owned by such organizations and shall only be to permit the sale of arts and crafts and food and beverages by members of the following organizations and their affiliated clubs, societies and fraternal organizations:
 - (1) North Scituate Public Library Association;
 - (2) North Scituate Baptist Church;
 - (3) St. Joseph's Church;
 - (4) Hamilton Lodge F. & A.M.;
 - (5) Chopmist Hill Fire Department;
 - (6) Trinity Episcopal Church.
- (b) The town council shall grant, upon application, art festival arts and crafts licenses and art festival victualing licenses, to those persons or organizations which have been given space to sell arts, crafts, food and beverages by the Scituate Art Festival Committee on the town property occupied by the Scituate Art Festival.
- (c) The town council may, in its discretion, grant art festival arts and crafts licenses and art festival victualing licenses to persons owning property zoned business or having a preexisting non-conforming business use or persons leasing space on property zoned business or having a preexisting non-conforming business use, as it deems will not interfere with the purposes of this article. License applications pursuant to this section must be made no later than the first day of October.
- (d) The town council may, in its discretion, grant art festival arts and crafts licenses and art festival victualing licenses to those residential property owners whose property is located in the art festival district as defined in section 6-208 of this Code. Licenses granted under this paragraph (d) shall be subject to the limitation that one (1) license shall be required for each space of ten (10) feet by twelve (12) feet to be used by the licensee. The maximum number of licensed spaces on any lot within the art festival district to be granted under the provisions of this paragraph (d) shall be one (1) license per ten (10) feet of road frontage of said lot, but in no event more than twenty (20) licenses per lot.
- (e) All licenses issued under the provisions of this article shall be subject to the following restrictions:
 - (1) There shall be only one (1) vendor per license and only one (1) vendor shall be permitted per booth or stand.

- (2) The minimum space per license shall be ten (10) feet by ten (10) feet.
 - (3) The maximum space per license shall be ten (10) feet by twelve (12) feet except for antique dealers who are licensed for a location on town property pursuant to paragraph (b) of this section.
 - (4) The minimum aisle width between spaces facing each other shall be ten (10) feet.
 - (5) There shall be no dead end aisles.
 - (6) No booths or stands shall be permitted on sidewalks.
 - (7) No food vendors shall be permitted for spaces licensed under the provisions of paragraph (d) of this section, except for food vendors licensed in 1999. A food vendor's failure to apply for a victualing license in any year shall be deemed a waiver to any right to such license, and shall forever preclude such vendor from applying for such license in the future.
- (f) The maximum number of licenses to be issued pursuant to paragraphs (a) and (c) of this section shall be limited to the maximum number of licenses authorized per lot during the year 1999, based on a maximum space per license of ten (10) by twelve (12) feet.

(Ord. of 6-9-83, §§ 5--7; Ord. of 9-9-99(1); Ord. of 8-14-00(2), §§ 1--3)

Sec. 6-211. License fee.

There shall be no fee for art festival, arts and crafts licenses and art festival victualing licenses issued pursuant to paragraphs (a) and (b) of section 6-210. There shall be a fee for each license issued pursuant to section 6-210(c) and (d) which fee shall be set from time to time and a schedule of such fees is on file in the town clerk's office.

(Ord. of 6-9-83, § 8; Ord. of 9-9-99(1))

Sec. 6-212. Penalty for violation.

Any person violating this article shall be fined in accordance with section 1-4.

(Ord. of 6-9-83, § 9)

Secs. 6-213--6-230. Reserved.

ARTICLE X. VEHICLE TRACKS AND AMUSEMENT PARKS*

*Cross references: Motor vehicles and traffic, Ch. 7; zoning, App. A.

Sec. 6-231. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement park means any tract of land together with the structures located thereon, the principal use of which is to provide a midway of amusement and recreation to the general public.

Track means a tract of land together with the structures thereon, the principal use of which is to provide vehicle racing or driving for public amusement upon payment of a fee.

Vehicle includes any automobile, go-cart, so-called, motorcycle or motor bike or other motor-powered vehicle but does not include bicycles or vehicles drawn by animals or not propelled by a motor.

(Ord. of 5-9-63, § 11)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 6-232. Penalty for violations.

Any person violating any of the provisions of this article shall be punished as provided in section 1-4. Each day's violation shall be considered a separate offense.

(Ord. of 5-9-63, § 9)

Sec. 6-233. License required.

No person shall operate a vehicle track or an amusement park within the town without first obtaining a license to do so.

(Ord. of 5-9-63, § 1)

Sec. 6-234. Application for license.

(a) Application for the initial issuance of a license required by this article shall be made in writing to the town council and shall be accompanied by the following:

- (1) A metes and bounds description of the proposed location of such track or amusement park and a plat of such proposed location prepared by a licensed surveyor showing the names of all adjoining property owners and the names of all property owners within five hundred (500) feet of the proposed location.
- (2) The names and addresses of the owners of the proposed location and if a corporation the names and addresses of all of its officers, stockholders and directors.
- (3) The names and addresses of the owners of the proposed track or amusement park and if a corporation the names and addresses of all its officers, stockholders and directors.
- (4) A statement of the types of amusements or vehicles to be used at the proposed location.

- (5) A statement of the dates and hours when permission is sought to operate such track or amusement park.
 - (6) A filing fee of one hundred dollars (\$100.00) to cover the costs of advertising, sending notice, and administering such application.
 - (b) An application for the initial issuance of such license shall be filed at least three (3) weeks prior to the regularly scheduled town council meeting at which hearing on such application is sought.
- (Ord. of 5-9-63, §§ 2, 3)

Sec. 6-235. Notice of application, hearing.

Upon the receipt of an application for a license required by this article, the town clerk shall send, by regular mail, notice of such application and the date, time and place for hearing thereon to each of the property owners set forth in section 6-234(a)(1). Such notice shall be sent at least two (2) weeks before the council meeting at which such application is to be considered. In addition the town clerk shall advertise notice of such application and the time, place and date for hearing in the Providence Journal or Evening Bulletin at least once and at least one (1) week before the date set for hearing.

(Ord. of 5-9-63, § 4)

Sec. 6-236. Action upon application, conditions for issuance.

After hearing upon an application for initial issuance of a license under this article, the town council may either grant, refuse to grant or grant with certain conditions the application for such license. The conditions which the town council may impose on the granting of a license are as follows:

- (1) That the applicant secure a public liability insurance policy or such other liability insurance as it deems necessary by the town council under the circumstances and in such an amount which is deemed reasonable by the town council.
- (2) That the applicant provide adequate parking facilities.
- (3) That the applicant provide adequate sanitary facilities for the patrons of such park or track.
- (4) That the applicant operate such track or park only within certain times and dates as set by the town council.
- (5) That the applicant provide such first-aid facilities and safety measures as shall be deemed necessary by the town council.
- (6) That the applicant provide for the regulation of noise so that adjoining and nearby landowners and inhabitants will not be unduly disturbed in the use and enjoyment of their property, and in the case of vehicles powered by internal combustion engines that each such vehicle be equipped with a muffler.
- (7) That the applicant provide adequate lighting where night operation is sought.
- (8) That the applicant use such park or track only for certain amusements or

vehicles as specified by the town council.

- (9) Such other conditions as the council deems necessary for the protection of the patrons of such tracks or parks and/or the health, safety, welfare and protection of the public, adjoining and nearby landowners and nearby inhabitants.

(Ord. of 5-9-63, § 5)

Sec. 6-237. License fee.

The fee for a license required by this article shall be two hundred dollars (\$200.00) annually for amusement parks and vehicle tracks and all licenses shall expire on the thirty-first day of December of each year. Such licenses shall be renewed automatically upon tender of such annual license fee.

(Ord. of 5-9-63, § 6)

Sec. 6-238. Application for enlargement of licensed area.

Any enlargement of the area of any vehicle track or amusement park shall be treated insofar as the enlargement is concerned in the same manner as the application for the initial issuance of a license, and the application shall be made in a similar manner.

(Ord. of 5-9-63, § 7)

Sec. 6-239. Revocation, suspension of license.

After hearing the town council may revoke or suspend the license of any amusement park or vehicle track upon determination of the following:

- (1) That the park or track does not conform to the specifications as set forth in its application for a license.
- (2) That the park or track has violated the terms and conditions of its license.
- (3) That the operator of such park or track has sold or has permitted to be sold any intoxicating liquor, wine, beer or narcotic on the premises.
- (4) That the operator of such park or track has permitted solicitation by prostitutes, or gambling on the premises.
- (5) That the park or track does not conform to the health regulations for such parks or tracks established by the state.
- (6) That such park or track is operated in such a way as to constitute a nuisance or that the operator of such park or track has maintained or permitted a nuisance on the premises.

(Ord. of 5-9-63, § 8)

Sec. 6-240. Liability of licensee.

The issuance of a license for the operation of an amusement park or vehicle track shall in no way be construed as an abridgement of the right of any person to prosecute legal action

against such track or park on the ground that such track or park constitutes a nuisance; nor is it the intention of this article that the granting of such a license shall in any way affect the question of whether such park or track constitutes a nuisance as to any individual.

(Ord. of 5-9-63, § 10)

Secs. 6-241--6-250. Reserved.

ARTICLE XI. CLASS F RETAIL LICENSES

Sec. 6-251. Compliance.

Any person, corporation or organization applying for a Class F or Class F-1 license to sell alcoholic beverages at retail shall, in addition to complying with the requirements of General Laws 1956, sections 3-7-14 and 3-7-14.1, also comply with the requirements of this article.

(Ord. of 2-11-93, § 1)

Sec. 6-252. Application to be filed before council meeting.

No application shall be considered by the town council unless it is filed with the town clerk at least ten (10) days before the next regularly scheduled town council meeting.

(Ord. of 2-11-93, § 2)

Sec. 6-253. Application to be filed with police.

At the same time as the application is filed with the town clerk the applicant shall file a copy with the chief of police who shall advise the town council of:

- (1) Any objections the police department may have to issuance of the license;
- (2) The adequacy of parking for the event;
- (3) Whether or not traffic control or other public safety concerns require a limit on the number of persons who may attend the event;
- (4) Whether the hours during which the license shall be in effect should be less than the maximum hours allowed by the statutes (6:00 a.m. to 1:00 a.m. of the following day);
- (5) A recommendation as to whether or not the licensee should employ extra duty police officers for crowd control and traffic control, and if so, how many, during what hours and at what cost.

(Ord. of 2-11-93, § 3)

Sec. 6-254. Certificate of insurance.

The application shall be accompanied by a certificate of insurance insuring the applicant against liability for personal injury, death or property damage in the amount of not less than one million dollars (\$1,000,000.00).

(Ord. of 2-11-93, § 4)

Sec. 6-255. Conditions.

In granting the license, the town council may impose conditions as follows:

- (1) Limitations on the number of patrons who may be admitted to the event;
- (2) Minimum parking requirements and traffic control measures;
- (3) Limitations on the number of hours during which the license may be used; the hours may be less than the hours permitted by statute which are 6:00 a.m. to 1:00 a.m. of the following day;
- (4) Specifications as to the number of extra duty police officers to be employed and the hours during which they must be present;
- (5) The amount of deposit required before issuance of the license to insure payment of extra duty police officers;
- (6) Such other conditions as the town council may deem appropriate to provide for public safety and to prevent nuisance, including nuisance from noise or music volume.

(Ord. of 2-11-93, § 5)

Chapter 7 MOTOR VEHICLES AND TRAFFIC*

***Cross references:** Vehicle tracks and amusement parks, § 6-231 et seq.; vehicles prohibited on Rockland Road athletic fields, § 9-54; streets and sidewalks, Ch. 13; taxation of motor vehicles, § 15-1.

State law references: Uniformity of vehicle regulations, G.L. 1956, § 31-12-11; powers of local authorities, G.L. 1956, § 31-12-12; local regulations to be posted, G.L. 1956, § 31-12-13; traffic-control devices on local highways, G.L. 1956, § 31-13-3; nonmoving traffic violations, G.L. 1956, § 45-6.2-1 et seq.; fines and violations of traffic and parking regulations, G.L. 1956, § 12-44-4; service of notice, summons, G.L. 1956, § 31-27-12 et seq.

Art. I. In General, §§ 7-1--7-25

Art. II. Operation of Vehicles, §§ 7-26--7-45

Art. III. Parking, Stopping and Standing, §§ 7-46--7-57

ARTICLE I. IN GENERAL

Sec. 7-1. Streets closed to traffic.

- (a) Institute Lane, a public highway in the town is designated as "Not a Through Street," and is closed to through traffic by motor vehicles.
- (b) The director of public works is authorized to place such signs and erect such barrier as he may deem appropriate to warn operators of motor vehicles that Institute Lane is

closed to through traffic.

- (c) Any person who violates this section shall be punished in accordance with section 1-4.
(Ord. of 1-22-81)

Sec. 7-2. Through trucking prohibited on certain streets.

- (a) Pursuant to G.L. 1956, § 31-25-26, trucks and commercial vehicles exceeding five (5) tons gross weight, are prohibited from operating on the following public highways and streets, except for the purpose of delivering goods, wares and merchandise upon such streets and highways:
- (1) Shun Pike;
 - (2) Howard Avenue;
 - (3) Westcott Road;
 - (4) Carpenter Road;
 - (5) Matteson Road; and
 - (6) Silk Lane.
- (b) The director of public works is directed to cause conspicuous signs to be placed on said highways and streets.
- (c) For the purposes of this section, a suburban vehicle as defined in G.L. 1956, § 31-1-3, shall not be deemed to be a truck or commercial vehicle.
- (d) Any person who violates this section shall be punished in accordance with section 1-4.
(Ord. of 5-11-00)

Secs. 7-3--7-25. Reserved.

ARTICLE II. OPERATION OF VEHICLES*

***State law references:** Traffic regulation, G.L. 1956, § 31-12-1 et seq.

Sec. 7-26. Operation of vehicles on private property.

Every person who shall operate, or permit to be operated, any vehicle, machine or device with an internal combustion engine on private property, whether posted or not, without the permission of the owner, shall be subject to a fine not exceeding one hundred dollars (\$100.00).

(Ord. of 11-13-75)

Sec. 7-27. Obedience to stop sign, traffic light.

- (a) Every operator of a motor vehicle traveling upon any street intersecting or joining any other street or public highway where any "Stop" sign or traffic light is placed or maintained shall bring such vehicle to a full stop at or near the prolongation of the nearest property lines of such intersecting or joining public highways or at such other point as may be indicated by a clearly visible limit line, subject, however, to the direction of any police officer at such intersection or junction.
- (b) The operator who has come to a full stop as required above, upon entering a public highway, as well as the operators of vehicles on such public highways, shall be subject to the usual right-of-way rule prescribed by law and applicable to vehicles at intersections or junctions.
- (c) Any person violating any of the provisions of this section shall be punished by a fine not exceeding twenty dollars (\$20.00) for each offense.

(Ord. of 4-15-65; Ord. of 2-12-70)

Sec. 7-28. Designation of stop intersections.

- (a) Stop signs shall be erected at the following intersections for the control of the movement of traffic as indicated:

Alfalfa Drive, controlling the northerly flow of traffic on Alfalfa Drive at its intersection with Pole Bridge Road.

Battey Meetinghouse Road, controlling the northerly flow of traffic on Battey Meetinghouse Road at its intersection with Danielson Pike.

Ben Brown Avenue, controlling the southerly flow of traffic on Ben Brown Avenue at its intersection with Hope Furnace Road.

Betty Pond Road, controlling the westerly flow of traffic on Betty Pond Road at its intersection with East Road.

Blueberry Lane, controlling the northerly flow of traffic on Blueberry Lane at its intersection with Central Pike.

Brandy Brook Road, controlling the easterly flow of traffic on Brandy Brook Road at its intersection with Central Avenue.

Brandy Brook Road, controlling the westerly flow of traffic on Brandy Brook Road at its intersection with Central Avenue.

Bungy Road, controlling the southerly flow of traffic on Bungy Road at its intersection with Hartford Pike.

Burnt Hill Road, controlling the northerly flow of traffic on Burnt Hill Road at its intersection with Howard Avenue.

Castle Drive, controlling the northerly flow of traffic on Castle Drive at its intersection with Scituate Avenue.

Central Pike, controlling the easterly flow of traffic on Central Pike at its intersection with Chopmist Hill Road.

Central Pike, controlling the westerly flow of traffic on Central Pike at its intersection with Chopmist Hill Road.

Central Pike, controlling the easterly flow of traffic on Central Pike at its intersection with Rockland Road.

Central Pike, controlling the westerly flow of traffic on Central Pike at its intersection with Rockland Road.

Central Pike, controlling the northerly flow of traffic on Central Pike at its intersection with Trimtown Road.

Central Pike, controlling the southerly flow of traffic on Central Pike at its intersection with Trimtown Road.

Clinton Avenue, controlling the northerly flow of traffic on Clinton Avenue at its intersection with Hope Avenue.

Clinton Avenue, controlling the southerly flow of traffic on Clinton Avenue at its intersection with Jackson Flat Road.

Colvin Street, controlling the northerly flow of traffic on Colvin Street at its intersection with Jackson Flat Road.

Council Tree Way, controlling the northerly flow of traffic on Council Tree Way at its intersection with Hartford Pike.

Countryside Lane, controlling the easterly flow of traffic on Countryside Lane at its intersection with Alfalfa Drive.

Countryside Lane, controlling the westerly flow of traffic on Countryside Lane at its intersection with Alfalfa Drive.

Davis Road, controlling the southerly flow of traffic on Davis Road at its intersection with Hartford Pike.

Dexter Road, controlling the northerly flow of traffic on Dexter Road at its intersection with Danielson Pike.

Doray Drive, controlling the southerly flow of traffic on Doray Drive at its intersection with Jackson Flat Road.

Elisha Mathewson Road, controlling the easterly flow of traffic on Elisha Mathewson Road at its intersection with West Greenville Road.

Elmdale Road, controlling the northerly flow of traffic on Elmdale Road at its intersection with Danielson Pike.

Elmdale Road, controlling the southerly flow of traffic on Elmdale Road at its intersection with Danielson Pike.

Elmdale Road, controlling the northerly flow of traffic on Elmdale Road at its intersection with Hartford Pike.

Elmdale Road, controlling the southerly flow of traffic on Elmdale Road at its intersection with Hartford Pike.

Elmdale Road, controlling the southerly flow of traffic on Elmdale Road at its intersection with Pole Bridge Road.

Forrest View Drive, controlling the northerly flow of traffic on Forrest View Drive at its intersection with Betty Pond Road.

Forrest View Drive, controlling the westerly flow on Forrest View Drive at its intersection with Kent View Drive.

George Washington Highway, controlling the easterly flow of traffic on George Washington Highway at its intersection with Field Hill Road.

Gleaner Chapel Road, controlling the southerly flow of traffic on Gleaner Chapel Road at its intersection with Danielson Pike.

Gleaner Chapel Road, controlling the northerly flow of traffic on Gleaner Chapel Road at its intersection with Hartford Pike.

Gleaner Chapel Road, controlling the southerly flow of traffic on Gleaner Chapel Road at its intersection with Hartford Pike.

Hanna Lane, controlling the northerly flow of traffic on Hanna Lane at its intersection with Danielson Pike.

Harrington Avenue, controlling the northerly flow of traffic on Harrington Avenue at its intersection with Main Street, Hope.

High Street, controlling the westerly flow of traffic on High Street at its intersection with East Road.

Hi-View Drive, controlling the northerly flow of traffic on Hi-View Drive at its intersection with Scituate Avenue.

Hope Avenue, controlling the easterly flow of traffic on Hope Avenue at its intersection with Seven Mile Road.

Hope Furnace Road, controlling the easterly flow of traffic on Hope Furnace Road at its intersection with Main Street, Hope.

Howard Avenue, controlling the southerly flow of traffic on Howard Avenue at its intersection with Hope Furnace Road.

Ide Road, controlling the westerly flow of traffic on Ide Road at its intersection with Victory Highway.

Institute Lane, controlling the southerly flow of traffic on Institute Lane at its intersection with Danielson Pike.

Institute Lane, controlling the westerly flow of traffic on Institute Lane at its intersection with West Greenville Road.

Jackson Flat Road, controlling the northeasterly flow of traffic on Jackson Flat Road at its intersection with Main Street, Hope.

Kent View Drive, controlling the northerly flow of traffic on Kent View Drive at its intersection with Betty Pond Road.

Knight Hill Road, controlling the easterly flow of traffic on Knight Hill Road at its intersection with Plainfield Pike.

Main Street, Hope, controlling the westerly flow of traffic on Main Street, Hope at its intersection with East Road.

Matteson Road, controlling the northerly flow of traffic on Matteson Road at its intersection with Tunk Hill Road.

Moswansicut Lake Drive, controlling the westerly flow of traffic on Moswansicut Lake Drive at its intersection with West Greenville Road.

Moswansicut Lake Drive, controlling the westerly flow of traffic on Moswansicut Lake Drive at its intersection with West Greenville Road.

Oak Ridge Road, controlling the westerly flow of traffic on Oak Ridge Road at its intersection with West Greenville Road.

Old Plainfield Pike, controlling the northerly flow of traffic on Old Plainfield Pike at its intersection with Tunk Hill Road.

Orchard Drive, controlling the westerly flow of traffic on Orchard Drive at its intersection with East Road.

Peepload Road, controlling the easterly flow of traffic on Peepload Road at its intersection with West Greenville Road.

Plainfield Pike, controlling the easterly flow of traffic on Plainfield Pike at its intersection with East Road.

Plainfield Pike, controlling the westerly flow of traffic on Plainfield Pike at its intersection with East Road.

Pole Bridge Road, controlling the easterly flow of traffic on Pole Bridge Road at its intersection with West Greenville Road.

Quaker Lane, controlling the easterly flow of traffic on Quaker Lane at its intersection with Elmdale Road.

Red Cedar Road, controlling the easterly flow of traffic on Red Cedar Road at its intersection with Trimtown Road.

Rockland Road, intersection with High School access road.

Samuel Stone Road, controlling the easterly flow of traffic on Samuel Stone Road at its intersection with West Greenville Road.

Scituate Avenue, controlling the westerly flow of traffic on Scituate Avenue at its intersection with East Road.

Set N' Sun Drive, controlling the northerly flow of traffic on Set N' Sun Drive at its intersection with Scituate Avenue.

Sherwood Drive, controlling the easterly flow of traffic on Sherwood Drive at its intersection with Castle Drive and Nottingham Drive.

Silk Lane, controlling the easterly flow of traffic on Silk Lane at its intersection with West

Greenville Road.

Silk Lane, controlling the southerly flow of traffic on Silk Lane at its intersection with Danielson Pike.

South Woodland Road, controlling the southerly flow of traffic on South Woodland Road at its intersection with Pole Bridge Road.

Trimtown Road, controlling the easterly flow of traffic on Trimtown Road at its intersection with Rockland Road.

Trimtown Road, controlling the northerly flow of traffic on Trimtown Road at its intersection with Danielson Pike.

Trimtown Road, controlling the westerly flow of traffic on Trimtown Road at its intersection with Rockland Road.

Trimtown Road, controlling the southerly flow of traffic on Trimtown Road at its intersection with Plainfield Pike.

Tunk Hill Road, controlling the easterly flow of traffic on Tunk Hill Road at its intersection with East Road.

Tunk Hill Road, controlling the easterly flow of traffic on Tunk Hill Road at its intersection with Plainfield Pike.

Twin Oaks Drive, controlling the southerly flow of traffic on Twin Oaks Drive at its intersection with Scituate Avenue.

Westcott Road, controlling the northerly flow of traffic on Westcott Road at its intersection with Central Pike.

Westcott Road, controlling the southerly flow of traffic on Westcott Road at its intersection with Plainfield Pike.

Windsor Avenue, controlling the westerly flow of traffic on Windsor Avenue at its intersection with West Greenville Road.

(b) Any person violating any of the provisions of this section shall be punished in accordance with section 1-4.

(Ord. of 9-14-72; Ord. of 8-8-96(2); Ord. of 4-9-98)

Sec. 7-29. Speed permitted upon local streets.

Pursuant to General Laws 1956, section 31-14-5, the town council declares fifteen (15) miles per hour to be a reasonable and prima facie speed limit on said streets which shall be effective at all times during hours of daylight or darkness and shall become effective when appropriate signs giving notice thereof are erected.

TABLE INSET:

| | |
|-------------------|--|
| Ben Brown Avenue | |
| Bennett Street | |
| Blossom Lane | |
| Bramble Bush Road | |

| | |
|----------------------|--|
| Briar Avenue | |
| Brown Street | |
| Bunny Trail | |
| Clarke Road | |
| Clinton Avenue | |
| Cole Avenue | |
| Cooke Drive | |
| Country Lane | |
| Coyle Lane | |
| Doray Circle | |
| Field View Drive | |
| Garden Lane | |
| Goddard Street | |
| Hesse Lane | |
| High Street | |
| Hill Street | |
| Institute Lane | |
| Ives Street | |
| James A. Potter Road | |
| Juniper Trail | |
| Locust Court | |
| Locust Grove Avenue | |
| Meadow Road | |
| Midway Street | |
| Mill Street | |
| Old Kent Road | |
| Orchard Drive | |
| Patnode Avenue | |
| Pine Knoll Drive | |
| Pleasant Lane | |
| Potter Street | |
| Reservation Drive | |
| Richard Street | |
| Robinwood Drive | |
| Rustic Way | |
| Rutland House Road | |
| Silk Lane | |
| Spruce Drive | |
| St. Marys Road | |
| Trout Hole Circle | |
| Twin Oaks Drive | |
| Wendy Drive | |
| White Lane | |
| Wilbur Hollow Road | |
| Winter Rose Avenue | |
| Worth Avenue | |

(Ord. of 9-9-93)

Sec. 7-30. Operation of vehicles by minors restricted after 11:00 p.m.

- (a) No person under the age of eighteen (18) years shall drive upon the highways, or use any other public ways in the town without a specific destination or without proper adult supervision after 11:00 p.m.
- (b) Any person violating this section shall be punished in accordance with section 1-4.

(Ord. of 4-15-65)

Secs. 7-31--7-45. Reserved.

ARTICLE III. PARKING, STOPPING AND STANDING*

***State law references:** Stopping, standing and parking, G.L. 1956, § 31-21-1 et seq.; violation of parking regulations, G.L. 1956, § 12-14-12; payment of fines, G.L. 1956, § 45-6.1-1 et seq.

Sec. 7-46. Penalty for certain violations.

- (a) Any person violating any part of section 7-52 of this article shall be fined five dollars (\$5.00).
- (b) Any person violating section 7-53 or section 7-52.1 shall be fined two dollars (\$2.00).
- (c) Any person violating section 7-48 shall be fined twenty-five dollars (\$25.00).

(Ord. of 6-9-77(1), § VI)

Sec. 7-47. Address for payment of fines.

Payment of fines may be by mail addressed to the Chief of Police, Scituate, Rhode Island or in person at Scituate Police Headquarters, 92 Main Street, Hope, Rhode Island.

(Ord. of 6-9-77(1), § VII)

Sec. 7-48. Notice to remove vehicles.

No person shall permit a motor vehicle to remain upon any highway in the town after being notified by a police officer to remove such vehicle. Such notification shall be valid during a snowstorm and to facilitate the plowing of snow. The police officer is authorized to order the removal of such vehicle to a towing firm and such vehicle owner shall be responsible for towing fee, storage and imposed fine.

(Ord. of 6-9-77(1), § IV)

Sec. 7-49. Notice of violation.

A notice of a violation of the provisions of this article shall be affixed to the motor vehicle which is the cause of such violation. Such notice shall state the specific violation, the schedule of fines, the time within which the violation must be paid and the location or manner in which the fine may be paid.

(Ord. of 6-9-77(1), § V)

Sec. 7-50. Proximity to curb.

It shall be unlawful for the owner or operator of any motor vehicle to park or allow to stand such motor vehicle more than one (1) foot from any curb in any highway of the town.

(Ord. of 4-15-65, § 3)

Sec. 7-51. Double parking.

It shall be unlawful for the owner or operator of any motor vehicle to park or allow to stand such motor vehicle on any highway alongside another motor vehicle which shall be parked on the untravelled portion of any highway, when the operator shall be parked or allowing to stand on the regular travelled portion of the highway.

(Ord. of 4-15-65, § 4)

Sec. 7-52. Prohibited in specified places.

No person shall stop, stand or park a motor vehicle, except when necessary to avoid conflict with other traffic, or in compliance with law or the direction of a police officer or traffic-control device, in any of the following places:

- (1) Upon any sidewalk;
- (2) In front of any driveway, public or private;
- (3) Within an intersection;
- (4) Within twenty-five (25) feet of an intersection;
- (5) On any traffic island;
- (6) Within eight (8) feet of a fire hydrant;
- (7) On a marked crosswalk;
- (8) On the roadway side of any vehicle stopped or parked at the edge or curb of any street;
- (9) At any place where official signs prohibit parking;
- (10) The southerly side of Main Street in the village of Hope from Mill Street to Jackson Flat Road;
- (11) The westerly side of Main Street in the village of Hope from the Coventry

Scituate town line to North Road;

- (12) The easterly side of Colvin St. from Jackson Flat Road to the Coventry Scituate town line;
- (13) Both sides of Institute Lane from West Greenville Road to a point 25 feet east of the driveway to the parking lot of the North Scituate Elementary School, between the hours of 8:00 a.m. to 3:00 p.m. on days when school is in session;
- (14) The southerly side of High Street from North Road to Harrington Avenue;
- (15) The easterly side of Hill Street from Main Street in the village of Hope to High Street.
- (16) The southerly side of High Street from North Road to Hill Street;
- (17) The northerly side of High Street to Harrington Avenue.

(Ord. of 6-9-77(1), § 1; Ord. of 12-11-80; Ord. of 4-9-98)

Sec. 7-52.1. Restricted to one hour.

No person shall park a motor vehicle for a consecutive period of more than one hour on any of the highways herein mentioned in the town between the hours of 6:00 a.m. of any day and 1:00 a.m. of the following day.

Northerly side of Main Street in the village of Hope.

(Ord. of 6-9-77(1), § III)

Sec. 7-53. Restricted to two hours.

No person shall park or permit to be parked on any street or highway in the town a motor vehicle for a period of time longer than two (2) hours between the hours of 12:00 midnight and 6:00 a.m.

(Ord. of 6-9-77(1), § II)

Sec. 7-54. Erection of signs.

The police department shall cause to be erected and maintained adequate signs giving notice to the public of the provisions of this article.

(Ord. of 4-15-65, § 4)

Sec. 7-55. Emergency snow removal restrictions.

- (a) The town council president, or in his absence the town council vice-president, is hereby empowered to declare a temporary parking ban for such periods of time as is deemed advisable for the purpose of expediting the removal of snow from the public highways of the town and to facilitate the flow of traffic over such highways.
- (b) During such ban it shall be unlawful for any owner, operator or custodian of any vehicle to park such vehicle on the public highways of the town.

- (c) The town council president, or vice-president, shall take all reasonable steps to post and convey the parking ban to the residents of the town by notifying the police department and local radio and television stations of such ban.
- (d) Any police officer may remove or cause to be removed any vehicle left on the public highways of the town in violation of this section to some designated place where it shall be surrendered to its owner upon payment of any authorized charges as set forth in section 31-22-14 of the General Laws and such vehicle shall be subject to the lien set forth in section 31-22-15 of the General Laws.
- (e) Any person violating this section shall be subject to fine, which as required by section 45-6.1-1 of the General Laws and shall be payable by mail in accordance with the following schedule:
 - First offense . . . \$ 25.00
 - Second offense . . . 50.00
 - Each subsequent offense . . . 100.00

As provided in section 45-6.1-3 of the General Laws fines shall be made payable to "Town of Scituate" and mailed to: Chief of Police, Scituate Police Department, Hope, Rhode Island 02831. Furthermore, as provided in section 45-6.1-4 of the General Laws the privilege of paying by mail must be exercised by at least ten (10) days from the date of the offense to the date of depositing of the payment of the fine in a depository maintained by the United States post office department for the collection of mails and the postage cancellation shall be prima facie evidence of the time of deposit. An additional penalty as provided in section 45-6.1-5 of the General Laws of ten dollars (\$10.00) shall be assessed where payment is attempted by mail with a check written against insufficient funds. As required by section 45-6.1-6 of the General Laws notice of a violation of this section shall be affixed to the motor vehicle which is the cause of the violation.

(Ord. of 4-27-89(1))

Sec. 7-56. Handicapped parking.

- (a) This section is enacted pursuant to General Laws 31-28-7.
- (b) Any person, other than a person issued a special plate pursuant to section 31-28-7 of the General Laws, or a person transporting such person and displaying the special portable plate who unlawfully parks a vehicle in a parking space designated for the handicapped, shall be fined twenty-five dollars (\$25.00) for a first violation, seventy-five dollars (\$75.00) for a second violation and one hundred dollars (\$100.00) for a third or subsequent violation.
- (c) Fines for violations of this section may, as required by section 45-6.1-1 of the General Laws be paid by mail and as provided by section 45-6.1-3 of the General Laws such fines shall be made payable to "Town of Scituate" and mailed to: Chief of Police, Scituate Police Department, Hope, Rhode Island 02831. Furthermore, as provided in section 45-6.1-4 of the General Laws the privilege of paying by mail must be exercised by at least ten (10) days from the date of the offense to the date of depositing of the payment of the fine in a depository maintained by the United States post office department for the collection of mails and the postage cancellation shall be prima facie

evidence of the deposit. An additional penalty as provided in section 45-6.1-5 of the General Laws of ten dollars (\$10.00) shall be assessed where payment is attempted by mail with a check written against insufficient funds.

(Ord. of 4-27-89(2))

Sec. 7-57. Fire lanes.

- (a) The town council may, from time to time, for the purpose of providing access in emergencies designate fire lanes on private property devoted to commercial or industrial use.
- (b) Designation of a fire lane shall not make the town responsible for the maintenance of such fire lane and the owner of the property shall be responsible for the maintenance of such area.
- (c) Parking of a motor vehicle within any portion of a fire lane or otherwise obstructing a fire lane shall be a violation of this section.
- (d) Upon designation of a fire lane by the town council the owner of the premises shall, at the owner's expense, cause signs to be posted at locations designated by the chief of police as follows:

"FIRE LANE--NO PARKING ANYTIME--TOW ZONE"

Such signs shall be of a standard size and color with standard lettering and mounting conforming to specifications established by the chief of police. The owner shall also cause such fire lane to be designated by stripes and the words "FIRE LANE" shall be painted thereon in accordance with specifications established by the chief of police.

- (e) Any person violating this section shall be fined twenty-five dollars (\$25.00) for a first violation, seventy-five dollars (\$75.00) for a second violation and one hundred dollars (\$100.00) for a third or subsequent violation.
- (f) Any police officer may remove or cause to be removed any vehicle parked in violation of this section to some designated place where it shall be surrendered to its owner upon payment of any authorized charges as set forth in section 31-22-15 of the General Laws.
- (g) Fines for violations of this section may, as required by section 45-6.1-1 of the General Laws, be paid by mail and as provided by section 45-6.1-3 of the General Laws such fines shall be made payable to "Town of Scituate" and mailed to: Chief of Police, Scituate Police Department, Hope, Rhode Island 02831. Furthermore, as provided in section 45-6.1-4 of the General Laws the privilege of paying by mail must be exercised by at least ten (10) days from the date of the offense to the date of depositing of the payment of the fine in a depository maintained by the United States post office department for the collection of mails and the postage cancellation shall be prima facie evidence of the deposit. An additional penalty as provided in section 45-6.1-5 of the General Laws of ten dollars (\$10.00) shall be assessed where payment is attempted by mail with a check written against insufficient funds.
- (h) As required by section 45-6.1-6 of the General Laws notice of violation of this section shall be affixed to the motor vehicle which is the cause of the violation.

(Ord. of 4-27-89(3))

Cross references: Fire prevention and protection, Ch. 5.

Chapter 8 OFFENSES AND MISCELLANEOUS PROVISIONS*

***State law references:** Offenses punishable by state law shall not be imposed by ordinance, G.L. 1956, § 45-5-6; criminal offenses, G.L. 1956, Title 11.

Sec. 8-1. Littering.

- (a) It shall be unlawful for any person to discard any litter, rubbish, garbage, junk, bottles, cans or other refuse on or along the highways in the town.
- (b) Any person violating this section shall be punished in accordance with section 1-4.

(Ord. of 7-9-87)

Cross references: Litter control at Rockland Road athletic fields, § 9-56.

Sec. 8-2. Loitering about school property.

- (a) It shall be unlawful for any person to loiter, loaf, wander, stand, or remain idle either alone, and/or in consort with others in or upon any public school buildings or grounds within the town without the express consent of the superintendent of schools, or those in authority under the control of the superintendent of schools.
- (b) Any person violating this section shall be punished in accordance with section 1-4.

(Ord. of 11-9-72(1))

Sec. 8-3. Loitering at buildings.

No person shall stand or remain on any doorstep or in any doorway or other projection attached to any building, or in any entranceway or passageway leading to the same, or obstruct the passage to the same after any police officer or constable or the owner or occupant of such building shall order him to depart.

(Ord. of 6-9-77(3), § XI)

Sec. 8-4. Possession, consumption of alcoholic beverages on town property.

- (a) No person shall be in possession of alcoholic beverages upon any lands owned or controlled by the town without permission of the town council, nor shall any person consume any alcoholic beverage within or upon any land so controlled or upon any street, highway, sidewalk, or within any motor vehicle parked within or upon any land owned or controlled by the town, or within any motor vehicle parked upon any road, highway or lane within the boundaries of the town.

- (b) Any person violating this section shall be punished in accordance with section 1-4.

(Ord. of 8-10-72(2))

Cross references: Possession, consumption of alcoholic beverages on Rockland Road athletic fields prohibited, § 9-55.

Sec. 8-5. Protection of cemetery property.

- (a) No person shall remove any stake, post, bound, or fence placed around, within or upon any cemetery; nor mutilate, deface or injure the same or any monument, tree, shrub, or other thing intended for protection, improvement or ornament placed therein; nor commit any trespass or injury within or upon such grounds or any part thereof.

- (b) Any person violating this section shall be punished in accordance with section 1-4.

(Ord. of 8-10-72(1))

Sec. 8-6. Noise control.

- (a) It shall be a nuisance and unlawful for any person to make, cause or suffer or permit to be made or caused upon any premises owned, occupied or controlled by him, or upon any public property, public street, alley or thoroughfare in the town unnecessary noises or sounds by means of the human voice, or by any other means or methods which are physically annoying to persons, or which are so harsh, or so prolonged or unnatural, or unusual in their use, time and place as to occasion physical discomfort, or which are injurious to the lives, health, peace and comfort of the inhabitants of the town.

- (b) No person operating a business establishment shall send goods or receive deliveries by truck, except in cases of emergency, between the hours of 11:00 p.m. and 6:00 a.m., where such sending or receiving involves the creation of physically annoying, harsh and prolonged noises which are injurious to the lives, health, peace and comfort of the inhabitants of the town.

- (c) Any person violating this section shall be punished in accordance with section 1-4.

(Ord. of 9-9-71)

Sec. 8-7. Swimming restricted.

- (a) No person, unless properly clothed, shall swim or bathe in any public place in this town.

- (b) Any person violating this section may be punished in accordance with section 1-4.

(Ord. of 4-15-65; Ord. of 6-9-77(3), § IV)

Sec. 8-8. Malicious mischief.

Any person who shall wantonly, maliciously or mischievously disfigure, deface or damage any post, railing, lamppost, lamp, signboard, tree box, mailbox, newspaper box or any other property not protected by statute belonging to the town or any inhabitant of the town shall be punished in accordance with section 1-4.

(Ord. of 4-15-65, § 1; Ord. of 6-9-77(3), § III)

Sec. 8-9. Nuisance prohibited.

No person shall deposit the contents of any cesspool, privy vault, slaughterhouse offal or offal of any kind in any place, public or private, where it may create a danger to health or otherwise create a nuisance by offensive odors.

(Ord. of 4-15-65, § 3)

Chapter 9 PARKS AND RECREATION*

***Cross references:** Public entertainment, § 6-156 et seq.; vehicle tracks and amusement parks, § 6-231 et seq.; planning, Ch. 10; zoning, App. A.

State law references: Parks and recreational areas, G.L. 1956, Title 32; municipal regulation of parks, G.L. 1956, § 32-3-1.

Art. I. In General, §§ 9-1--9-25
Art. II. Berkander Field Tennis Courts, §§ 9-26--9-50
Art. III. Rockland Road Athletic Fields, §§ 9-51--9-61

ARTICLE I. IN GENERAL

Sec. 9-1. Protection of property.

- (a) No person shall enter upon, or remain within the limits of the town properties during the hours of 10:00 p.m. to 7:00 a.m. without official permission of the town council, town clerk or the chief of police.
- (b) No person shall ride, drive or park any automobile or motor vehicle upon any turfed portion of any park or land owned or controlled by the town, nor shall any person operate any snowmobile over such land without first obtaining permission from the appropriate municipal authority having jurisdiction.
- (c) No person shall take, pluck, injure, destroy, cut, mark, or deface any flower, root, plant, shrub, tree, building, fence, or monument or other property belonging to the town.
- (d) Any person violating any provision of this section shall be punished in accordance with section 1-4.

(Ord. of 8-10-72(1))

Secs. 9-2--9-25. Reserved.

ARTICLE II. BERKANDER FIELD TENNIS COURTS

Sec. 9-26. Scope.

This article pertains to use of the tennis courts owned by the town at Berkander Field on Institute Lane and is enacted for the purpose of providing equitable use of such courts.

(Ord. of 5-13-76, § 1)

Sec. 9-27. Penalty for violation.

Any person violating this article shall be punished in accordance with section 1-4.

(Ord. of 5-13-76, § 10)

Sec. 9-28. Use restricted.

Use of the tennis courts at Berkander Field is restricted to residents of the town and their guests. Guests shall only be allowed to play on the same court on which their resident host is playing.

(Ord. of 5-13-76, § 2)

Sec. 9-29. Registration card required.

No resident shall be allowed to use the tennis courts at Berkander Field without a registration card.

(Ord. of 5-13-76, § 3)

Sec. 9-30. Registration for each use.

No person shall be allowed to use the tennis courts at Berkander Field without first registering with the attendant if the attendant is on duty.

(Ord. of 5-13-76, § 4)

Sec. 9-31. Use after five o'clock p.m.

After five o'clock p.m. the attendant is authorized to give preference to those over twelve (12) years of age as to use of the tennis courts at Berkander Field.

(Ord. of 5-13-76, § 5)

Sec. 9-32. Shoes required.

Proper tennis shoes shall be worn at all times while using the tennis courts at Berkander Field.

(Ord. of 5-13-76, § 6)

Sec. 9-33. Time may be limited.

The playing of tennis at Berkander Field shall be restricted to a maximum of one (1) hour when other players are waiting.

(Ord. of 5-13-76, § 7)

Sec. 9-34. Authority of attendant.

The attendant on duty at Berkander Field is authorized to enforce the provisions of this article and to order the removal from the courts of those who are not observing this article. The attendant is authorized to request the aid of police officers in carrying out the provisions of this article, and all police officers are authorized to assist the attendant in removal from the courts of persons who are not observing this article.

(Ord. of 5-13-76, § 8)

Sec. 9-35. Permission to reserve time.

No time for the tennis courts at Berkander Field shall be reserved or used for league or tournament play without written permission of the recreation director.

(Ord. of 5-13-76, § 9)

Secs. 9-36--9-50. Reserved.

ARTICLE III. ROCKLAND ROAD ATHLETIC FIELDS

Sec. 9-51. Purpose.

This article is enacted for the purpose of enabling enforcement of the rules and regulations enacted by the school committee concerning use of the athletic fields located at the intersection of Rockland Road and Danielson Pike.

(Ord. of 7-14-88, § 1)

Sec. 9-52. Use permit required.

No person or organization shall have use of the fields without first obtaining a permit from the school department. Permits shall be issued only to residents of the town for games or contests in which at least one (1) of the participants is a resident of the town.

(Ord. of 7-14-88, § 2)

Sec. 9-53. Use of fields restricted.

No person or organization shall use the fields except for a sport or contest in keeping with the nature of the facilities, e.g., soccer, baseball, softball, track and field. In particular, the fields shall not be used for golfing, archery, shooting or for animals of any kind.

(Ord. of 7-14-88, § 3)

Sec. 9-54. Vehicles prohibited.

No motor vehicles, snowmobiles, bicycles, carts or wagons shall be permitted on the

fields.

(Ord. of 7-14-88, § 4)

Cross references: Motor vehicles and traffic, Ch. 7.

Sec. 9-55. Possession, consumption of alcoholic beverages.

No alcoholic beverages may be taken onto or consumed on the premises.

(Ord. of 7-14-88, § 5)

Cross references: Possession, consumption of alcoholic beverages on town property, § 8-4.

Sec. 9-56. Litter control.

All litter shall be picked up and deposited in containers provided for that purpose. Any person or organization receiving a permit is deemed to assume the responsibility of leaving the fields litterfree upon completion of the event or contest for which the permit was issued.

(Ord. of 7-14-88, § 6)

Cross references: Littering, § 8-1.

Sec. 9-57. School department to have primary use.

Primary use of the fields is for the school department and the school department shall have the right, even though a permit may have been issued, to preempt use of the fields by the permit holder.

(Ord. of 7-14-88, § 7)

Sec. 9-58. Hold harmless agreement.

Any person using the fields pursuant to a permit which has been issued to him or to an organization in which he is a participant shall thereby be deemed to agree to save, indemnify and hold harmless the town, its agents and servants, from any and all liability which may arise out of use of the fields or any game or contest being played thereon and further to release and waive any claims for personal injury against the town, its agents and servants, arising out of any activities which may occur on the premises.

(Ord. of 7-14-88, § 8)

Sec. 9-59. Hours of use restricted.

Permits shall state the hours for which they are valid and in no event shall the fields be used between the hours of sunset and dawn.

(Ord. of 7-14-88, § 9)

Sec. 9-60. Liability for damages.

Any person or organization to which a permit has been issued shall be personally liable

to the town for any damage which may be done to the fields or facilities such as fences, stands, backstops, goal posts, dugouts, etc., during the time for which the permit is issued.

(Ord. of 7-14-88, § 10)

Sec. 9-61. Penalty for violations.

Any person violating any provision of this article shall be subject to punishment in accordance with section 1-4.

(Ord. of 7-14-88, § 11)

Chapter 10 PLANNING*

***Cross references:** Administration, Ch. 2; buildings and building regulations, Ch. 4; parks and recreation, Ch. 9; soil erosion and sedimentation control, Ch. 12; streets and sidewalks, Ch. 13; subdivisions, Ch. 14; trailers and trailer parks, Ch. 16; utilities, Ch. 17; zoning, App. A.

State law references: Planning and development, G.L. 1956, § 45-22-1 et seq.

Art. I. In General, §§ 10-1--10-25
Art. II. Conservation Commission, §§ 10-26--10-50
Art. III. Land Trust, §§ 10-51--10-57

ARTICLE I. IN GENERAL

Secs. 10-1--10-25. Reserved.

ARTICLE II. CONSERVATION COMMISSION

Sec. 10-26. Created, purpose.

Pursuant to the provisions of section 45-35-1 et seq. of the General Laws, there is created a conservation commission for the purpose of promoting and developing natural resources, protecting watershed resources and preserving natural aesthetic areas in the town.

(Ord. of 6-26-86, § 1)

Sec. 10-27. Composition.

The conservation commission shall consist of seven (7) members, all of whom shall be residents and qualified electors of the town. The members of the commission shall be appointed by the town council for terms of three (3) years and the initial appointees shall serve staggered terms.

(Ord. of 6-26-86, § 3)

Sec. 10-28. Qualifications of certain members.

Pursuant to the requirements of General Laws section 45-35-2 duly incorporated and existing wildlife, conservation, sportsmen's, horticultural or like organizations may present to the town council a list of qualified citizens, from which list the town council must select at least three (3) members of the commission.

(Ord. of 6-26-86, § 4)

Sec. 10-29. Duties generally.

The conservation commission shall conduct researches into its local land areas and shall seek to coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its work. It shall make and keep an index of all open spaces within the town publicly or privately owned including open marshlands, swamps and other wetlands for the purpose of obtaining information on the proper use of such areas. It may recommend to municipal councils, boards or agencies, a program for the better promotion, development, utilization, or preservation of open areas, streams, shores, wooded areas, roadsides, swamps, marshlands, and natural aesthetic areas. It shall keep accurate records of its meetings and actions and shall file an annual report. It shall have power to appoint, subject to the approval and confirmation of the town council, and within the budget appropriated for it by the financial town meeting, a clerk and such other employees as it may from time to time require.

(Ord. of 6-26-86, § 2)

Sec. 10-30. Receipt of contributions.

Pursuant to the provisions of General Laws section 45-35-3 and subject to the approval of the financial town meeting, the conservation commission may receive gifts of funds, lands, buildings, or other properties in the name of the town and may also acquire by gift, purchase, grant, bequest, devise, lease, or otherwise the fee in such lands or water rights or any lease interest, development right, easement, covenant or other contractual right, including conveyances, and thereafter shall manage the same in accordance with the purposes set forth in this article.

(Ord. of 6-26-86, § 5)

Secs. 10-31--10-50. Reserved.

ARTICLE III. LAND TRUST*

***Editor's note:** An ordinance of December 13, 1990, §§ 1--8, did not specifically amend the Code; therefore, inclusion as Art. III, §§ 10-51--10-57, was at the discretion of the editor.

Cross references: Administration, Ch. 2; parks and recreation, Ch. 9.

Sec. 10-51. Created; purpose.

Pursuant to Public Laws of Rhode Island 1990, Chapter 121 entitled "An Act Establishing The Scituate Land Trust," the town council of the Town of Scituate does hereby establish the Scituate Land Trust (hereinafter called the trust). The trust shall have the authority to acquire, hold, and manage real property and interests therein including development rights situated in the town consisting of open, residential, agricultural, recreational, historical or littoral property, including existing and future wellfields and aquifer recharge areas, fresh water marshes and adjoining uplands, wildlife, habitats, land or buildings providing access to or views of water bodies, or for bicycling and hiking paths, or for future public recreational use, and land for agricultural use, or air space thereof. With the exception of property acquired for public historical preservation or recreational purposes, the trust shall hold all property or development rights solely as open space or for agricultural uses or for water purposes or for public access or to prevent the accelerated residential or commercial development thereof, as the trustees may determine.

(Ord. of 12-13-90, §§ 1, 2)

Sec. 10-52. Composition.

The trust shall be administered by seven (7) trustees to be appointed by the town council, four (4) of whom shall be serving members of the conservation commission of the Town of Scituate which has been created by the town council of the Town of Scituate pursuant to Chapter 35 of Title 18 of the General Laws. The trustees who are first appointed shall be designated to serve for terms of one (1), two (2), three (3), four (4), five (5), six (6) and seven (7) years respectively. Thereafter, trustees shall be appointed as aforesaid for a term of office of five (5) years, except that all vacancies occurring during a term shall be filled for the unexpired term.

(Ord. of 12-13-90, § 3)

Sec. 10-53. Officers; meeting minutes.

The trustees shall annually elect a chairman and vice-chairman from their members shall appoint a secretary who may either be a member or a nonmember. Copies of all meetings minutes shall be submitted to the town council president for distribution as he or she shall see fit and shall be filed with the town clerk.

(Ord. of 12-13-90, § 4)

Sec. 10-54. Rules and regulations; budget.

The trustees shall adopt reasonable rules and regulations governing the conduct of trust affairs, including the acquisition and management of its holdings, not inconsistent with the provisions of this article and the enabling act. All rules and regulations of the trust are subject to the approval of the town council. Decisions of the trustees shall be by majority of those present and voting, excepting in decisions of the acquisition of land, easements, rights-of-way and other uses referred to in section 10-51 of this article, which must be by majority vote of all trustees. The trustees shall prepare an operating budget that must be sent to the town council for review

and approval and then be presented to the financial town meeting for final approval.

The funds authorized in this budget will be paid by the town treasurer in accordance with the accepted procedures that are in place in the town at that time.

All funds that are released for land acquisition or other purposes referred to in section 10-51 of this article can only be released after a public hearing requiring three (3) weeks of advertising, and approval by a majority of the trustees.

(Ord. of 12-13-90, § 5)

Sec. 10-55. Duties and obligations.

The trust shall have the power to:

- (1) Purchase, receive by gift, or otherwise acquire fee simple or lesser interests in real property, including development rights as defined in Section 42-82-2 of the General Laws, or any interest in real property consistent with purposes of this act, including other development rights of any kind whatsoever.
- (2) Accept gifts, grants or loans or funds or resources or services from any source, public or private, and comply, subject to the provisions of this article, with any terms and conditions thereof.
- (3) Accept from state and/or federal agencies, loans or grants or resources for use in carrying out the trust's purposes and enter into agreements with such agencies respecting any such loans or grants.
- (4) Employ, to the extent permitted by its budget, counsel, auditors, engineers, appraisers, private consultants, advisors, secretaries or other personnel needed to perform its duties.
- (5) Administer and manage land and interests in land held by it in a manner which allows public use and enjoyment consistent with the natural and scenic resources thereof, including conveyance of any such land or interests in land to, and contracts with, nonprofit organizations, provided such land shall continue to be used in a manner consistent with the purposes of this article and with the terms of any grant or devise by which such land was acquired by the trust.
- (6) Incur debt, only after authorization in each instance by vote of the town council and the annual or a special financial town meeting, in accordance with section 10-56 of this article. The trust shall be obligated to pay debt service on all such debt to the extent funds are available and to reimburse the town for any town funds expended to pay such debt service. Whenever the town shall have been required to pay over any sums of money to the trust, the trust shall be precluded from acquiring any additional property until the trust shall have repaid the town in full for all sums paid to the trust hereunder and to reimburse the town for any town funds expended to pay such debt service.
- (7) Dispose of all or any portion of its real property or interests therein held by it, whenever in the opinion of the trustees said lands or properties have become unsuitable or have ceased to be used for the purpose set forth in this article. Such disposition shall be made only by a vote of the trustees in which at least four (4) members vote in favor of such a disposition and further only having been

approved by a two-thirds (2/3) vote of an annual or special financial town meeting. Nothing in this subsection shall be construed to authorize the sale, lease or conveyance of lands or improvements held by the trust as part of a charitable trust or acquired by gift or devise for the public use, whether or not such gift or devise is subject to a condition subsequent or reverter.

- (8) Invest such portions of its funds as may be deemed prudent, in local or state negotiable instruments, including but not limited to "homeowner notes," so called.
- (9) Otherwise do all things necessary for the performance of its duties, the fulfillment of its obligations and the conduct of its business.

(Ord. of 12-13-90, § 6)

Sec. 10-56. Funds collected; trust account, etc.

All funds collected by virtue of the town's bonding authority for the purpose of financing the activities of the trust under the article, or subsections (2) and (3) of section 10-55, shall be deposited in a fund to be set up as a revolving or sinking account by the treasurer of the town. Additional moneys or other liquid assets received as voluntary contributions, grants or lands, funds appropriated to the trust by vote of an annual or special financial town meeting or proceeds from disposal of real property or interests shall be deposited into said account. All operating expenses lawfully incurred by the trust in carrying out the provisions of this article shall be evidenced by proper vouchers and shall be paid by the treasurer of the town only upon submission of warrants duly approved by the trust and by the town council. The treasurer of the town shall prudently invest available assets of the funds, and all income thereon shall accrue to the fund.

In addition to any other investments, the treasurer of the town is specifically empowered to invest such portions of its funds as may be deemed prudent, in local or state negotiable instruments, including but not limited to "homeowner notes," so called.

Upon termination or dissolution of the trust, the title of all funds and other properties owned by the trust which remain after payment or making provision for payment of all bonds, notes and other obligations of the trust shall vest in the town.

(Ord. of 12-13-90, § 7)

Sec. 10-57. Tax exemption.

The trust and all its revenues, income and real and personal property used by the trust for furtherance of its public purposes, shall be exempt from taxation and from betterment and special assessments, and as provided in the enabling act the trust shall not be required to pay any tax, excise or assessment to the state or any of its political subdivisions.

(Ord. of 12-13-90, § 8)

Chapter 11 POLICE DEPARTMENT*

*Cross references: Administration, Ch. 2; fire prevention and protection, Ch. 5; alarm

systems, § 4-51 et seq.; offenses and miscellaneous provisions, Ch. 8.

State law references: Relief of injured and deceased police officers, G.L. 1956, § 45-19-1 et seq.

Sec. 11-1. Composition.

The permanent police department of the town shall consist of a chief of police, two (2) lieutenants, four (4) sergeants and as many patrolmen as the town council shall from time to time determine.

(Ord. of 7-9-70, § 2; Ord. of 6-13-72, § 1; Ord. of 7-24-97)

Sec. 11-2. Increasing, decreasing membership.

The town council may increase or diminish the number of such police officers whenever, in its sole discretion, it deems necessary.

(Ord. of 7-9-70, § 5)

Sec. 11-3. Vacancies in ranks.

It shall not be required that all ranks in the police department shall be filled at all times, and the town council in its discretion may leave any rank vacant for such time as it wishes.

(Ord. of 7-9-70, § 3)

Sec. 11-4. Chief generally.

The chief of police shall be the executive and administrative head of the department and is hereby authorized, subject to approval of the town council, to make rules and regulations, not inconsistent with law, for the examination and qualification of applicants for appointment to the department, for the discipline, control and removal of members and relating to reimbursement for expenses properly incurred in the performance of their official duties.

(Ord. of 7-9-70, § 4)

Cross references: Officers and employees, § 2-46 et seq.

Sec. 11-5. Special appointments generally.

The town council may appoint police officers for occasional service and for limited terms of less than one (1) year, and such officers shall not by such appointment become members of the permanent police department.

(Ord. of 7-9-70, § 6)

Sec. 11-6. Probationary period--For officers.

Every new police officer shall first be appointed for a term of less than one (1) year

during which time he shall be probationary, and upon the completion of such term he shall be eligible for appointment by the town council as a permanent member of the department.

(Ord. of 7-9-70, § 6)

Sec. 11-7. Same--Chief, deputy chief.

- (a) Any person appointed to the office of chief or deputy chief shall serve a probationary term in such office of one (1) year from the date of his appointment to such rank, and during such term he shall serve as chief or deputy chief at the pleasure of the town council. At the conclusion of the one-year probationary period, the town council may confirm such appointment, in which case such officer shall become permanent at such rank. Any member of the department holding permanent status in any rank below that of chief for a person appointed as chief or below that of deputy chief for a person appointed as deputy chief, shall, upon appointment as chief or deputy chief, continue to hold his former permanent rank and shall continue in such permanent rank if he fails to attain permanent status as chief or deputy chief.
- (b) Notwithstanding the foregoing provision, the town council may appoint any person to the office of chief or deputy chief, for any period of time deemed appropriate, without a probationary period and need for confirmation, where a written employment contract is entered into between the person so appointed and the town council.

(Ord. of 7-9-70, § 7; Ord. of 2-13-97)

Sec. 11-8. Disciplinary actions.

- (a) The town council or the president of the town council may at any time suspend any police officer until the next regular meeting of the council at which meeting the president shall report any and all suspensions, with the reasons therefor, and the council may continue such suspension until the next regular meeting following.
- (b) Any of the police officers, including the chief of police and deputy chief of police, shall be subject to reduction of rank or to removal from office by the council at any regular meeting thereof for misconduct, incapacity, neglect of duty or insubordination of such a character as the council may deem a disqualification for such office.
- (c) All such reductions or removals shall be by the council upon charges made in writing if requested by any such officer, and of which the officer complained of shall have notice and opportunity at a time appointed by the council to be heard. Nothing in this section shall be construed to apply to any police officer or constable other than members of the permanent police department.
- (d) This section shall in no way impair the right of a policeman to appeal to the superior court as provided in General Laws section 45-20-1.1.

(Ord. of 7-9-70, § 5)

Sec. 11-9. General authority of officers.

The chief of police, deputy chief of police and other officers of the permanent police department, police officers appointed for occasional service and for limited terms shall have the

power and authority conferred by law upon police constables, but shall not be required to give bond nor shall they be authorized to serve process in civil actions. Every such officer in the due execution of his office may command all necessary aid and assistance in the execution of his office and every person who when so required, shall refuse or neglect to give such aid and assistance shall be punished in accordance with section 1-4.

(Ord. of 7-9-70, § 8)

Sec. 11-10. Political activity.

No member of the permanent police department of the town shall engage in any political activity or become a candidate for or hold any elective office in the town or state.

(Ord. of 7-9-70, § 9)

Chapter 12 SOIL EROSION AND SEDIMENTATION CONTROL*

***Cross references:** Buildings and building regulations, Ch. 4; planning, Ch. 10; streets and sidewalks, Ch. 13; subdivisions, Ch. 14; zoning, App. A.

State law references: Soil erosion and sediment control, G.L. 1956, § 45-46-1 et seq.

Art. I. In General, §§ 12-1--12-30

Art. II. Permit, §§ 12-31--12-55

Art. III. Erosion and Sediment Control Plan, §§ 12-56--12-62

ARTICLE I. IN GENERAL

Sec. 12-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person proposing a development which would involve disturbance to the natural terrain.

Cut means an excavation, the difference between a point on the original ground and a designated point of lower elevation on the final grade. Also, the material removed in excavation.

Development project means any construction, reconstruction, demolition, or removal of structures, roadways, parking, or other paved areas; utilities, or other similar facilities, including any action requiring permit by the town.

Erosion means the removal of mineral and/or organic matter by the action of wind, water, and/or gravity.

Excavate means any act by which earth, sand, gravel, rock, or any other similar material is dug into, cut, quarried, uncovered, removed, displaced, relocated, or bulldozed, and shall include the conditions resulting therefrom.

Fill means any act by which earth, sand, or other material is placed or moved to a new location aboveground. The fill is also the difference in elevation between a point or existing undisturbed ground and a designated point of higher elevation of the final grade.

Land-disturbing activity means any physical land development activity which included such actions as clearance of vegetation; moving or filling of land; removal or excavation of soil or mineral resources; or similar activities.

Runoff means the surface water discharge or rate of discharge of a given watershed after a fall of rain or snow and including seepage flows that do not enter the soil but run off the surface of the land. Also, that portion of water that is not absorbed by the soil, but runs off the land surface.

Sediment means solid material, both mineral and/or organic, that is in suspension, is being transported, or has been moved from its site of origin by wind, water and/or gravity as a product of erosion.

Soil erosion and sediment control plans means the approved document required before any person may cause a disturbance to the natural terrain within the town as herein regulated. Also, herein referred to as erosion and sediment control plan, approved plan.

(Ord. of 5-12-83, § 13)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 12-2. Purpose.

- (a) The town council hereby finds that excessive quantities of soil are eroding from certain areas that are undergoing development for nonagricultural uses such as housing developments, industrial areas, recreational facilities and roads. This erosion makes necessary costly repairs to gullies, washed out fills, roads, and embankments. The resulting sediment clogs the storm sewers, road ditches and muddies streams, leaves deposits of silt in ponds and reservoirs and is considered a major water pollutant.
- (b) The purpose of this chapter is to prevent soil erosion and sedimentation from occurring as a result of nonagricultural development within the town by requiring proper provisions for water disposal, and the protection of soil surfaces during and after construction, in order to promote the safety, public health and general welfare of the town.

(Ord. of 5-12-83, § 1)

Sec. 12-3. Application.

This chapter shall be applicable in any situation involving any disturbance to the natural terrain, topsoil or vegetative ground cover upon any property within the town except as so specified in section 12-31, including but not limited to the following specific situations:

- (1) For any development project subject to the obtaining of a building permit pursuant to the building code.
- (2) For any development project subject to the approval of a subdivision plan pursuant to the subdivision regulations; however, the preliminary and final plats approved by the town planning commission shall constitute the plan.

- (3) All plans for projects undertaken by the town through private contractors shall include in the specifications and in the contract documents the requirements of this chapter.
- (4) All projects undertaken directly by the department of public works and by its several divisions shall be undertaken in accordance with the performance principles provided for in section 12-59 and such standards and definitions as may be adopted to implement such performance principles.

(Ord. of 5-12-83, § 2)

Sec. 12-4. Penalty for violation.

In addition to any other provision of this chapter, whenever there is a failure to comply with the provisions of this chapter, the town shall have the right to notify the applicant/owner that it has five (5) days from the receipt of notice to temporarily correct the violations and thirty (30) days from receipt of notice to permanently correct the violations. Should the applicant/owner fail to take the temporary corrective measures within the five-day period and the permanent corrective measures within the thirty-day period, the town shall then have the right to take whatever actions it deems necessary to correct the violations and to assert a lien on the subject property in an amount equal to the costs of remedial actions. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this chapter, including revocation of the performance bond or assessment of a lien on the property by the town.

(Ord. of 5-12-83, § 12(b))

Sec. 12-5. Liability.

Neither approval of an erosion and sediment control plan nor compliance with any condition of this chapter shall relieve the owner/applicant from any responsibility for damage to persons or property, nor impose any liability upon the town for damages to persons or property.

(Ord. of 5-12-83, § 9)

Sec. 12-6. Approval; expiration, renewal.

- (a) Every approval granted pursuant to this chapter shall expire at the end of the time period set forth in the conditions. The developer shall fully perform and complete all of the work required within the specified time period.
- (b) If the developer is unable to complete the work within the designated time period, he shall, at least thirty (30) days prior to the expiration date, submit a written request for an extension of time to the building official, setting forth the reasons underlying the requested time extension. If the extension is warranted, the building official may grant an extension of time up to a maximum of one (1) year from the date of the original deadline. Subsequent extensions under the same conditions may be granted at the discretion of the building official.

(Ord. of 5-12-83, § 7)

Sec. 12-7. Maintenance of measures.

Maintenance of all erosion-sediment control devices under this chapter shall be the responsibility of the owner. Such erosion-sediment control devices shall be maintained in good condition and working order on a continuing basis. Watercourses originating and located completely on private property shall be the responsibility of the owner to their point of open discharge at the property line or at a communal watercourse within the property.

(Ord. of 5-12-83, § 8)

Sec. 12-8. Periodic inspections.

The provisions of this chapter shall be administered and enforced by the building official or his designated representative. All work shall be subject to periodic inspections by the building officials, or his authorized agent. All work shall be performed in accordance with an inspection and construction control schedule approved by the building official or his designated representative, who shall maintain a permanent file on all of its inspections. Upon completion of the work, the developer or owner shall notify the building official that all grading, drainage, erosion and sediment control measures and devices, and vegetation and ground cover planting has been completed in conformance with the approval, all attached plans, specifications, conditions, and other applicable provisions of this chapter.

(Ord. of 5-12-83, § 10(a))

Sec. 12-9. Final inspections.

- (a) Upon notification of the completion of work under this chapter by the owner, the building official or his authorized agent shall make a final inspection of the site in question and shall prepare a final summary inspection report of his findings which shall be retained in the department of inspections and in the department of public works permanent inspections file.
- (b) After the final site inspection has been completed and approved, the applicant/owner may request a release of his performance bond by the building official. In the instance where the performance bond has been posted with the recording of a final subdivision, the bond shall be released after the building official has been notified by the plan commission of successful completion of all plat improvements by the applicant/owner.

(Ord. of 5-12-83, § 10(b))

Sec. 12-10. Noncompliance.

If, at any stage, the work-in-progress and/or completed under the terms of an approved erosion and sediment control plan does not conform to such plan, a written notice from the building official to comply shall be transmitted to the owner. Such notice shall set forth the nature of corrections required and the time limit within which corrections shall be completed. Failure to comply with the required corrections within the specified time limit shall be considered in violation of this chapter, in which case the performance bond or cash or negotiable securities deposit shall be subject to notice of default, in accordance with section 12-61.

(Ord. of 5-12-83, § 11)

Sec. 12-11. Revocation or suspension of approval.

The approval of an erosion and sediment control plan under this chapter may be revoked or suspended and work initiated under the plan halted for an indefinite time period by the building official or his authorized agent after written notification is transmitted to the developer for one (1) or more of the following reasons:

- (1) Violation of any condition of the approved plan, conditions or specifications pertaining thereto;
- (2) Violation of any provision of this chapter or any other applicable law, ordinance, rule or regulation related to the work or site of work; and
- (3) The existence of any condition or the performance of any act constituting or creating a nuisance, hazard, or endangerment to human life or the property of others, or contrary to the spirit or intent of this chapter.

(Ord. of 5-12-83, § 12(a))

Secs. 12-12--12-30. Reserved.

ARTICLE II. PERMIT

Sec. 12-31. Required.

It shall be unlawful for any person to disturb any existing vegetation, grades, and contours of land without first applying for and receiving a permit from the building official.

(Ord. of 5-12-83, § 3)

Sec. 12-32. Exceptions.

No permit shall be required under this article for the following:

- (1) The construction, alteration or use of a single-family residential structure or appurtenance or a two-family residential structure or structures accessory thereto, which is or are to be constructed, altered or used individually and not as part of a development, provided such construction, including land distribution activities, does not occur within one hundred (100) feet of any watercourse and has no slopes greater than ten (10) feet horizontal or ten (10) percent;
- (2) Development projects where less than one-half acre is to be disturbed during one (1) planting season, and which disturbance of soil is not within one hundred (100) feet of any watercourse, has no slope greater than ten (10) percent, and where in the opinion of the building official, no soil erosion will occur; and
- (3) Accepted agricultural management practices such as seasonal tilling and harvest activities associated with property utilized for private or commercial agricultural or silvacultural purposes;

- (4) An excavation which exhibits all of the following characteristics:
- a. Is less than four (4) feet in vertical depth at its deepest point as measured from the average elevation of the natural ground surface.
 - b. Does not result in a total displacement of more than one hundred (100) cubic yards of material on any lot, land, parcel or subdivision.
 - c. Has no slopes steeper than ten (10) feet vertical in one hundred (100) feet horizontal or approximately ten (10) percent.
 - d. Has all disturbed surface areas promptly and effectively protected to prevent soil erosion and sedimentation from occurring including seeding or sodding, and provided that all disturbed surface areas which will be exposed for a period of time in excess of thirty (30) days shall be covered with a suitable temporary protective ground cover until permanent ground cover is in place.
- (5) Grading, as a maintenance measure, or for landscaping purposes on existing developed land parcels or lots, provided that all of the following conditions are met:
- a. The aggregate of areas affected or stripped at any one (1) time does not exceed ten thousand (10,000) square feet.
 - b. The change of elevation does not exceed two (2) feet at any point.
 - c. All bare surface area is promptly seeded, sodded, or otherwise effectively protected from erosive actions.
 - d. The grading does not involve a quantity of material in excess of five hundred (500) cubic yards.
- (6) Grading, filling, removal or excavation activities and operations undertaken by the town under the direction and supervision of the director of public works for work on streets, roads or rights-of-ways dedicated to public use; provided, however, that adequate and acceptable erosion and sediment controls are incorporated in engineering plans and specifications and employed. Appropriate controls shall apply during construction as well as after the completion of such activities.

(Ord. of 5-12-83, § 3)

Sec. 12-33. Submission of plan--Generally.

To obtain approval for a permit under the provisions of this article, an applicant shall first file an erosion and sediment control plan signed by the owner of the property, or authorized agent, on which the work subject to approval is to be performed. The plan or drawings, as described in section 12-56, shall include proposed erosion and sediment control measures to be employed by the applicant or his agent.

(Ord. of 5-12-83, § 4(a))

Sec. 12-34. Same--Freshwater wetlands permit.

Where any portion of a proposed development requires approval under the Rhode Island Freshwater Wetlands Act (General Laws section 2-1-15 et seq.), as amended, and where such approval contains provisions for soil erosion and sediment controls, that approved plan shall be a component of the overall soil erosion and sediment control plan required hereunder for the development.

(Ord. of 5-12-83, § 4(a))

Sec. 12-35. Building permit fees.

Where a building permit is required under the building code, the site plans shall include all the requirements of this chapter and the building permit fee shall be based on the entire cost of the building plus improvements required by this chapter. Application of such fees shall apply to all land-disturbing activities; for example, subdivisions, except as provided for under section 12-32.

(Ord. of 5-12-83, § 4(b))

Cross references: Buildings and building regulations, Ch. 4.

Sec. 12-36. Plan review.

- (a) Within five (5) working days of the receipt of a completed plan, the building official shall send a copy of the plan to the public works department and the plan commission for the purpose of review and comment. The building official may also within the above time frame submit copies of the plan to other local departments or agencies, including the conservation district that services their county, in order to better achieve the purposes of this chapter.
- (b) The time allowed for plan review shall be commensurate with the proposed development project, and shall be done simultaneously with other reviews.

(Ord. of 5-12-83, § 4(c))

Sec. 12-37. Plan approval.

- (a) The building official shall take action in writing either approving or disapproving the plan with reasons stated within ten (10) days after he has received the written opinion of the public works director and the plan commission. Failure of the public works director or the plan commission to respond within twenty-one (21) days of the receipt of the plan shall be deemed as no objection to the plan as submitted.
- (b) In approving a plan, the building official may attach such conditions deemed reasonably necessary by the director of public works and the plan commission to further the purposes of this chapter. Such conditions pertaining to erosion and sediment control measures and/or devices, may include, but are not limited to, the erection of walls, drains, dams and structures, planting vegetation, trees, shrubs, furnishings, necessary easements and specifying a method of performing various kinds of work, and the sequence or timing thereof. The applicant/owner shall notify the building inspector in

advance of this intent to begin clearing and construction work described in the erosion and sediment control plan. The applicant shall have the erosion and sediment control plan on the site during grading and construction.

(Ord. of 5-12-83, § 4(d))

Sec. 12-38. Appeals.

- (a) If the ruling made by the building official is unsatisfactory to the applicant/owner, the applicant/owner may file a written appeal. The appeal of the plan for a building permit shall be to the building appeals board. The appeal of a plan for a subdivision shall be as provided for in section 45-23-14 of the General Laws.
- (b) Appeal procedures shall follow current requirements for appeal to either of the two (2) boards above.
- (c) However, under any appeal proceedings, the building official shall notify the conservation commission of the appeal and the time, date, and place of the hearing. The conservation commission shall submit written comments on the appeal, and such comments, together with the written decision of the building official, shall be read into the official record of the hearing.
- (d) During the period in which the request for appeal is filed, and until such time as a final decision is rendered on the appeal, the decision of the building official shall remain in effect.

(Ord. of 5-12-83, § 4(e)(1))

Sec. 12-39. Expert opinion.

The building inspector, the building appeals board, or the plan commission of review may seek technical assistance on any soil erosion and sediment control plan. Such expert opinion must be made available in the office of the building inspector as a public record prior to the appeals hearing.

(Ord. of 5-12-83, § 4(e)(2))

Secs. 12-40--12-55. Reserved.

ARTICLE III. EROSION AND SEDIMENT CONTROL PLAN

Sec. 12-56. Preparation.

- (a) The erosion and sediment control plan shall be prepared by a registered engineer or land surveyor on standard eight and one-half-inch by eleven-inch, eleven-inch by seventeen-inch or twenty-four-inch by thirty-six (36) inch sheets at a suggested scale of one (1) inch equals forty (40) feet. A key sheet shall be included if a plan consists of more than two (2) sheets.
- (b) The erosion and sediment control plan shall include sufficient information about the proposed activities and land parcels to form a clear basis for discussion and review and

to ensure compliance with all applicable requirements of this chapter.

(Ord. of 5-12-83, § 5(a))

Sec. 12-57. Number of copies.

A minimum of three (3) copies of the erosion and sediment control plan, plus any additional copies that may be required by the building inspector, shall be submitted.

(Ord. of 5-12-83, § 5(b))

Sec. 12-58. Contents.

The following information may be drafted on the erosion and sediment control plan or may be included as attachments and shall consist of the following:

- (1) Locus plan.
- (2) The name and address of the owner of the site, and, if different, the applicant, the designer, and the developer.
- (3) The location, extent, and type of all proposed work to be performed, including all existing and proposed buildings, structures, utilities, sewers, water mains, and storm drains on the site.
- (4) Topographic mapping with elevations keyed to the municipal base showing existing contours at intervals of not more than two (2) feet and contours at two-foot intervals of the finished grade of all disturbed land areas at the conclusion of the construction and/or land disturbance activities.
- (5) A description of the general topographic and soil conditions at the project site, including all significant limitations such as rock, outcrops, existing alterations to natural drainage, and any other site characteristics pertinent to the work to be performed.
- (6) The location and size of all parking and loading areas and driveways, both public and private.
- (7) The location of all existing and proposed buildings or structures, utilities including drainage facilities, and all significant natural features within one hundred (100) feet of the proposed work to be performed.
- (8) The name, location, right-of-way width, and pavement width of all streets, roads and highways within one hundred (100) feet of the site.
- (9) The location and names, if applicable, of any streams, wetlands, water bodies, drainage swales, watercourses, and areas subject to periodic flooding, both on and within one hundred (100) feet of the site on which the work is to be performed. Included shall be a delineation of any areas designated as flood hazards by the federal emergency management agency or other state or federal agency.
- (10) The names and addresses of all owners of abutting parcels and the location of all adjoining lot boundaries according to the latest assessor's records.

- (11) The approximate total quantity of earthwork involved in the proposed work, with appropriate breakdown as to cut and fill.
- (12) The location and extent of the removal of existing topsoil, trees, and other vegetation; quantities and location of any material to be removed from the site.
- (13) The estimated time of exposure for all disturbed land areas on the site prior to the completion of effective temporary and/or permanent erosion and sediment control measures and facilities. This shall include planting and seeding dates and application rates, and the phasing plan indicating the anticipated starting and completion dates of all phases of proposed site work.
- (14) Details of all proposed drainage provisions to be employed on the site including the location and type of all proposed erosion and sediment control measures and stormwater runoff controls of both a permanent and temporary nature and specifications for the maintenance of each.
- (15) The type, location, and extent of all proposed temporary and permanent vegetation and mulching that will be used to protect exposed areas of the project site.
- (16) Prompt submittal of such other information or construction plans and details as deemed necessary by the building official or his designated agent for a thorough review of the plan prior to action being taken as prescribed in this chapter. Withholding or delay of such information may be reason for the building official to judge the application as incomplete and grounds for disapproval.

(Ord. of 5-12-83, § 5(c)(1)--(16))

Sec. 12-59. Performance principals.

- (a) The contents of the erosion and sediment control plan shall clearly demonstrate how the principles, outlined below, have been met in the design and are to be accomplished by the proposed development project.
 - (1) The site selected shall show due regard for natural drainage characteristics and topography.
 - (2) Areas with slopes exceeding ten (10) percent shall be avoided.
 - (3) The grade of slopes created shall be minimized.
 - (4) When downstream capacities prove to be inadequate, any increase in storm runoff shall be controlled on-site to minimize downstream impact. This increased storm runoff shall be retained and recharged as close as feasible to its place of origin by means of detention ponds or basins, seepage areas, subsurface drains, porous paving, or similar technique.
 - (5) Original boundaries, alignment and slope of watercourses within the project locus shall be preserved to the greatest extent feasible.
 - (6) In general, drainage shall be directed away from structures intended for human occupancy, municipal or utility use, or similar structures.

- (7) All drainage provisions shall be of such a design and capacity so as to adequately handle stormwater runoff, including runoff from tributary upstream areas which may be outside the locus of the project.
 - (8) Drainage facilities shall be installed as early as feasible during construction, prior to site clearance, if possible.
 - (9) Fill located adjacent to watercourses shall be suitably protected from erosion by means of rip-rap, gabions, retaining walls, vegetative stabilization, or similar measures.
 - (10) Temporary vegetation and/or mulching shall be used to protect bare areas and stockpiles from erosion during construction; the smallest areas feasible shall be exposed at any one (1) time; disturbed areas shall be protected during the nongrowing months, November through March.
 - (11) Permanent vegetation shall be placed immediately following fine grading.
 - (12) Trees and other existing vegetation shall be retained whenever feasible; the area beyond the dripline shall be fenced or roped off to protect trees from construction equipment.
 - (13) Areas damaged during construction shall be resodded, reseeded, or otherwise restored. Monitoring and maintenance schedules, where required, shall be predetermined.
- (b) In order to comply with the principles set forth above, the building official shall use as a reference in determining the suitability and adequacy of erosion-sediment plans the publication entitled, "Rhode Island Erosion and Sediment Control Handbook," U.S. Department of Agriculture. Soil Conservation Service and Rhode Island State Conservation Committee, 1980, or its most recent addition.

(Ord. of 5-12-83, § 5(c)(17))

Sec. 12-60. Performance bond--Required.

- (a) Before approving an erosion sediment control plan, the building official may require the applicant/owner to file a surety company performance bond or deposit of money or negotiable securities. When any land-disturbing activity is to take place within one hundred (100) feet of any watercourse or within an identified flood hazard district, or on slopes in excess of ten (10) percent, the filing of a performance bond shall be required. The amount of such bond, as determined by the public works department, shall be sufficient to cover the cost of implementing all erosion and sediment control measures as shown on the plan.
- (b) The bond or negotiable security filed by the applicant shall be subject to approval of the form, content, amount and manner of execution by the public works director and the town solicitor.
- (c) A performance bond for an erosion sediment control plan for a subdivision may be included in the performance bond of the subdivision. The posting of such bond as part of the subdivision performance bond does not, however, relieve the owner of any requirement of this chapter.

(Ord. of 5-12-83, § 6(a))

Sec. 12-61. Same--Notice of default.

- (a) *Performance secured by bond.* Whenever the building official shall find that a default has occurred in the performance of any term or condition of the bond or in the implementation of measures secured by the bond, written notice thereof shall be made to the applicant and to the surety of the bond by the town solicitor. Such notice shall state the nature of default, work to be done, the estimated cost thereof, and the period of time deemed by the building official to be reasonably necessary for the completion of such work.
- (b) *Failure to comply.* Failure of the applicant to acknowledge and comply with the provisions and deadlines outlined in such notice of default shall mean the institution, by the town solicitor, without further notice of proceedings whatsoever, of appropriate measures to utilize the performance bond to cause the required work to be completed by the town, by contract or by other appropriate means as determined by the town solicitor.
- (c) *Performance secured by cash or negotiable securities deposit.* If a cash or negotiable securities deposit has been posted by the applicant, notice and procedure shall be the same as provided for in the preceding (a) and (b) above.

(Ord. of 5-12-83, § 6(b), (c))

Sec. 12-62. Same--Release.

The performance bonding requirement shall remain in full force and effect until satisfactory completion of the work.

(Ord. of 5-12-83, § 6(d))

Chapter 12.5 SOLID WASTE

Art. I. In General, §§ 12.5-1--12.5-25

Art. II. Recycling, §§ 12.5-26--12.5-41

ARTICLE I. IN GENERAL

Secs. 12.5-1--12.5-25. Reserved.

ARTICLE II. RECYCLING

Sec. 12.5-26. Mandatory recycling.

A mandatory recycling program is hereby implemented in the town pursuant to chapters 23-18.8, 23-18.9 and 23-19 of the General Laws, regulations issued pursuant thereto by the state department of environmental management, the requirements of the state solid waste management corporation, and the Charter of the town.

(Ord. of 7-13-95, § 1)

Sec. 12.5-27. Definitions.

The following words, terms and phrases, when used in this article, shall be defined as follows:

Arrangements. The process by which the town plans for and carries out the separation, weighting, collection, hauling and disposal of solid waste generated within the town.

Local recycling program. A recycling program for municipal solid waste as set forth in a local recycling plan approved by the state pursuant to the municipal recycling regulations as amended.

Municipal solid waste. Solid waste generated by the residents of the town in the course of their daily living, the disposal of which the governing body of the town has undertaken in the discharge of its duties to protect the health of the town. Municipal solid waste does not include solid waste generated by residents of the town in the course of their employment or that generated by any manufacturing or commercial enterprise.

Recyclable materials. Material separated from municipal solid waste for reuse as specified by the director of DEM and listed in Section 4 of municipal recycling regulations and within section 12-87 of this article. The materials to be included may change from time to time depending upon new technologies, economic conditions, waste stream characteristics, environmental effects or mutual agreement between the state and municipalities.

Resident. Anyone residing in the town for any period of time who generates solid waste for which the town accepts responsibility for disposal.

Solid waste. Garbage, refuse or other discarded solid materials generated by residential sources but not including solids or dissolved material in domestic sewage or sewage sludge, nor hazardous waste as defined in the Hazardous Waste Management Act, Chapter 19.1 of the General Laws.

Source separation. The removal by the generator of recyclable materials including mixed recyclables from all other solid waste generated by the household, and conveyance of the recyclables to the curbside or other designated location by the municipality or its agents.

White goods. Major kitchen or laundry appliances, including, but not limited to, stoves, washers, refrigerators and dryers. Nothing in this definition shall waive compliance with the rules and regulations for generation, transportation, storage and disposal of hazardous waste.

(Ord. of 7-13-95, § 2)

Sec. 12.5-28. Program established.

There is hereby established a program for the mandatory separation of certain recyclable materials from municipal solid waste by the residents of the town and the collection of such recyclable materials at the resident's curbside, or such other locations as the town may direct from time to time. The collection of separated recyclables shall be made pursuant to a schedule to be approved by the director of public works.

(Ord. of 7-13-95, § 3)

Sec. 12.5-29. Implementation.

- (a) The director of public works, under the supervision of the town council, shall oversee the implementation of this article.
- (b) The director of public works is hereby authorized and directed to prepare and publish, subject to council approval, regulations for the implementation of this article.

(Ord. of 7-13-95, § 4)

Sec. 12.5-30. Reporting requirement.

The director of public works shall establish an accurate system to keep monthly records of weights of total municipal solid waste and of recyclables which are separated from the total municipal solid waste stream, which records shall be submitted to DEM as required.

(Ord. of 7-13-95, § 5)

Sec. 12.5-31. Mandatory recycling requirements.

- (a) *Recyclable materials.* Recyclable materials shall be deposited at the curb or beside the public highway which is adjacent or nearest to a resident's dwelling, as the case may be, in recycling containers. If there are more recyclables than can be accommodated in the container, these shall be placed in containers stacked close to such special recycling container to facilitate collection with recyclable materials. Recyclable materials shall be prepared for collection according to regulations established by the director of public works and published by the town.
- (b) *Recycling containers.* Containers for recyclable materials shall be provided by the town or the solid waste management corporation to the residents. Such containers shall be the property of the town. The town shall provide such containers to residents free of charge and thereafter for a fee specified by the town council for replacements.
- (c) *Recycling by businesses or firms engaged in commerce.* Commercial or business firms shall be subject to state and federal recycling regulations.
- (d) *Compliance required.* All residents in the town shall separate recyclables from the nonrecyclable portion of their solid waste and prepare such recyclables for recycling according to directions established by the director and published by the town.
- (e) *Collection by private parties and nonprofit groups.* Residents are allowed to give recyclables to individuals and to private and nonprofit organizations that have been duly licensed and whose collections are reported in a manner specified by the director of public works to be used in compliance with DEM reporting requirements.

(Ord. of 7-13-95, § 6)

Sec. 12.5-32. Collection of mixed recyclables.

The town shall provide a schedule for the collections of mixed recyclables from residents. Such materials shall be placed in designated containers at the curb, or at the side of

the public highway which is adjacent or nearest to a resident's dwelling, as the case may be. For the purposes of this section, the recyclables to be collected are:

- (1) *Mixed recyclables.* Aluminum and steel/tin cans; aluminum foil and scrap (e.g. pie plates); metal lids; empty aerosol and paint cans; scrap metal; scrap wood; glass bottles and jars; #1 PET plastic containers; #2 HDPE plastic bottles and jugs; paper milk cartons and juice boxes, clean scrap wood; and
- (2) *Paper recyclables.* Mail magazines and catalogs; writing paper; corrugated cardboard; paperboard (e.g. cereal boxes); newspaper; brown (kraft) paper bags; telephone directories and textiles.

(Ord. of 7-13-95, § 7)

Sec. 12.5-33. White goods.

The director of public works of the town shall provide by regulation for mandatory recycling of white goods.

(Ord. of 7-13-95, § 8)

Sec. 12.5-34. Publication of collection schedule.

The director of public works shall prominently publish the initial schedule for collection and shall publish a new schedule thereafter whenever there is a change in either materials to be collected, regulations, collections, collection procedures or schedules.

(Ord. of 7-13-95, § 9)

Sec. 12.5-35. Solid waste hazard or nuisance prohibited.

No person having custody or control of residential, industrial or business premises from which solid waste, including recyclables, is collected shall permit or cause any solid waste, including recyclables, within his or her control to become a hazard to public travel, to endanger the public health or safety or to become a nuisance of any kind.

(Ord. of 7-13-95, § 10)

Sec. 12.5-36. Licensing of haulers.

All persons engaged in the business of collection or hauling of solid waste in the town, including recyclables, shall be licensed in compliance with the state's rules and regulations pertaining thereto.

(Ord. of 7-13-95, § 11)

Sec. 12.5-37. Handling of or tampering with recyclables, offenses.

No recyclable materials which has been placed, deposited or otherwise offered for collection as provided herein, be it curbside or otherwise, shall be handles, taken, converted or otherwise disturbed by any person, except such persons licensed by the town as provided herein. Once recyclable materials have been deposited or otherwise offered for collection as

provided herein, such recyclable materials become the property of the town. No person engaged in the business of separation, recovery, collection, removal, storage or disposition of solid waste shall pick up or produce any recyclable materials as defined under this article or a valid regulation within the town except as specifically authorized by the director of public works. This restriction shall also include any resident, taxpayer or other person who might engage in such practice.

(Ord. of 7-13-95, § 12)

Sec. 12.5-38. Enforcement.

It shall be the responsibility of the town police department to enforce the provisions of this article.

(Ord. of 7-13-95, § 13)

Sec. 12.5-39. Volunteer collection of recyclable materials.

The director of public works may issue permits to private parties or charitable organizations to collect recyclable materials on the condition that a report is filed by such party or organization detailing the amount of each material collected, in compliance with DEM reporting requirements and provided that the director of public works determines that such collection does not defeat the purpose of cost effectiveness of the town's recycling program nor conflict with the town's local implementation program.

(Ord. of 7-13-95, § 14)

Sec. 12.5-40. Penalties for noncompliance or violations.

Penalties for noncompliance or violations of the provisions of this article shall be punished by the following means:

- (1) *First offense:* A written notification to the resident recorded.
- (2) *Second offense:* A written warning that subsequent violations can result in fines.
- (3) *Third and subsequent offenses:* Any person who violates any of the provisions of this article after receiving a written warning shall be subject to a fine of not more than one hundred dollars (\$100.00).

(Ord. of 7-13-95, § 15)

Sec. 12.5-41. Licensed public events and festivals.

The town shall require the separation of recyclables as a condition of licensing or authorizing public events at which significant quantities of solid waste will be generated for which the town accepts the responsibility for disposal. With such license the town shall require sufficient collection receptacles for expected recyclables and/or shall provide specially marked containers to be used for such recyclables at certain municipal facilities where such events normally occur.

(Ord. of 7-13-95, § 17)

Chapter 13 STREETS AND SIDEWALKS*

***Cross references:** Buildings and building regulations, Ch. 4; hawkers and peddlers, § 6-81 et seq.; motor vehicles and traffic, Ch. 7; planning, Ch. 10; subdivisions, Ch. 14; utilities, Ch. 17; zoning, App. A.

State law references: Maintenance of town highways, G.L. 1956, § 24-5-1 et seq.; abandonment by towns, G.L. 1956, § 24-6-1 et seq.; sidewalks, G.L. 1956, § 24-7-1 et seq.

Art. I. In General, §§ 13-1--13-30

Art. II. Acceptance of Streets and Highways, §§ 13-31--13-60

Art. III. Construction of Driveways, §§ 13-61--13-66

ARTICLE I. IN GENERAL

Sec. 13-1. Driving vehicles on sidewalks.

No person shall drive any automobile, motorcycle or truck upon any sidewalk or footwalk except for the purpose of necessarily crossing the same.

(Ord. of 6-9-77(3), § VII)

Cross references: Motor vehicles and traffic, Ch. 7.

Sec. 13-2. Obstructing pedestrianways--With vehicles.

No person shall obstruct any sidewalk, crosswalk or footwalk by standing or by allowing his vehicle to stand thereon to the obstruction or hindrance of persons using such sidewalk, crosswalk or footwalk.

(Ord. of 6-9-77(3), § VI)

Cross references: Motor vehicles and traffic, Ch. 7.

Sec. 13-3. Same--With chattels, goods.

No person shall deposit, place or put or permit to be deposited, placed or put by any person or persons any goods, wares, chattels or merchandise on any sidewalk, crosswalk or footwalk so as to obstruct the same or hinder passers-by, except while actually engaged in moving the same into or out of some building, vehicle or place.

(Ord. of 6-9-77(3), § VIII)

Sec. 13-4. Same--By playing games, throwing objects, etc.

No person shall play ball or other game or throw stones or any other missiles or slide on any sled to the hindrance of any other person upon any sidewalk, crosswalk, footwalk, public street or highway.

(Ord. of 6-9-77(3), § IX)

Sec. 13-5. Allowing nuisance on ways.

No person shall throw or cause to run into or upon any public street or highway, sidewalk, crosswalk or footwalk any filthy water, slops or swill nor deposit thereon any ashes, soot, cinders, shavings, manure, scrap, dirt or stones or any other matter or thing so as to create a nuisance upon any such public street, highway, sidewalk, crosswalk or footwalk or any premises adjoining thereto.

(Ord. of 6-9-77(3), § X)

Sec. 13-6. Excavations.

No person shall take up the pavement or dig any trench or hole in any public street or highway without first obtaining permission in writing from the director of public works. If any person shall for six (6) hours of daylight after the completion of the work for which such opening was made omit to fill up and repair such street or highway to the satisfaction of the director of public works, and he shall fill or repair the same in proper manner and deliver to the town treasurer a statement of the cost, including a reasonable charge for the superintendence of the same, and the town treasurer shall cause the amount to be collected from the person causing such street or highway to be opened. Whenever any excavation is made or any destruction exists the person having charge shall place warning signs at either end of such area and such other warning signs as the director of public works may direct. Whenever any excavation must of necessity remain after dark, the person having charge shall place sufficient warning lights and markers at such area.

(Ord. of 6-9-77(3), § XIII)

Sec. 13-7. Encroachment by steps, building projections, etc.

No person shall erect or maintain or cause to be erected or maintained any step or steps or other projection of any building or thing whatsoever on any public street or highway or on any sidewalk.

(Ord. of 6-9-77(3), § XII)

Sec. 13-8. Removal of snow and ice from sidewalks.

- (a) All owners, occupants or persons having care of any building or lot bordering upon any street, highway or public place within the town, shall within the first four (4) hours of daylight after the end of any snowfall, or the fall or deposit of snow on the sidewalk of said building or lot from any cause whatsoever:
 - (1) Remove or cause to be removed all snow from a path not less than three (3) feet in width of the entire sidewalk bordering on said street, highway, or public place.
 - (2) Whenever the sidewalk or any part thereof adjoining any building or lot of land on any street shall be encumbered with ice, it shall be the duty of the owner, occupant or any person having the care of such building or lot, to cause such sidewalk to be made safe and convenient by removing the ice therefrom, or by

covering the same with sand or some other suitable substance.

- (b) Any person violating this section shall be fined not exceeding twenty-five dollars (\$25.00).

(Ord. of 2-8-90, §§ 1, 2)

Editor's note: An ordinance of February 8, 1990, did not specifically amend the Code; therefore, inclusion as § 13-8 was at the discretion of the editor.

Secs. 13-9--13-30. Reserved.

ARTICLE II. ACCEPTANCE OF STREETS AND HIGHWAYS

Sec. 13-31. Definition.

For the purposes of this article, the words "public highway system" shall consist of all roads or highways that are maintained by the town highway department.

(Ord. of 4-15-65, § 1)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 13-32. Acceptance required.

No private street, private highway, or private road shall become a part of the public highway system of the town unless and until the same shall be accepted by the town council pursuant to the provisions of this article.

(Ord. of 4-15-65, § 1)

Sec. 13-33. Provisions cumulative.

The provisions of this article shall be in addition to and not in lieu of any rules and regulations governing and restricting the platting or other subdivision of land within the town.

(Ord. of 4-15-65, § 11)

Sec. 13-34. Petition--Authorized, form.

Any person owning any private street, private highway, or private road, or having an interest as owner thereof, and desiring that the same become a part of the public highway system of this town, shall petition the town council for the acceptance thereof by the town to become a part of its public highway system, upon forms prescribed by the town council and furnished by the town clerk.

(Ord. of 4-15-65, § 2)

Sec. 13-35. Same--Contents.

- (a) With every petition presented under this article, the petitioner shall file a plat, in duplicate; one (1) on good quality cloth-backed drawing paper and one (1) on tracing

cloth; showing in detail the layout, width and grade of the private street, private road, or private highway. Such plat shall be prepared and certified by a professional engineer or land surveyor registered in this state and shall indicate the locations of granite bounds defining the boundaries of such private streets, private roads, or private highways, which granite bounds shall be placed prior to the filing of the petition.

- (b) The petitioner shall also file such further information and data as the town council may deem necessary or proper for the proper consideration of the petition.

(Ord. of 4-15-65, §§ 3, 4)

Sec. 13-36. Referral to director of public works; certification.

Upon the filing of any petition pursuant to this article, the petition shall be referred to the director of public works. No petition shall be granted unless and until the director of public works shall certify to the town council:

- (1) That the private street, private road, or private highway conforms in all respects to the layout shown on the plat as filed.
- (2) That proper drainage has been provided.
- (3) That the base is suitable for public highway purposes.
- (4) That the grades and curves are properly aligned.
- (5) That at least twenty (20) feet in width of the entire length of the surface has been treated with one (1) coat of penetration oil, tar or asphalt and that the pavement is in good condition.
- (6) That acceptance of such private street, private road or private highway will serve public convenience and necessity.

(Ord. of 4-15-65, § 6)

Sec. 13-37. Report by director of public works.

The director of public works shall make his report to the town council within thirty (30) days after any petition has been referred to him.

(Ord. of 4-15-65, § 7)

Sec. 13-38. Street name.

The petitioner may suggest a name to be given to the private street, private road or private highway concerned in the petition, which name shall not be the same as the name of any public highway of the town or so similar thereto as to cause confusion. The town council may, if it sees fit, disapprove the name suggested by petitioner and assign and designate a name of its own selection.

(Ord. of 4-15-65, § 8)

Sec. 13-39. Deed required.

No acceptance by the town council of any private street, private road or private highway shall be effective to make same a public highway of the town until the owner thereof shall have conveyed same to the town in fee simple, free and clear of all incumbrances and such conveyance shall have been recorded in the office of the town clerk.

(Ord. of 4-15-65, § 9)

Sec. 13-40. Minimum width.

No private street, private road or private highway shall be accepted as a part of the public highway system of the town unless the same shall be at least forty (40) feet in width.

(Ord. of 4-15-65, § 5)

Secs. 13-41--13-60. Reserved.

ARTICLE III. CONSTRUCTION OF DRIVEWAYS

Sec. 13-61. Purpose.

This article is enacted for the purposes of providing for highway safety, highway maintenance and for the control of pollution and runoff onto public highways and into the drainage systems which are part of the public highway system.

(Ord. of 11-13-86, § 1)

Sec. 13-62. Effective date for application of article.

The provisions of this article shall not apply to any access which is in use on December 1, 1986.

(Ord. of 11-13-86, § 6)

Sec. 13-63. Permit required.

No person shall construct any driveway for motor vehicles which accesses a public highway under the control of the town nor shall any person provide for or permit access by motor vehicles to or from his or her property except at a point for which a permit has been obtained from the building inspector.

(Ord. of 11-13-86, § 2)

Sec. 13-64. Application for permit, fee.

Application for a permit required by this article shall be made on such form as the building inspector shall provide. Such application shall show the location of the proposed driveway and the type of construction proposed. A fee shall accompany each application which fee shall be set from time to time and a schedule of such fees is on file in the town clerk's office.

(Ord. of 11-13-86, § 3)

Sec. 13-65. Consideration of application.

- (a) Upon receipt of an application for a permit required by this article, the building inspector shall submit the same to:
 - (1) The director of public works or his deputy for his approval or disapproval as to control of runoff which may be created by such access with relation to proper drainage and pollution control, and
 - (2) The chief of police or his deputy for approval or disapproval as to whether or not such proposed access location will create a potential traffic hazard.
- (b) The director of public works and the chief of police, or their deputies, shall where they disapprove a proposed access, indicate what changes, if any are possible, will be needed to meet their objections.
- (c) Where the proposed access is approved by both the director of public works and the chief of police, or their deputies, the building inspector shall issue a permit.
- (d) The approvals or disapprovals of the chief of police or his deputy and the director of public works or his deputy shall be filed with the building inspector within four (4) working days of submission to them by the building inspector.
- (e) Where the proposed access is disapproved by either the director of public works or the chief of police or their deputies, the building inspector shall advise the applicant who shall be given the opportunity to resubmit his application taking into account the changes suggested by the director of public works and/or chief of police or their deputies. Such resubmitted application shall then be resubmitted to both the director of public works and chief of police, or their deputies, who shall again review the same as provided in (a) through (d) above.

(Ord. of 11-13-86, § 4)

Sec. 13-66. Appeals.

Any person aggrieved by a decision of the building inspector or the director of public works or chief of police, or their deputies, may appeal to building board of review by filing notice of appeal in writing within twenty (20) days of mailing of notice to the applicant of the decision of the building inspector, director of public works or chief of police or their deputies.

(Ord. of 11-13-86, § 5)

Chapter 14 SUBDIVISIONS AND LAND DEVELOPMENT*

***Editor's note:** An ordinance adopted December 19, 1995 added a new chapter 14. Formerly, such chapter pertained to similar provisions and derived from ordinances listed in the Code Comparative Table.

Cross references: Buildings and building regulations, Ch. 4; planning, Ch. 10; soil erosion

and sedimentation control, Ch. 12; streets and sidewalks, Ch. 13; trailers and trailer parks, Ch. 16; utilities, Ch. 17; zoning, App. A.

State law references: Subdivision of land, G.L. 1956, § 45-23-1 et seq.

Art. I. In General, §§ 14-1--14-25

Art. II. Plan Commission and General Platting, Subdivision, Development, §§ 14-26--14-45

Art. III. Platting or other Subdivision of Land, Submissions, §§ 14-46--14-64

App. A. Plat Submission Instruction

App. B. Construction of Plat Improvements

ARTICLE I. IN GENERAL

Sec. 14-1. Adoption of laws; authority; purpose.

- (a) For the purpose of promoting the general health, safety, morals or general welfare of the citizens of the town and in accordance with the provisions of Chapter 1631 of the Public Laws of 1945 as amended by Chapter 3321 of the Public Laws of 1954, (now General Laws of Rhode Island-1956, Title 45, Chapter 23) the provisions of such public laws are hereby accepted and adopted for the town.
- (b) The rules and regulations shall be designed to make adequate provisions for traffic; to lessen traffic accidents; to promote safety from fire, flood and other dangers; to provide adequate light and air; to prevent overcrowding of land; to prevent the development of unsanitary areas for housing purposes; to secure a well-articulated street and highway system; to secure adequate drainage and the provision of erosion controls to mitigate stormwater runoff; to promote a coordinated development of unbuilt areas; to secure and appropriate allotment of land area in new developments for all the requirements of community life; to conserve natural beauty and other natural resources; to protect the Scituate Reservoir Watershed; to provide consistency with the Scituate Reservoir Watershed Management Plan; to conform to any master plan which may have been adopted; to furnish guidance for the wise and efficient expenditure of funds of public works; and to facilitate the adequate, efficient and economic provisions of transportation, water supply, sewerage, recreation and other public utilities and requisites.
- (c) All of the provisions of state law adopted by this section are hereby made applicable to the town, including the definition of terms, the provisions as to the purposes and contents of the rules and regulations to be adopted by the plan commission, the provisions as to the submission of subdivision plats to the plan commission and the approval thereof by the plan commission and the provisions as to appeals to the superior court for the county and state.
- (d) The penalties, restrictions, rights and remedies as set forth in Sections 11 and 23 of Chapter 1631 of the Public Laws of 1945 shall be applicable and available from and after January 16, 1958.
- (e) The purpose of these regulations is to establish a procedure to provide thorough, orderly and expeditious processing of land development and subdivision project applications that is in keeping with the provisions of Scituate's Comprehensive Plan and Zoning Ordinance.

- (f) Effective Date. These regulations shall take effect on December 19, 1995, and shall supersede all other subdivision regulations in effect at the time of such adoption.
- (g) Vested rights--Continuation of prior regulations. Subdivisions which have been submitted to the plan commission for approval under the provisions of the regulations in effect prior to December 19, 1995 may be continued to be reviewed by the plan commission and approved under those regulations in accordance with the following:
 - (1) *Final approvals.* Any land developments or subdivision which, at the time of adoption of these amendments, has received final approval, or final approval with conditions, from the plan commission, may initiate or construct any part of the development, or record such plans in accordance with the subdivision regulations in effect at the time final approval was granted. The plan commission, may, in its discretion, grant extensions to any such final approval in accordance with the procedure for such extensions as set forth in the regulations in effect at the time of final approval.
 - (2) *Preliminary approvals.* Any land developments or subdivision which, at the time of adoption of these amendments, has received preliminary approval, or preliminary approval with conditions, from the plan commission, may continue to be reviewed by the plan commission in accordance with the subdivision regulations in effect at the time preliminary approval was granted provided any one of the following conditions have been met:
 - a. The final plat, including all the material required in the final plat checklist, is filed with the plan commission within one (1) year from the date of preliminary approval; or
 - b. the land development or subdivision is located within an area and is of a nature to be within the jurisdiction of the Rhode Island Department of Environmental Management (RIDEM) and the preliminary plans as approved by the plan commission have been filed with RIDEM for approval as required by the Freshwater Wetlands Act; or
 - c. The applicant has expended significant monies in the preparation of preliminary subdivision plans in an amount that, if preliminary approval were to become void and reapplication under the revised subdivision regulations were to be required, a significant economic hardship would result. The plan commission shall determine what constitutes "significant economic hardship."
 - (3) *Other status.* Any land development or subdivision which, at the time of adoption of these regulations, has not received final or preliminary approval; or has been reviewed by the plan commission for preliminary review but no approval therefor has been granted; or has received preliminary approval more than one (1) year prior to the date of adoption of these regulations; or for which only preapplication conference(s) has (have) been conducted shall be required to be reviewed under the revisions to the land development and subdivision regulations adopted on December 19, 1995 pursuant to the Rhode Island Land Development and Subdivision Review Enabling Act of 1992.

The plan commission shall determine vested rights for land developments or

subdivisions submitted for approval prior to December 19, 1995. Appeals from a decision regarding the application status and vested rights of any subdivision shall be made to the plan commission of appeal as herein provided.

Secs. 14-2--14-25. Reserved.

ARTICLE II. PLAN COMMISSION AND GENERAL PLATTING, SUBDIVISION, DEVELOPMENT

Sec. 14-26. Establishment and organization.

- (a) *[Established.]* There is hereby established a plan commission of five (5) members in and for the town.
- (b) *Appointment, terms of members.* Each member of the plan commission shall be appointed by the town council for a term of five (5) years, except that the original appointments shall be for staggered terms. Members shall serve until their successors are appointed and qualified.
- (c) *Alternate members and organization.* There shall be two (2) alternate members of the plan commission, each of whom shall be appointed by the town council for a term of one (1) year. Alternate members shall serve in the place of regular members where regular members are absent or otherwise unable to serve. In such instances where an alternate is required to serve, the chairman, or acting chairman, of the plan commission shall designate which alternate shall serve.
- (d) *[Chairman and vice-chairman.]* The plan commission shall organize annually by electing from its membership a chairman and a vice-chairman. The commission may adopt any procedural rules deemed necessary to the discharge of its duties.
- (e) *Adoption of regulations.* The plan commission is hereby authorized and directed to adopt, modify and amend rules and regulations governing and restricting the platting or other subdivision of land within the town and to control the subdivision of land pursuant to such rules and regulations.
- (f) *Hearing.* The plan commission, before adopting, modifying or amending any rules or regulations for the subdivision of land in the town, shall hold a public hearing thereon after first giving notice specifying the time and place of such hearing by publication of such notice in a newspaper of general circulation within the town at least once a week for three (3) successive weeks prior to the date of such hearing.

State law references: Composition, terms of members, filling vacancies of local planning boards, G.L. 1956, § 45-22-3; local planning boards, G.L. 1956, § 45-22-1 et seq.

Sec. 14-27. Definitions.

For the purpose of these regulations, certain terms and words are herein defined as follows:

Administrative officer. The town engineer.

Administrative subdivision. Resubdivision of existing lots which yields no additional lots

for development, and involves no creation or extension of streets. Such resubdivision shall only involve divisions, mergers, mergers and division or adjustments of boundaries of existing lots.

Board of appeal. See section 14-64.

Bond. See improvement guarantee.

Buildable lot. A lot where construction for the use(s) permitted on the site under the zoning ordinance is considered practicable by the plan commission, considering the physical constraints to development of the site as well as the requirements of the pertinent federal and state regulations.

Certificate of completeness. A notice issued by the administrative officer informing an applicant that the application is complete and meets the requirements of the regulations, and that the applicant may proceed with the approval process.

Concept plan. A drawing with accompanying information showing the basic elements of a proposed land development plan or subdivision as used for preapplication meetings and early discussions, and classification of the project within the approval process.

Consistency with the comprehensive plan. A requirement of these regulations which means that all actions shall be in accordance with the public policies arrived at through adoption of the comprehensive plan.

Dedication, fee-in-lieu-of. Payments of cash which are authorized when requirements for mandatory dedication of land are not met because of physical conditions of the site or other reasons.

Development regulation. Zoning, subdivision, land development plan, development plan review, historic district, official map, floodplain regulation, soil erosion control or any other governmental regulation of the use and development of land.

Division of land. A subdivision.

Environmental constraints. Natural features, resources or land characteristics that are sensitive to change and may require conservation measures or the application of special development techniques to prevent degradation of the site, or may require limited development, or in certain instances, may preclude development. See also "physical constraints to development."

Final plan. The final stage of land development and subdivision review.

Final plat. The final drawing(s) of all or a portion of a subdivision to be recorded after approval by the plan commission and any accompanying material as described in these regulations and/or required by the plan commission.

Floor area, gross. See Rhode Island State Building Code.

Governing body. Town council.

Improvement. Any natural or built item which becomes part of, is placed upon, or is affixed to, real estate.

Improvement guarantee. An irrevocable letter of credit, as approved by the plan commission or cash. (Generally in the form of a two-party bank account, one party being the town.)

Local regulations. The Town of Scituate Ordinances.

Maintenance guarantee. Any security instrument to ensure that completed improvements will function as required for one (1) year.

Major land development plan. Any land development plan not classified as a minor land development plan.

Major subdivision. Any subdivision not classified as either an administrative subdivision or a minor subdivision. All non-single family residential subdivisions shall be considered as major subdivisions.

Master plan. A overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details. Required in major land development or major subdivision review.

Minor land development plan. A development plan for a residential project provided that such development does not require waivers or modifications. All nonresidential land development projects shall be considered as major land development plans.

Minor subdivision. A plan for a residential subdivision of land consisting of five (5) or fewer units or lots, provided that such subdivision does not require waivers or modifications.

Modification of requirements. Variances from these regulations as requested or required by the plan commission.

Parcel. A lot, or contiguous group of lots in single ownership or under single control, and usually considered a unit for purposes of development. Also referred to as a tract.

Parking area or lot. All that portion of a development that is used by vehicles, the total area used for vehicular access, circulation, parking, loading and unloading.

Permitting authority. The town council and zoning board of review.

Phased development. Development, usually for large-scale projects, where construction of public and/or private improvements proceeds by section(s) subsequent to approval of a master plan for the entire site.

Physical constraints to development. Characteristics of a site or area, either natural or man-made, which present significant difficulties to construction of the uses permitted on that site, or would require extraordinary construction methods. See also "environmental constraints."

Plan commission. The official planning agency of the town.

Plat. A drawing or drawings of a land development or subdivision plan showing the location, boundaries, and lot lines of individual properties, as well as other necessary information as specified herein.

Preapplication conference. An initial meeting between developers and the plan commission which affords developers the opportunity to present their proposals informally and to receive comments and directions.

Preliminary plan. The required stage of land development and subdivision review which shall require detailed engineered drawings and all required state and federal permits.

Public improvement. Any street or other roadway, sidewalk, pedestrian way, tree, lawn, off-street parking area, drainage feature or other facility for which the town is presently responsible, or will ultimately assume the responsibility for maintenance and operation upon acceptance.

Public informational meeting. A meeting of the plan commission or governing body preceded by a notice, open to the public and at which the public shall be heard.

Resubdivision. Any change of an approved or recorded subdivision plat or in a lot recorded in the land evidence records, or that affects the lot lines of any areas reserved for public use, or that affects any map or plan legally recorded prior to the adoption of subdivision regulations.

Stormwater detention. A provision for storage of stormwater runoff and the controlled release of such runoff during and after a flood or storm.

Stormwater retention. A provision for storage of stormwater runoff.

Street. A public or private thoroughfare used, or intended to be used, for passage or travel by motor vehicles. Streets are further classified by the functions they perform. See "street classification."

Street, access to. An adequate and permanent way of entering a lot. All proposed lots of record shall have access to a public street for all vehicles normally associated with the uses permitted for that lot.

Street, alley. A public or private thoroughfare primarily designed to serve as secondary access to the side or rear of those properties whose principal frontage is on some other street.

Street, cul-de-sac. A local street with only one outlet and having an appropriate vehicular turnaround, either temporary or permanent, at the closed end.

Street, limited access highway. A freeway or expressway providing for through traffic. Owners or occupants of abutting property on lands and other persons shall have no legal right to access, except at such points and in such manner as may be determined by the public authority having jurisdiction over the highway.

Street, private. A thoroughfare established as a separate tract for the benefit of multiple, adjacent properties and meeting specific, municipal improvement standards. This definition shall not apply to driveways.

Street, public. All public property reserved or dedicated for street traffic.

Street, stub. A portion of a street reserved to provide access to future development, which may provide for utility connections.

Street classification. A method of roadway organization which identifies a street hierarchy according to function within a road system, that is, types of vehicles served and anticipated volumes, for the purposes of promoting safety, efficient land use and the design character of neighborhoods and districts. Major categories are:

- (1) *Arterial.* A major street that serves as an avenue for the circulation of traffic into, out of, or around the town and carries high volumes of traffic.
- (2) *Collector.* A street whose principal function is to carry traffic between local

streets and arterial streets but that may also provide direct access to abutting properties.;

- (3) *Local.* Streets whose primary function is to provide access to abutting properties.

Subdivider. Any person who (1) having an interest in land, causes it, directly or indirectly, to be divided into a subdivision; or who (2) directly or indirectly sells, leases or develops, or offers to sell, lease or develop, or advertises to sell, lease or develop, any interest, lot, parcel, site, unit or plat in a subdivision; or who (3) engages directly or through an agent in the business of selling, leasing, developing or offering for sale, lease or development a subdivision or any interest, lot, parcel, site, unit or plat in a subdivision.

Subdivision. The division or redivision, of a lot, tract or parcel of land into two (2) or more lots, tracts or parcels. Any adjustment to existing lot lines of a recorded lot by any means shall be considered a subdivision. All resubdivision activity shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.

Technical review committee. A committee appointed by the plan commission for the purpose of reviewing, commenting and making recommendations to the plan commission with respect to approval of land development and subdivision applications.

Temporary improvement. Improvements built and maintained by a developer during construction of a development project and prior to release of the improvement guarantee, but not intended to be permanent.

Vested rights. The right to initiate or continue the development of an approved project for a specified period of time, under the regulations that were in effect at the time of approval, even if, after the approval, the regulations change prior to the completion of the project.

Waiver of requirements. See section 14-55.

Sec. 14-28. General--Platting, land development or other subdivision of land.

- (a) *Submission of plan required; exception.* There shall be no subdivision (as defined herein and in Title 45, Chapter 23 of the General Laws) of any lot, tract or parcel of land within the town, and no improvement or sale of a lot or lots in a subdivision, without the prior submission to, and approval of, the plan commission of a plan of such subdivision; except in the case of subdivisions and plats which were on record prior to the passage on January 16, 1958, of the ordinance controlling the subdivision of land and plats of which have since then been recorded with the approval of the plan commission.
- (b) *Plan commission meetings.* Regularly scheduled meetings of the plan commission shall be held on the third Tuesday of each month at 8:00 p.m. in the town council chambers.
- (c) *General requirements.* The requirements listed below shall be applicable to all land developments and subdivisions submitted for approval, unless otherwise specifically provided. Prior to approval of any subdivision or land development project, (if plan commission approval is required) the board shall make positive findings on all of the standards listed below, as part of the proposed project's record. If a negative finding for any of these standards is made, the plan commission shall have grounds for denial of the project design.
- (1) Each land development or subdivision shall be consistent with the requirements of the Scituate Comprehensive Community Plan and shall satisfactorily address

the issues where there may be inconsistencies;

- (2) Each lot in the land development or subdivision shall conform to the standards and provisions of the Scituate Zoning Ordinance. Provided, however, that lots not being created for the purpose of present or future development need not meet the area and other dimensional requirements [in] the zoning ordinance provided that:
 - a. A notation is shown on the recorded plat that the lot being created is not a buildable lot; and
 - b. A conservation or preservation easement pursuant to Title 34, Chapter 39 of the General Laws, as amended, is granted to the town prohibiting any such present or future development.
 - (3) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
 - (4) The land development or subdivision, as proposed, will not result in the creation of individual lots with such physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. See definition of "buildable lot." Lots with such physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans;
 - (5) All proposed land developments and all subdivision lots shall have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered compliance with this requirement;
 - (6) Each land development or subdivision shall provide for safe circulation of pedestrian and vehicular traffic, for adequate surface water run-off, for suitable building sites, and for preservation of natural, historical, or cultural features that contribute to the attractiveness of the community; and
 - (7) The design and location of streets, building lots, utilities, drainage improvements and other improvements in each land development or subdivision shall minimize flooding and soil erosion.
- (d) *Phasing of major land developments and major subdivisions.*
- (1) When a major land development and major subdivision is submitted for master plan approval as provided in article III of these regulations, the plan commission shall review the adequacy of existing and projected future public improvements, services and facilities which may be impacted by the proposed development in its entirety. If the plan commission determines that such improvements, services and facilities, including, but not limited to, water supply, sewerage capabilities, streets and associated drainage facilities, schools, recreational facilities, and fire and police protection will not be adequate to serve the residents of the subdivision or development at the time of recording of the plat, the plan commission shall have the authority to establish a rate of development of the entire subdivision by requiring it to be built in phases.
 - (2) When an application is submitted for master plan approval, the applicant shall

submit to the applicable municipal, state or private agency as provided in the master plan requirements for major land developments and major subdivisions, a copy of the master plan narrative report for their review and comment. Each agency so notified by the applicant shall be requested to provide its comments in writing to the plan commission. Comments shall be received from each agency prior to the date of the informational meeting. If comments are not received by the administrative officer by that date, it shall be assumed that the agency does not wish to comment. The applicant shall provide proof of submission to the administrative officer.

- (3) Each department or agency to which such a request for comments is made shall deliver to the administrative officer in addition to the written correspondence, any supplementary material, which shall describe:
 - a. An estimate of the impact of the subdivision on the facilities and/or services provided by the department or agency;
 - b. Whether existing facilities and/or services are adequate to serve the subdivision's residents;
 - c. Whether plans for the necessary improvements to existing facilities and/or services are included in the town's capital improvement program or are otherwise planned; and
 - d. An estimate of how long it would take to provide any necessary improvements to existing facilities and/or services.
- (4) Based on the responses received from the various departments and agencies, the plan commission shall establish, at the time of master plan approval, a rate of development of the entire subdivision or development that will permit residential construction only when improvements, services and facilities will be adequate to serve the residents of the subdivision or development. As part of such a growth rate plan, the plan commission may require that improvements be installed, or lots sold, in two (2) or more phases.
- (5) If phasing is required, the plan commission shall approve the entire master plan first. Thereafter, the applicant shall be required to submit plans for preliminary and/or final review and/or approval indicating the development of the entire site in two (2) or more phases as may be required by the plan commission. In such review and approval, the commission may, in its discretion, impose conditions for determining the physical limits of phases, for allowing progression to additional phases, for allowing two (2) or more phases to proceed in review or construction simultaneously, for interim public improvements or construction conditions, for changes to master or preliminary plans, and may include other provisions as necessitated by special conditions.
- (6) The master plan documents may contain information on the physical limits of the phases, the schedule and sequence of public improvement installation, improvement guarantees, and the work and completion schedules for approvals and construction of the phases.
- (7) The master plan shall remain vested as long as it can be proved, to the satisfaction of the plan commission, that work is proceeding on either the

approval stages or on the construction of the development as shown in the approved master plan documents. Vesting shall extend to all information shown on the approved master plan documents.

(e) *Land unsuitable for development.*

- (1) Fresh water wetlands, except that area of perimeter wetland within fifty (50) feet of the edge of any bog, marsh, swamp or pond; or any applicable one hundred-foot or two hundred-foot riverbank wetlands, as defined by Section 2-1-20 of the General Laws (1987), as amended.
- (2) Areas within a flood hazard area, as defined by the Scituate Zoning Ordinance, as amended.
- (3) Land within any publicly or privately held easement on which above-ground utilities, including, but not limited to, electrical transmission lines, are constructed.
- (4) Land on which development would clearly and directly degrade, impair or otherwise cause a negative impact on the Scituate Reservoir water quality on tributaries thereto.

(f) *Dedication of land for public purposes.*

- (1) The plan commission shall require all land developments and subdivisions subject to the provisions of these regulations to dedicate seven (7) percent of the land being subdivided for the purpose of providing open space, park and recreational facilities to serve present and future residents of the proposed land development or subdivision. The plan commission may, in its discretion, require the payment of a fee-in-lieu-of land dedication, or a combination of land dedication and payment of a fee, as an alternative to the dedication of land.
- (2) *Fees-in-lieu-of land dedication.* Where a fee is required by the plan commission to be paid in lieu of land dedication, the amount of such fee shall be based on the fair market value of the amount of land which would otherwise be required to be dedicated. The amount of such fee shall be determined by the following formula:
 - a. Fair market value of land in the parcel being subdivided after subdivision approval has been granted, and which is suitable for use as open space, conservation, park and recreation facilities.
 - b. Fair market value. Fair market value of the land assuming subdivision approval has been granted shall be determined at the time of filing of the final plan in accordance with the following:
 1. Annual review by the town tax assessor of all sales of vacant lots of at least sixty thousand (60,000) square feet in area in town assuming all subdivision improvements have been made and infrastructure is in place.
 2. If the subdivider objects to such amount of evaluation, he may, at his own expense, obtain an appraisal of the property by a qualified real estate appraiser which appraisal may be accepted by the plan

commission if found to be reasonable; or

3. The plan commission and subdivider may agree as to the fair market value.

(g) *Fees-in-lieu of public improvements or mitigation of negative impacts.* The town and land developer may agree on payment in-lieu-of specified improvements or construction to mitigate significant negative impact. Such negative impact of the proposed project on existing conditions shall be clearly documented and payment in-lieu-of shall only be spent on the mitigation of the identified impact for which it is required.

(h) *Impact assessment.*

(1) The plan commission may require the applicant prepare an impact assessment to assess the potential short and long term affects of the proposed subdivision or land development project under either of the following conditions: The plan commission finds that there is reasonable expectation that the proposed subdivision or land development project will have a significant negative environmental impact on natural systems located on the property that is the subject of the application, upon nearby properties or natural systems or the Scituate Reservoir Watershed.

(2) The commission shall make finding of fact in writing and shall identify the environmental resources it finds to be potentially threatened. The commission's finding shall be made a part of the record of the application.

(3) An impact assessment required under this section shall include research and documentation describing and assessing short- and long-term environmental impacts which may include, but not be limited to, impacts upon:

--Freshwater wetlands

--Scenic areas

--Noise and air quality

--Solid waste generation

--Historic/archaeologic areas

--Unique natural areas or areas of critical conservation concern

--Scituate Reservoir and watershed

--Traffic

--Soils

--Vegetation

--Wildlife

--Groundwater

(4) If an impact assessment is required, the applicant shall be so informed at the preliminary meeting for a minor subdivision, or the master plan stage for a major subdivision and shall be advised at that meeting as to the specific information that the impact assessment must contain.

- (5) For any subdivision or land development project for which an impact assessment is required, the commission shall have the authority to impose conditions on approval that, based on the findings and analysis of the impact assessment, are reasonably necessary to minimize adverse impacts that the development may have on the natural or man-made environment.
- (6) All impact assessments shall be referred to the conservation commission for their review and comment.

Sec. 14-29. Prior approval of streets, subdivision plats or building permits necessary; exceptions.

- (a) No new street or streets in any new subdivision will be accepted into the town highway system, no plat of a subdivision will be accepted for record, and no building permit will be issued for lots in any subdivision, without the prior approval of such plat or subdivision by the plan commission; except in the case of subdivisions, plats of which were on record prior to the passage on January 16, 1958, of the ordinance controlling the subdivision of land, and plats of which have since then been recorded with the approval of the plan commission.
- (b) Generally, the procedure for approval of a subdivision and the required improvements shall be a four-step process. The first three (3) steps involve development of the plat plans through public hearings with the plan commission as required by sections of these regulations. The fourth step involves construction of the proposed improvements. Application forms and checklists for required submissions are included in appendix A.

Secs. 14-30--14-45. Reserved.

ARTICLE III. SUBDIVISION REVIEW

Sec. 14-46. Platting and development submission; review.

General provisions. Preapplication meetings and concept review.

- (1) One (1) or more preapplication meetings shall be held for all major land development or subdivision applications. Preapplication meetings may be held for administrative and minor applications, upon request of either the plan commission or the applicant. Preapplication meetings shall allow the applicant to meet with the plan commission or other appropriate officials, for advice as to the required steps in the approval process, the pertinent town plans, ordinances, regulations, rules and procedures and standards which may bear upon the proposed development project.
- (2) At the preapplication stage the applicant may request the plan commission (or the technical review committee) for an informal concept plan review for a development. The purpose of the concept plan review is also to provide plan commission (or technical review committee) input in the formative stages of major subdivision and land development concept design.
- (3) Applicants seeking a preapplication meeting or an informal concept review shall

submit materials three (3) weeks in advance of the plan commission meeting.

- (4) Preapplication meetings shall aim to encourage information sharing and discussion of project concepts among the participants. Preapplication discussions are intended for the guidance of the applicant and shall not be considered approval of a project or its elements.

Sec. 14-47. Application for development and certification of completeness.

- (a) Classification. The administrative officer shall advise the applicant as to which approvals are required and the appropriate board for hearing an application for a land development or subdivision project. The following types of applications may be filed:
 - (1) Administrative subdivision.
 - (2) Minor subdivision or minor land development plan.
 - (3) Major subdivision or major land development plan.
- (b) Certification of a complete application. An application shall be complete for purposes of commencing the applicable time period for action when so certified by the administrative officer and approved by the plan commission chairman for placement on the plan commission agenda. In the event such certification of the application is not made within the time specified in this chapter for the type of plan, the application shall be deemed complete for purposes of commencing the review period unless the application lacks information required for such applications as specified in these regulations and the administrative officer has notified the applicant, in writing, of the deficiencies in the application.
- (c) Notwithstanding subsections (a) and (b) above, the plan commission may subsequently require correction of any information found to be in error and submission of additional information specified in the regulations but not required by the administrative officer prior to certification, as is necessary to make an informed decision.
- (d) Where the review is postponed with the consent of the applicant, pending further information or revision of information, the time period for review shall be stayed and shall resume when the plan commission determines that the required application information is complete.
- (e) One (1) copy of all plans and supportive data for any preapplication master plan or preliminary submission shall also be forwarded to the Providence Water Supply Board, attention director of water resources, by the applicant.

Sec. 14-48. Administrative subdivision.

- (a) Any applicant requesting approval of a proposed administrative subdivision, as defined in this chapter, shall submit to the administrative officer the items required by these regulations.
- (b) The application shall be certified as complete or incomplete by the administrative officer within a fifteen-day period from the date of its submission according to the provisions of section 45-23-36(B) of the General Laws.

- (c) Review process:
 - (1) Within fifteen (15) days of certification of completeness, the administrative officer shall review the application and approve, deny or refer it to the plan commission with recommendations. The officer shall report his actions to the plan commission at its next regular meeting, to be made part of the record.
 - (2) If no action is taken by the administrative officer within the fifteen (15) days, the application shall be placed on the agenda of the next regular plan commission meeting.
- (d) If referred to the plan commission, the commission shall consider the application and the recommendations of the administrative officer committee and shall either approve, approve with conditions, or deny the application within sixty-five (65) days of certification of completeness. Failure of the plan commission to act within the period prescribed shall constitute approval of the administrative subdivision plan and a certificate of the administrative officer as to the failure of the plan commission to act within the required time and the resulting approval shall be issued on request of the applicant.
- (e) Denial of an application by the administrative officer shall not be appealable and shall require the plan to be submitted as a minor subdivision application.
- (f) Approval of an administrative subdivision shall expire ninety (90) days from the date of approval unless within such period a plat in conformity with such approval is submitted for signature and recording.

Sec. 14-49. Minor land development and minor subdivision review.

- (a) *Review stages.* Minor plan review shall consist of two (2) stages, preliminary and final, provided, that if a street creation or extension is involved, a public hearing is required. The plan commission may combine the approval stages, providing requirements for both stages have been met by the applicant to the satisfaction of the commission.
- (b) *Submission requirements.* Any applicant requesting approval of a proposed minor subdivision or minor land development, as defined in this chapter, shall submit to the administrative officer the items required herein.
- (c) *Certification.* The application shall be certified complete or incomplete by the administrative officer within twenty-five (25) days.
- (d) *Technical review committee.* The technical review committee, if established, shall review the application and shall comment and make recommendations to the plan commission. The application shall be referred to the plan commission as a whole if there is no technical review committee. When reviewed by a technical review committee:
 - (1) If the land development or subdivision plan is approved by a majority of the committee members, the application shall be forwarded to the plan commission with a recommendation for preliminary plan approval without further review.
 - (2) If the plan is not approved by a majority vote of the committee members, the minor land development and subdivision application shall be referred to the plan commission.

- (e) *Reassignment to major review.* The plan commission may reassign a proposed minor project to major review only when the plan commission is unable to make the positive findings required in Section 45-23-60 of the State Enabling Law.
- (f) *Decision.* If no street creation or extension is required, the plan commission shall approve, deny or approve with conditions, the preliminary plan within sixty-five (65) days of certification of completeness, or within such further time as is agreed to by the applicant and the board, according to the requirements of Section 45-23-63 of the General Laws. If a street extension or creation is required, the plan commission shall hold a public hearing prior to approval and shall approve, deny or approve with conditions, the preliminary plan within ninety-five (95) days of certification of completeness, or within such further time as is agreed to by the applicant and the commission.
- (g) *Failure to act.* Failure of the plan commission to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the administrative officer as to the failure of the plan commission to act within the required time and the resulting approval shall be issued on request of the applicant.
- (h) *Final plan.* The plan commission may delegate final plan review and approval to either the administrative officer or a technical review committee. The officer or committee shall report its actions to the plan commission at its next regular meeting, to be made part of the record.
- (i) *Vesting.* Approval of a minor land development or subdivision plan shall expire ninety (90) days from the date of approval unless within such period a plat or plan, in conformity with such approval, and as defined in this act, is submitted for signature and recording. Validity may be extended for a longer period, for cause shown, if requested by the applicant in writing, and approved by the plan commission.

Sec. 14-50. Major land development and major subdivision review stages.

- (a) Major plan review shall be required of all applications for land development and subdivision approval subject to this chapter, unless classified as an administrative subdivision or as a minor land development or a minor subdivision.
- (b) Major plan review shall consist of three (3) stages of review, master plan, preliminary plan and final plan, following the preapplication meeting(s) specified in Section 45-23-35 of the General Law. Also required is a public informational meeting and a public hearing.
- (c) The plan commission may vote to combine review stages and to modify and/or waive requirements. Review stages may be combined only after the plan commission determines that all necessary requirements have been met by the applicant.

Sec. 14-51. Major land development and major subdivision--Master plan.

- (a) *Submission requirements.*
 - (1) The applicant shall first submit to the administrative officer the items required for master plans.
 - (2) Requirements for the master plan and supporting material for this phase review

shall include, but not be limited to: Information on the natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland and watershed boundaries, the floodplains, as well as the proposed design concept, proposed public improvements and dedications, tentative construction phasing, and potential neighborhood impacts.

- (3) Initial comments shall be solicited from the department of public works, fire and police departments, the conservation and recreation commissions; adjacent communities if required; state agencies, as appropriate, including the departments of environmental management and transportation. The administrative officer shall coordinate these reviews.
- (b) *Certification.* The application shall be certified complete or incomplete by the administrative officer within ninety (90) days.
- (c) *Technical review committee.* The technical review committee, if established, shall review the application and shall comment and make recommendations to the plan commission.
- (d) *Informational meeting.* A public informational meeting shall be held prior to the plan commission decision on the master plan, unless the master plan and preliminary plan approvals are being combined, in which case the public informational meeting shall be optional, based upon plan commission determination.
 - (1) Public notice for the informational meeting is required and shall be given at least seven (7) days prior to the date of the meeting in a newspaper of general circulation within the town. Postcard notice shall be mailed to the applicant and to all property owners within the notice area.
 - (2) At the public informational meeting the applicant shall present the proposed development project. The plan commission shall allow oral and written comments from the general public. All public comments shall be made part of the public record of the project application.
- (e) *Decision.* The plan commission shall, within one hundred and twenty (120) days of certification of completeness, or within such further time as may be consented to by the applicant, approve of the master plan as submitted, approve with changes and/or conditions or deny the application.
- (f) *Failure to act.* Failure of the plan commission to act within the period prescribed shall constitute approval of the master plan and a certificate of the administrative officer as to the failure of the plan commission to act within the required time and the resulting approval shall be issued on request of the applicant.
- (g) *Vesting.*
 - (1) The approved master plan shall be vested for a period of one (1) year, with a one-year extension upon written request by the applicant, who must appear before the plan commission for the annual review. Vesting may be extended for a longer period, for good cause shown, if requested by the applicant in writing and approved by the plan commission. Master plan vesting shall include the zoning requirements, conceptual layout and all conditions shown on the approved master plan drawings and supporting materials.

- (2) The initial two-year vesting for the approved master plan shall constitute the vested rights for the development.

Sec. 14-52. Same--Preliminary plan.

- (a) *Submission requirements.*
 - (1) The applicant shall first submit to the administrative officer the items required for preliminary plans.
 - (2) Requirements for the preliminary plan and supporting materials for this phase of the review shall include, but not be limited to: Engineering plans depicting the existing site conditions, engineering plans depicting the proposed development project, a perimeter survey, certified jurisdictional limits of state or federal agencies including those related to freshwater wetlands, floodplains, preliminary suitability for individual septic disposal systems, public water systems, and connections to state roads.
 - (3) Written comments and/or approvals of the department of public works and the town engineer.
 - (4) Prior to approval of the preliminary plan, copies of all legal documents describing the property, proposed easements and rights-of-way.
- (a) *Certification.* The application shall be certified as complete or incomplete by the administrative officer within sixty (60) days.
- (c) *Technical review committee.* The technical review committee, if established, shall review the application and shall comment and make recommendations to the plan commission.
- (d) *Public hearing.* Prior to plan commission decision on the preliminary plan, a public hearing, which adheres to the requirements for notice described herein, must be held.
- (e) *Public improvement guarantees.* Proposed arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees shall be reviewed and approved by the plan commission at preliminary plan approval.
- (f) *Decision.* A complete application for a major subdivision or development plan shall be approved, approved with conditions or denied within one hundred and twenty (120) days of the date when it is certified complete, or within such further time as may be consented to by the developer.
- (g) *Failure to act.* Failure of the plan commission to act within the period prescribed shall constitute approval of the preliminary plan and a certificate of the administrative officer as to the failure of the plan commission to act within the required time and the resulting approval shall be issued on request of the applicant.
- (h) *Vesting.* The approved preliminary plan shall be vested for a period of one (1) year and vesting may be extended for a longer period, for good cause shown, if requested in writing by the applicant, and approved by the plan commission. The vesting for the preliminary plan approval shall include all general and specific conditions as shown on the approved preliminary plan drawings and supporting material.

Sec. 14-53. Same--Public hearing and notice.

- (a) *[Public hearing required.]* A public hearing shall be required for a major land development project or a major subdivision or where a street extension or creation requires a public hearing for a minor land development project or minor subdivision.
- (b) *Notice requirements.* Public notice of the hearing shall be given at least fourteen (14) days prior to the date of the hearing in a newspaper of general circulation within the town. Notice shall be sent to the applicant and to each owner within the notice area, by certified mail, return receipt requested, of the time and place of the hearing not less than ten (10) days prior to the date of the hearing. Such notice shall also include the street address of the subject property, or if no street address is available, the distance from the nearest existing intersection in tenths (1/10's) of a mile.
- (c) *Notice area.*
 - (1) *[Abutting property.]* All abutting property owners to the proposed development's property boundary shall receive notice, including those on an opposite side of the street from the subject land.
 - (2) *Watersheds.* Notice shall be sent to the Providence Water Supply Board for any development within the Scituate Reservoir Watershed area.
 - (3) *Adjacent municipalities.* Notice of the public hearing shall be sent by the administrative officer to the administrative officer of an adjacent municipality if:
 - a. The notice area extends into the adjacent municipality;
 - b. The development side extends into the adjacent municipality; or
 - c. There is a potential for significant negative impact on the adjacent municipality.
- (d) *Notice cost.* The cost of all such notice shall be borne by the applicant.

Sec. 14-54. Same--Final plan.

- (a) *Submission requirements.*
 - (1) The applicant shall submit to the administrative officer all the items required for final, including the mylar original record plat drawing, as well as all material required by the plan commission when the application was given preliminary approval; any state or federal permits required for construction.
 - (2) Arrangements for completion of the required public improvements, including construction schedule and/or financial guarantees.
 - (3) Certification by the tax collector that all property taxes are current.
 - (4) For phased projects, the final plan for phases following the first phase, shall be accompanied by copies of as-built drawings not previously submitted of all existing improvements for prior phases.
- (b) *Certification.* The application for final plan approval shall be certified complete or

incomplete by the administrative officer within forty-five (45) days. If the administrative officer certifies the application as complete and does not require submission to the plan commission as per subsection (c) below, the final plan shall be considered approved.

- (c) *Referral to the plan commission.* If the administrative officer determines that an application for final approval does not meet the requirements set by these regulations or by the plan commission at preliminary approval, the administrative officer shall refer the final plans to the plan commission for review. The plan commission shall, within forty-five (45) days after the certification of completeness, or within such further time as may be consented to by the applicant, approve or deny the final plan as submitted.
- (d) *Failure to act.* Failure of the plan commission to act within the period prescribed shall constitute approval of the final plan and a certificate of the administrative officer as to the failure of the plan commission to act within the required time and the resulting approval shall be issued on request of the applicant.
- (e) *Recording.* The final approval of a major subdivision or land development project shall expire one (1) year from the date of approval unless, within that period, the plat or plan shall have been submitted for signature and recording. The plan commission may, for good cause shown, extend the period for recording for an additional period.
- (f) *Validity of recorded plans.* The approved final plan, once recorded, shall remain valid as the approved plan for the site unless and until an amendment to the plan or a new plan is approved by the plan commission.

Sec. 14-55. Specifications of condition, design, layout and construction.

In general, no proposed subdivision will be approved unless it meets the following specifications of condition, design, layout and construction:

- (1) The land shall be suitable for residential use without danger to health and safety in the judgement of the Plan Commission.
- (2) Easements shall be provided, if required by the plan commission, for the installation and maintenance of utilities for storm or sanitary sewers and for drainage of surface water in places determined by the plan commission. All easements shall be twenty-five (25) feet in width and marked with granite bounds on both sides at any abutting property line. Where possible, easements shall have one boundary located on a lot line to contain the easement in one lot. Easements shall also be required to provide access to any cemeteries or public lands.
- (3) Street layout will be considered in relation to the existing street system and shall conform to such plans as the town may adopt.
- (4) Provision shall be made for the proper future projection of streets if the adjoining property is not at the time subdivided, and for the continuation of principal streets at the time then existing in adjoining property.
- (5) Streets shall intersect as nearly as possible at right angles but in no event at less than seventy-five (75) degrees; and where a deflection of ten (10) degrees or more along the center line of a street takes place it is to be accommodated by a curve of a minimum center line radius of two hundred (200) feet.

- (6) There shall be no reserved strips barring access to streets and each lot shall be provided by means of a street or way acceptable to the town with satisfactory access to an existing public highway.
- (7) Where a plat submitted covers only part of the subdivider's tract, the street system shall be so laid out as to be capable to future coordinated development with the remainder of said tract.
- (8) No street shall be less than fifty (50) feet in width, except at the discretion of the Plan Commission, the extension of a street not less than forty (40) feet in width within an existing subdivision made prior to the adoption of these rules and regulations, and such extension is confined within the boundaries of the original tract so partially subdivided. A greater width may be required for principal streets or streets which, in the opinion of the plan commission, may become principal streets. In general, residential streets of less than fifty (50) feet and principal streets of less than sixty (60) feet will not be approved.
- (9) Street corners shall be rounded by curves having a radius of not less than twenty (20) feet.
- (10) Dead-end streets shall have at the closed end thereof a turnaround area with a right-of-way diameter of one hundred twenty-four (124) feet and a paved surface area of one hundred (100) feet. Where a street ends at an adjoining property line, a "T" or an "L" shaped area shall be provided by easement or reservation, of such size as is approved by the superintendent of the department of public works until such time as the adjoining tract is developed and the street extended. Street grades within the turnaround area shall not exceed three (3) percent.
- (11) The extension of an existing street shall have the same name as the existing street. Names of other proposed streets shall be sufficiently different from any existing street name in the town to prevent confusion in identification, and shall comply with 911 requirements.
- (12)
 - a. No streets shall have a grade of less than one (1) percent nor more than eight (8) percent for major or principal streets, or more than ten (10) percent for minor streets.
 - b. Where a change in vertical grade occurs a vertical curve with a minimum K value of forty (40) feet shall be introduced. Street grades within one hundred (100) feet of an intersection shall not exceed three (3) percent. Street grades within the turnaround area shall not exceed three (3) percent.
- (13) In group housing, commercial, business or industrial developments or districts, the block size and pattern must be designed to allow traffic to move with ease, and to provide inherent safety to pedestrians and inhabitants, and to further provide for adequate parking bays and adequate screening from adjoining residential areas.
- (14)
 - a. All lots shall front on a proposed or existing street and shall comply with the area and dimension requirements, as may be from time to time in effect, of the zoning ordinance of the town. Where special conditions exist as to drainage or percolation, or where the plan commission deems advisable for the protection of

the water supply of the City of Providence, the plan commission may require larger lot areas than the minimum lot areas required by the zoning ordinance. At a minimum, all lots shall have sufficient building area so that all construction will be a minimum of one hundred (100) feet from any wetland.

- b. To provide that no more than twenty (20) lots shall be platted on one (1) plat at a time and that additional lots for plats containing twenty (20) or more lots shall not be approved until all streets and other required improvements for the existing portion of the plat have been satisfactorily completed.
- (15) Where strict adherence to the above specifications is not feasible due to special conditions of the land or other features of the subdivision, the plan commission may modify the same, provided that such modification is not contrary to the general intent of these regulations, and not in violation of any zoning ordinance which may be in effect at the time of the approval of such subdivision plat.
 - (16) The plan commission shall always consider whether or not any proposed subdivision is likely to adversely affect the water, watershed or flowing rights of the water system of the City of Providence and shall impose such conditions or requirements as shall be necessary to protect such water, watershed or flowage rights.
 - (17) The plan commission shall require the installation of water storage tanks for fire protection in areas where there are no hydrants. The number of tanks which may be required shall not exceed one (1) ten thousand-gallon tank for every twenty (20) house lots. Tanks shall meet the requirements of the fire engineering board.
 - (18) Granite bounds shall be set at each change of angle in the street lines, the plat perimeter and along easements.
 - (19) The plan commission shall require that all plats or subdivisions containing three (3) or more lots shall have a stormwater management system. Such system shall be designed by a registered professional engineer in the state and shall meet the following standards:
 - a. A drainage analysis shall be prepared with computations indicating existing and proposed runoff volumes and peak flows based upon the two-year, ten-year, and the one hundred-year frequency storms.
 - b. Peak discharge and runoff volumes shall be computed in accordance with the U.S.D.A. Soil Conservation Service Technical Release No. 55, with the latest revisions.
 - c. The plan commission may require that the peak discharge after development from the two-year, ten-year, and the one hundred-year storms be no greater than that occurring before the development.
 - d. Stormwater systems design and sediment and erosion control for the project shall be in compliance with the state department of environmental management "Stormwater Design and Installation Standards Manual" and the RIDEM/USDA SCS/RICC "Soil Erosion and Sediment Control Handbook" with latest revisions, amendments or supplements.

- (20) The plat and proposed house locations shall be designed to preserve natural features and vegetation whenever possible. Wherever existing stone walls must be disturbed, they shall be relocated to an acceptable location within the plat. The plan commission may require the installation of street trees where existing vegetation is deemed inadequate.
- (21) Subdivision standards for the floodplain district. All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the floodplain district established under the zoning bylaw, it shall be reviewed to assure that:
 - a. The proposal is designed consistent with the need to minimize flood damage;
 - b. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage;
 - c. Adequate drainage systems shall be provided to reduce exposure to flood hazards; and
 - d. Base flood elevation (the level of the one hundred-year flood) data shall be provided for proposals greater than fifty (50) lots or five (5) acres, whichever is the lesser, for that portion within the floodplain district.

Sec. 14-56. Submission of plats to plan commission: Pre-application conference.

The submission of a plat to the plan commission for a preapplication conference shall be done in conformity with the following rules and procedure:

- (1) A sketch plan of the proposed subdivision must be submitted to the plan commission along with a completed application for land subdivision. The plan shall include all the information required in the preapplication checklist in Appendix A to this chapter.
- (2) The plan commission shall review the information submitted and give the applicant direction and suggestions as to the acceptability of the proposed subdivision. The plan commission may suggest revisions or alternatives which would make the subdivision more suitable to the town's planning goals and the public interest.
- (3) The plan commission shall not give approval or disapproval of any preapplication submission. The plan commission shall only provide an opinion as to the general conformance of the proposed subdivision with the rules and regulations.

Sec. 14-57. Submission of plat to plan commission: Preliminary approval.

The submission of a plat to the plan commission for preliminary approval shall be done in conformity with the following rules and procedures (five (5) plan sets):

- (1) A preliminary plan of a proposed subdivision must be submitted to the plan

commission. The applicant must give notice to the fire chief of the fire department which covers the area where the proposed subdivision is located, and to the superintendent of public works of the town advising him of the proposed locations of water holes and streets and drainage easements at least thirty (30) days before submission of the proposed subdivision to the plan commission.

- (2) Such preliminary plan may be drawn on paper, a computer plot, or may be a blue or white print, on as large a scale in multiples of ten (10) (from forty (40) minimum to one hundred (100) maximum feet to the inch) as can be accommodated by the standard plat card size of twenty-six (26) inches by thirty-eight (38) inches. A preliminary plan of the proposed subdivision submitted to the plan commission should be accompanied with a topographical map of the area and data of the subsoil conditions including the results of percolation tests and water table observations. The plan should also be accompanied by the recommendations of the state department of environmental management, individual sewage disposal section regarding the suitability of the subsoil conditions for the disposal of sewerage. The plan shall also be accompanied by a determination by the state department of environmental management, freshwater wetlands section regarding applicability under the Freshwater Wetlands Act.
- (3) Such preliminary plan shall contain adequate information as to dimensions and areas of lots, widths and intersecting angles of streets, to assist and enable the plan commission to properly consider the same to make suggestions for correction or revision deemed advisable. The acceptance of a preliminary plan shall not be binding and shall not entitle such plat to be recorded.
- (4) The preliminary plat shall be designed in accordance with the requirements of sections 14-55 and 14-58 and shall include all the information required by this section and the appropriate checklist contained in Appendix A to this chapter.
- (5) The plat and a petition for preliminary approval by the owner or owners thereof together with a filing fee of one hundred dollars (\$100.00), plus thirty dollars (\$30.00) for each lot, and five dollars (\$5.00) for each name on the list of abutting owners, shall be deposited with the town clerk not more than thirty (30) days nor less than twenty (20) days before a regularly scheduled meeting of the plan commission, and such plat shall be in order for hearing upon such meeting. Thereupon, the town clerk, on behalf of the plan commission, shall give notice of the time and place of such hearing to the applicant, to the Providence Water Supply Board if the plat is within the watershed of the Scituate Reservoir, and to each abutting owner by certified mail not less than fourteen (14) days (excluding Sundays and holidays) before the date fixed thereof. The town clerk shall publish in a newspaper of general circulation in the town, a notice of the date and time of the hearing together with the name of the owner and a location of the proposed subdivision not less than ten (10) days before the hearing, and the applicant shall be responsible for the costs thereof.

Sec. 14-58. Submission of plat to plan commission: Final approval.

The submission of a plat to the plan commission for final approval shall be done in

conformity with the following rules and procedure:

- (1) The plat shall be drawn in black India ink (or suitable computer plot) upon mylar on as large a scale in multiples of ten (10) (from forty (40) minimum to one hundred (100) maximum feet per inch) as can be accommodated by the standard plat card size of twenty-six (26) inches by thirty-eight (38) inches containing, within those outside dimensions, a marginal space of one (1) inch around the same. If the size of the plat is such that, at a scale of forty (40) feet per inch, it can be accommodated by one-half (1/2) the standard plat card size, to wit: nineteen (19) inches by twenty-six (26) inches, the same is permitted.
- (2) Five (5) white print copies of such tracing shall accompany the plat.
- (3) Orientation of the plat shall be such that north will be at the top or left of the sheet.
- (4) The plat shall contain the subdivision name, location, north point, date, scale, name of owner and name and number of the surveyor or engineer who laid out and drew the same. A statement by a registered land surveyor shall be included on the final plat certifying the perimeter of the plat has been surveyed, closed and is correct.
- (5) The outside boundary of the tract being subdivided, determined by surveying in the field, shall be marked by courses and distanced on the plat; any existing bounds found shall be shown thereon, as well as any existing water courses, easements and rights-of-way. There shall also be drawn on the plat such contour lines as may be required by the plan commission after examination of the premises covered by such plat.
- (6) The plat shall show all existing and proposed lines of streets, ways, lots, easements and public areas within the same, together with sufficient data by reference to permanent bounds to determine readily the location, bearing and length of every street and way line, lot line and boundary line and cemetery, and to reproduce same to the ground.
- (7) The plat shall also show the location of all fences, walls, wetlands, permanent monuments, existing buildings and other physical features in or within sixty (60) feet of the subdivision.
- (8) Plans and profiles of the proposed streets, on a horizontal scale of one (1) inch equals forty (40) feet and a vertical scale of one (1) inch equals four (4) feet (unless otherwise authorized) shall be drawn on the same sheet as the plat if space is suitable, or may be drawn on separate mylar of same dimensions as the plat sheet.
- (9) Plans and profiles shall bear names of the proposed streets in pencil only until after such names, or others substituted therefor, have been approved by the plan commission.
- (10) The plat shall also show the ownership and location of all abutting property as determined by the most recent records of the tax assessor, and a separate list of the names and addresses of such abutting owners shall be submitted with the plat.

- (11) There shall also be submitted with the plat a statement by the owner of the proposed subdivision that if the plat be approved, he intends to proceed with the construction and improvement of the streets, ways, public areas, utilities (if any) and drainage facilities in accordance with the plans and profiles submitted and the minimum requirements therefor herein set forth, and that he agrees to file a performance bond to ensure the completion thereof within two (2) years thereafter.
- (12) There shall also be submitted with the plat a statement by the surveyor or engineer that, in his opinion, the proposed subdivision is designed in accordance with, and meets the requirements of these rules and regulations.
- (13) There shall also be submitted with the plat approval from the state department of environmental management for any proposed alterations of wetlands or a determination that the Wetlands Act does not apply.
- (14)
 - a. In accordance with the provisions of Chapter 23 of General Laws and after compliance with the requirements of subsection (15) of this section 14-58, the plan commission shall within forty-five (45) days of the conclusion of the hearing required by subsection (15), unless such time shall be extended by agreement of the plan commission and the applicant, approve, modify and approve or disapprove a plat so submitted. If approved, the plan commission shall, before permitting the plat to be recorded, require the filing of a performance bond in an amount and with such surety or sureties and conditions as shall be satisfactory to the plan commission to assure the completion of the improvements and the installation of such facilities as shall be required, within a period of two (2) years of the recording of such plat.
 - b. Furthermore, prior to recording, the applicant shall pay an inspection fee of two (2) percent of the required performance bond. No certificate of occupancy for any building in the subdivision shall be issued prior to the installation and approval of the binder course of pavement as required in the plan commission's final approval of the subdivision plat.
 - c. Furthermore, no building permit shall be issued for the final ten (10) percent of the lots in a subdivision, or if ten (10) percent be less than two (2), for the final two (2) lots in a subdivision, until all public improvements required by the plan commission have been fully completed and dedicated to the town.
- (15) The plat and a petition for final approval by the owner or owners thereof together with a filing fee of one hundred dollars (\$100.00), plus thirty dollars (\$30.00) for each lot, and five dollars (\$5.00) for each name on the list of abutting owners, hereinabove referred to, shall be deposited with the town clerk not more than thirty (30) days nor less than twenty (20) days before a regularly scheduled meeting of the plan commission. Such plat shall be in order for hearing at such meeting. Thereupon, the town clerk, on behalf of the plan commission, shall give notice of the time and place by certified mail not less than ten (10) days (excluding Sundays and holidays) before the date fixed thereof. The town clerk shall publish in a newspaper of general circulation in the town, a notice of the date and time of the hearing together with the name of the owner and a location

of the proposed subdivision not less than ten (10) days before the hearing, and the applicant shall be responsible for the costs thereof.

- (16) A record shall be kept at the town clerks's office of the time of filing such petition and plat, and such petition and plat together with supporting material shall be available for public inspection at such office during the regular hours thereof.

Sec. 14-59. Residential compounds.

Plan commission--Submission requirements.

- (1) Date of zoning board approval for special exception, list any conditions granted or required.
- (2) Existing plat and lot number, lot area and property lines.
- (3) Proposed new lot lines, lot area, rights-of-way, lot dimensions and building setback lines.
- (4) Edge of wetlands and wetland area.
- (5) Delineation of open space area.
- (6) Location of existing structures, wells, I.S.D.S., driveways, etc., if applicable.
- (7) Ground water test pipes and percolation holes, existing or proposed.
- (8) Existing easements, rights-of-way.
- (9) Proposed driveway locations/access, noted as "private way"; name of proposed access lane to Town Road; provide note stating that no town services will be provided.
- (10) Existing and proposed contours/elevations, as available or required.
- (11) Driveway construction details, including width, (curvatures), stripping depth, base and surface treatment.
- (12) Statement that no further subdivision or division of this land will be allowed.
- (13) Surveyors/engineers stamp and signature, with reference to any previous surveys, recordings or deed information.
- (14) Provide a sample or preliminary copy of the proposed deeds, describing rights-of-way, access, open space, etc.

Sec. 14-60. Representation by counsel; transcripts.

At any hearing, the applicant or other party in interest, shall be entitled to be represented by counsel and shall also be entitled to have a stenographic transcript of the proceedings thereat, upon making application for the same and guaranteeing the cost thereof by a deposit of such estimated cost or other means to the satisfaction of the town clerk. In the event that such a transcript is requested, a copy thereof shall be furnished to the plan commission without charge and any other party interested shall be entitled to purchase a copy thereof at cost.

Sec. 14-61. Improvements in subdivisions.

- (a) The applicant shall be required to maintain all improvements within the subdivision, whether on individual lots or on land intended for snow removal if required, until acceptance of such improvements by the town. If there are any certificates of occupancy on a street not dedicated to the town, the town public works department may plow the street or effect emergency repairs and charge the same to the subdivider. The subdivider shall be required to file a maintenance bond with the plan commission prior to dedication, in an amount considered adequate by the plan commission, to assure the satisfactory condition of the required improvements for a period of one (1) year after the date of their dedication to the town.
- (b) Upon completion of the improvements, the applicant shall provide the plan commission with an "as built" plan of all underground improvements, including wires, pipes and drainage pipes.

Sec. 14-62. Recording a section of plat.

Should a subdivider desire to record only a section of plat of land, the requirements regarding the development of improvements on plats shall apply only to the section to be recorded, provided, however, that the preliminary plat shall show the layout of the entire tract of land to be subdivided.

Sec. 14-63. Penalties.

- (a) *Warning sign in clerk's office.* The town clerk shall post the following sign in his office:

WARNING

Grantors (sellers of unplatted land): If you are conveying land not designated as a lot on a recorded subdivision plat, you may be in violation of state statute or town ordinances.

Grantees (purchasers of unplatted land): If you are purchasing land not designated as a lot on a recorded subdivision plat, you may be denied a building permit if the conveyance is in violation of state statute or town ordinance.

- (b) *Penalty for sale of land in approved subdivisions--Injunction.* Whoever, being the owner, or agent of the owner, of any land within a subdivision transfers, sells, or negotiates to sell any land by reference to or exhibition of or by other use of a plat of the subdivision before the plat has been approved by the plan commission and has been recorded, shall be subject to a penalty of one hundred dollars (\$100.00) for each lot so transferred, sold or negotiated for sale, and the description of the lot by metes and bounds in the instrument of transfer or other document used in the process of transferring or selling shall not except the transaction from the penalties or from the remedies herein provided. The town may enjoin the transfer or sale or agreement by action for injunction brought in the superior court for the county or may recover the penalty by an action of the case in any court of competent jurisdiction or may pursue both of the remedies.

Sec. 14-64. Appellate body.

Pursuant to Section 45-23-14 of the General Laws, the zoning board of review of the town is hereby designated as the board of review for appeals from actions of the plan commission as provided in Section 45-23-14 through 45-23-20 of the General Laws.

APPENDIX A. INSTRUCTIONS FOR

SUBDIVISION REVIEW

Step No. 1. Complete the "Subdivision Applicability Checklist" form and arrange to meet with the administrative officer or town engineer to discuss the matter.

Step No. 2. If subdivision review by the plan commission (PC) is required, complete the "Application for Land Subdivision" form in detail. If questions exist, the town engineer or administrative officer should be consulted.

Step No. 3. Return the completed application to the town engineer. Three (3) stages of review are necessary for all land subdivision; preapplication, preliminary and final hearings. The "Land Subdivision Procedures" form details the required submission materials and procedures for each hearing. Upon submission of the appropriate hearing information requirements, the administrative officer will assign the petitioner to a Plan commission meeting.

Step No. 4. The PC has the authority to approve or deny any and all petitions at any stage of the review process. If final approval is received, the following procedural steps are involved to record the approved plan:

- (a) A guarantee of performance fee is set by the town engineer and submitted to the PC for approval;
- (b) If approved, the performance fee amount will be forwarded to the town treasurer. The applicant must provide the required fee in the form of cash, certified check or passbook. Upon receipt of surety in the required amount, the town treasurer will request the town clerk to place the item on the town council agenda for receipt and filing;
- (c) If required, legal documents must be reviewed for completeness and certified as acceptable by the town solicitor's office;
- (d) All required fees must be paid in full in the form of cash, cashier's check or certified check;
- (e) Upon submission of required material and notices of acceptability from the town engineer, town treasurer and town solicitor, the plan commission chairman will sign the approved plan;
- (f) The signed plan will be delivered to the town clerk's office at which time the applicant may proceed to record the plat in the land evidence records of the town.

SUBDIVISION APPLICABILITY CHECKLIST

General Data:

TABLE INSET:

| | |
|-----------------|---------------|
| Applicant _____ | Address _____ |
|-----------------|---------------|

| | |
|---------------------------------|---------------|
| Owner _____ | Address _____ |
| Location: Assessor's plat _____ | Lot _____ |

Zoning district: _____

Abutting streets serving location: _____

Area of land involved _____ acres. Number of lots created _____

Comments: _____

***** Office Use Only *****

Evaluation for Applicability of Subdivision Regulations:

(1) Lot areas conform to zoning requirements: Yes _____ No _____

Comment _____

(2) Lot frontages at street lines conform to zoning requirements: Yes _____ No _____

Comment _____

(3) Streets which provide frontage or access for lots are:

(a) Existing streets: Yes _____ No _____

(b) Have been dedicated to the public: Yes _____ No _____

(c) Have been accepted by the town: Yes _____ No _____

Comment _____

(4) The width of each lot at the front yard depth, building line or setback conforms to the requirements of the zoning ordinance: Yes _____ No _____

(5) Parcels isolated or remote from suitable street frontage on an existing street are provided with one of the following types of access:

(a) By "outlots" or "extensions" sufficient in width and location for the extension of new streets into the parcels for future subdivision or development: Yes _____ No _____

(b) By frontage, as described in (2) above or on a mapped street shown on an official map adopted under the provisions of Chapter 45-23.1 of General Laws:

Yes _____ No _____

Comment _____

Note: If the proposed division of land is checked "yes" in items (1), (2) and all parts of (3); and is checked "yes" in one of the two options under items (4) and (5), the provisions of local subdivision regulations and Chapter 45-23 of the General Laws do not apply and the plat, plan or other instrument can be authorized for recording.

In all other cases and in any case where a new street is shown or proposed, the proposed division of land is subject to the subdivision regulations and the provisions of Chapter 45-23 of

the General Laws.

This division of land (Does) (Does Not) require approval under subdivision regulations.

TABLE INSET:

| | |
|--------------------|--------------|
| Reviewed by: _____ | Title: _____ |
| _____ | Date: _____ |

APPLICATION FOR LAND SUBDIVISION

Date: _____

(1) Name, address and telephone of applicant: _____

Status of Applicant: _____

Name, address and telephone of owner: _____

Name, address and telephone of engineer and surveyor: _____

(2) Name of proposed subdivision:* _____

*>Must be checked against records for duplication when submitted.

(3) What road does property front on? _____

(4) Plat(s) _____ Lot(s) _____ Current zoning _____

Within Watershed _____

(5) Is zone change, variance, or exception needed?

Yes _____ No _____

Explain: _____

(6) Type of subdivision (conventional, compound): _____

Type of development (residential, commercial, industrial): _____

Structure type (res. w/bedroom, office, etc.): _____

(7) Total area of subdivision: _____ acres Total number of proposed lots:

Area reserved for future development: _____ acres

Minimum lot size: _____ square feet

(8) Is town water available? Yes _____ No _____

Sewer available? Yes _____ No _____

(9) Generally describe topography of site (flat, hilly, steep slopes, depression):

(10) Does site contain any wetland area? Pond _____ Marsh _____ Stream
_____ Lake _____ Poor drainage areas _____ Other

Explain: _____

(11) Has owner/developer built other subdivisions in Scituate? Yes _____ No

If yes, give name and location: _____

Subdivisions in other towns? Yes _____ No _____

If yes, give name and locations: _____

Signature of owner of record: _____

Signature of applicant or representative: _____

Telephone number _____ Date _____

Note: Failure to complete the entire application shall constitute procedural invalidity of the petition.

***** *For Office Use Only* *****

Signature of staff interviewer: _____

TABLE INSET:

| | Date | Approved |
|---|-------|----------|
| Date for pre-application conference: | _____ | _____ |
| Date for preliminary hearing: | _____ | _____ |
| Date of final hearing: | _____ | _____ |
| Date bonds presented and approved: | _____ | _____ |
| Approval date (plan commission signatures): | _____ | _____ |
| Date of recording of subdivision: | _____ | _____ |
| Date of bond reductions/release: | _____ | _____ |
| | _____ | _____ |

PRE-APPLICATION CHECKLIST

The pre-application submission shall encompass the entire tract of land in contiguous

ownership by the subdivider and shall consist of the following:

(a) Pre-application sketch.

☐ At least four (4) copies of the sketch plat which shall include:

☐ Name of subdivision

☐ Graphic scale (approximately 1 inch equals one hundred (100) feet)

☐ North arrow

☐ Date

☐ Property owner's name, address and phone number

☐ Name, address, phone and stamp of registered engineer or land surveyor responsible for the proposed design

☐ Approximate location of boundary lines, easements and rights-of-way

☐ Approximate location of wooded areas, rock outcroppings, and other natural areas, streams, springs, wetlands and so-on

☐ Approximate location of historic areas, cemeteries, foundations, wells, cisterns, etc.

☐ Approximate location and names of all existing streets or other public ways within or immediately adjacent to the tract

☐ Approximate location and sizes of existing sewers, water mains, culverts and other underground structures within the tract and immediately adjacent thereto

☐ Approximate topography (five-foot contours maximum)

☐ Approximate location and widths of proposed streets

☐ Proposals, if any, for connection with existing water supply, sewerage collection system and provisions for collecting and discharging surface water drainage

☐ Location, dimensions and areas of all proposed or existing lots within entire tract

☐ Approximate location and areas of all land proposed to be set aside for open space, recreational or school, or land which is undevelopable due to soil and water constraints

☐ Approximate location and elevation of 100-year flood plain

☐ Determination as to the property being within Watershed, or proximity to

(b) ☐ An aerial photograph marked to indicate the boundary of the land intended for subdivision at this time plus the boundary of the balance of the tract in the developers ownership or control.

(c) ☐ A copy of the tax assessor's plat marked to indicate the boundary of the land to be developed.

(d) ☐ A proposed time schedule, if the development of the subdivision is to proceed in stages, together with an indication of the areas to be contained in each stage.

(e) ☐ Two (2) copies of a soils map, at the same scale as the sketch plan showing the boundaries of land intended for subdivision and descriptions of the soil types as defined

by the U.S.D.A. Soils Conservation Service.

- (f) ☐ A filing fee of \$30.00 plus \$10.00 per lot in the form of a check, payable to the Town of Scituate shall be submitted with each preapplication submission.

PRELIMINARY CHECKLIST

(a) *Required plans.*

(1) The first page shall contain a sketch plan of the full development and a location map and shall contain:

- ☐ Contours at five-foot intervals
- ☐ Entire tract with proposed streets
- ☐ Location map at one inch equals one thousand (1,000) feet

(2) The second page(s) shall consist of the preliminary plat which are the detail plans showing every lot and shall contain:

- ☐ Name of subdivision
- ☐ Name, address and telephone of owner(s)
- ☐ Name, address and telephone of owner(s) representative
- ☐ Name, address and telephone of engineer and surveyor and seal
- ☐ Date
- ☐ North arrow
- ☐ Scale
- ☐ Acreage
- ☐ Number of lots
- ☐ Zoning classification and dimensional requirements
- ☐ Existing and proposed contours (two-foot contours)
- ☐ Bench marks (tied into the R.I. Coordinate System where possible)
- ☐ Subdivision boundary line and proximity to Scituate Reservoir Watershed
- ☐ Existing railroads, cemeteries, street rights-of-way, utilities, easements, buildings and lot lines
- ☐ Percolation test holes
- ☐ Ground water determination test holes
- ☐ Proposed location of street rights-of-way and names
- ☐ Proposed location of easements, utilities, lot lines, street trees, sidewalks, setback lines and curb lines
- ☐ Approximate proposed dimensions showing all lengths, lot areas, curve data including radii,

length of arcs

☐ Proposed location and size of water lines, storm sewers and sanitary sewers

☐ Proposed land dedication to the town or fees in lieu of land

☐ Monument location

☐ Proposed linear footage of streets and total cubic yards of cut/fill

☐ Location of any lakes, ponds, watercourses or other wetland areas and proposed drainage pattern

☐ Location and elevation of 100-year floodplain

☐ Location of rock outcrop, wooded areas, existing structures, embankment or retaining walls and other significant physical features which may have an effect on the development of land

☐ Proposed erosion control measures

(3) The third page(s) shall consist of the plan, profile and cross-section of streets and contain:

☐ Existing street ties

☐ Proposed water location

☐ Proposed storm sewer location

☐ Proposed sanitary sewer, if available

☐ Cross-sections every fifty (50) feet where cut or fill exceeds two (2) feet

☐ Proposed street and regulatory signs

(4) The fourth page(s) shall consist of construction details and notes and contain:

☐ Copies of applicable town or R.I.D.O.T. construction details

☐ Water and sewer details (if applicable)

☐ Erosion control details and notes

☐ Details of detention basins

☐ Details of any special structures

☐ Detail of fire storage tank

(b) *Additional information.*

☐ List of abutting owners

☐ Filing fee (\$100.00 plus \$30.00 per lot plus \$5.00 per abutter equals)

☐ D.E.M. subdivision suitability

☐ D.E.M. wetlands approval

☐ Kent County water availability

☐ Tax collector certificate for five-year period

☐ Drainage calculations for development () for downstream () (2 copies)

- ☐ D.O.T. approval for access to state highway
- ☐ Engineering analysis of water system to establish: That there will be no decrease in water pressure or supply to surrounding property owners and that there will be adequate water supply and pressure to each new house in accordance with the building code
- ☐ Engineering analysis of drainage system
- ☐ Deed restrictions (if any)
- ☐ Proposal for perpetual care of cemeteries on the lot
- ☐ Approval/review from the director of public works

FINAL PLAT CHECKLIST

The final plat submission shall consist of the following:

- (1) Four (4) paper copies and one (1) mylar reproducible copy of the subdivision drawing, clearly marked "Final Submission" and showing the following:
 - ☐ Name of subdivision
 - ☐ Name of owner
 - ☐ Name of engineer and surveyor, registration stamps and signatures
 - ☐ Date
 - ☐ North point
 - ☐ Scale
 - ☐ Boundary line of subdivision with accurate dimensions and ties to adjacent permanent monumentation
 - ☐ Existing and proposed street right-of-way and names
 - ☐ Lot lines
 - ☐ Lot numbers
 - ☐ Easements and utilities
 - ☐ Natural water courses and wetlands
 - ☐ Width of street, rights-of-way, length, angles and bearing of lot lines
 - ☐ Lot areas
 - ☐ Street lines and location of setback lines
 - ☐ Curve data to include lengths of radii, central angles, tangent distances and lengths of arcs, and lengths of all straight lines along street right-of-way
 - ☐ Location of all cemeteries, burial grounds or graveyards
 - ☐ Location of existing and proposed permanent monument
 - ☐ Certification of a registered professional engineer or registered land surveyor that the plat is

correct

(2) Two (2) paper copies and one mylar reproducible copy of the final profiles of the proposed streets in conformance with the preliminary plat requirements.

(3) Assessor's drawing--Drawn to appropriate scale, including right-of-way, lot lines, easements and excluding lot numbers.

(4) Improvement list:

☐ Total linear footage of streets measured at center line

☐ Total linear footage of sidewalks

☐ Total linear footage of curbs or berms

☐ Total number of catch basins and manholes

☐ Total length by size of all drain pipes

☐ Total number of permanent bounds

☐ Total length by size of all water pipes and laterals

☐ Approximate cubic yards of rock and ledge excavation

☐ Approximate cubic yards of fill

☐ Approximate cubic yards of excavation

☐ Approximate cubic yards of gravel borrow

☐ Street trees

(5) Additional information.

☐ List of abutting owners

☐ Filing fee (\$100.00 plus \$30.00 per lot plus \$5.00 per abutter equals)

☐ D.E.M. subdivision suitability

☐ D.E.M. wetlands approval

☐ Kent County water availability

☐ Tax collector certificate for five-year period; no liens

☐ Drainage calculations for development () for downstream () (2 copies)

☐ D.O.T. approval for access to state highway

☐ Engineering analysis of water system to establish: That there will be no decrease in water pressure or supply to surrounding property owners and that there will be adequate water supply and pressure to each new house in accordance with the building code

☐ Engineering analysis of drainage system

☐ Deed restrictions (if any)

☐ Proposal for perpetual care of cemeteries on the lot

☐ Approval from the director of public works

(6) The following additional material shall be required prior to recording:

☐ Letter of credit or escrow agreement (no insurance bonds allowed)

Amount \$ _____.

☐ Two (2) copies of a bond agreement binding the letter of credit or escrow agreement to the town

☐ Two (2) copies of deeds to land dedicated to town for recreation use or fees in lieu of land

Amount \$ _____.

☐ Two (2) percent of the total bond amount as an inspection fee paid to the town. This is nonrefundable.

Amount \$ _____.

☐ Recording fees for final plat, deeds and easements

Amount \$ _____.

☐ Cemetery perpetual care fee if required

Amount \$ _____.

☐ Two (2) copies of highway deeds

☐ Two (2) copies of easement deeds (drainage, power, etc.)

☐ Two (2) copies of deed restrictions on the land

APPENDIX B. CONSTRUCTION OF IMPROVEMENTS

The subdivider, at his own expense, shall construct improvements according to the following specifications:

1. Streets.

- (a) All trees, stumps, brush, boulders and other debris shall be removed from the right-of-way and disposed of according to law. The location of all stump and boulder dumps shall be located on the plat plans. Such material will not be accepted at any town-owned disposal facility.
- (b) All streets shall have a twenty-six-foot paved surface centered in the right-of-way with eighteen-inch-wide bituminous "Cape Cod" berms.
- (c) The thirty-foot road bed shall be graded to a level at least two (2) feet below the final grade.
- (d) The subgrade shall be borrow or gravel of suitable quality, free from organic material, at least twelve (12) inches in depth at the center line. Pitch from the center line to shoulder shall be five-sixteenths (5/16) inch per foot. This course shall be graded to one (1) foot below final grade of road surface.
- (e) The second course shall be gravel borrow subbase (State of R.I. specifications), six (6) inches in depth.

- (f) The third course shall be type A processed gravel three (3) inches in depth.
- (g) The fourth course shall be bituminous concrete, Class I, modified bituminous (Binder), two and one-half (2 1/2) inches in depth. The binder course shall be in place over one (1) winter season prior to the installation of the surface course.
- (h) The fifth course shall be bituminous concrete, Class I, type 1 (surface), one and one-half (1 1/2) inches in depth. Final pavement grade shall be five-sixteenths (5/16) inch per foot from centerline of road to shoulder.
- (i) All five (5) courses shall be separately rolled with a self-propelled roller of minimum ten-ton weight.
- (j) All pipes, water lines, or any other underground facilities shall be installed before starting road construction and shall meet all applicable state and federal requirements (Items (d) through (i)).
- (k) Any curbing required by the plan commission in lieu of berms shall be granite or approved precast concrete (Rhode Island Standard) type and shall be set on both sides of the street with a face of seven (7) inches above pavement grade at curb line.
- (l) Installation of any utility requiring disturbance of street pavement is prohibited for a period of twenty (20) years after date of acceptance by the town, except for emergencies affecting the general health of the community or by approval of the plan commission.
- (m) Final acceptance of any new street will not be made before April 1 of the year following its completion.
- (n) Normally, sidewalks will not be required. The twelve-foot area from shoulder grade to lot line shall be graded with a minimum four-inch pitch rising from curb grade to lot line and shall be covered with a minimum of four (4) inches of loam seeded with suitable perennial grass seed. Slopes outside the right-of-way shall not exceed a ratio of three (3) horizontal to one (1) vertical.
- (o) The town engineer shall have the right to inspect all materials before installation.
- (p) With respect to items (a) through (j), the subdivider shall notify the town engineer upon completion of each item and shall not proceed with the next item until the town engineer has inspected and approved in writing the work completed.

2. Driveways.

- (a) Driveway openings shall be predetermined and shown on plan. No new openings or changes of location shall be permitted unless a revised plan is presented and approved by the plan commission.
- (b) No driveway opening shall be within one hundred (100) feet of a major plat entrance. No driveway opening shall be offset less than twenty-five (25) feet from one on the opposite side of the street.
- (c) Construction of driveways shall be same as for road bed for twelve-(12) feet in from shoulder face. Grade shall be from gutter level at curb, rising to sidewalk grade seven (7) feet from curb face and follow sidewalk grade to lot line.

- (d) Any alterations or excavations shall be performed in accordance with plan commission specifications.

3. Sidewalks.

It the developer or property owner constructs sidewalks, or the plan commission requires sidewalks be installed, they must be built to the following specifications:

- (a) Sidewalks shall be forty-two (42) inches wide, located one (1) foot from the lot line with a curb or retaining wall at the lot line if required by grade of lot.
- (b) Excavation shall be eight (8) inches below shoulder grade. The base course shall be a four-inch depth of gravel borrow subbase. The second course shall be a two-inch depth of processed gravel. The surface shall be a two-inch depth of Class I, type 1, bituminous concrete. Grade shall be one and one-half inch pitch sloping down toward curb. All courses shall be rolled separately with roller of adequate size.
- (c) Unpaved area between shoulder and lot line shall be graded with four (4) inches of loam and seeded with suitable perennial grass seed.
- (d) The Town of Scituate shall not, under any circumstances, be obliged to construct sidewalks in any subdivision.

4. Drainage.

- (a) No drainage from homes or other structures shall be allowed to flow onto town property. Unpolluted water from underground drainage systems may, with approval of the plan commission, be piped into the storm drain system at a catch basin or manhole. If at any time such flow shows pollution, the drain will be sealed until the situation is corrected.
- (b) No private sewer system (or I.S.D.S.) shall be constructed within twenty-five (25) feet of a property line, fifty (50) feet of a street boundary line, one hundred (100) feet of a subsurface drain, or one hundred fifty (150) feet of a wetland, stream, pond or spring, except with approval of the plan commission. The location of sewer systems and/or individual sewage disposal systems (I.S.D.S.), within the Scituate Reservoir Watershed, shall comply with dimensional criteria listed in Table 19.1 of the Rhode Island Department of Environmental Management Rules and regulations for I.S.D.S.'s. No private well shall be constructed within fifty (50) feet where possible, but no less than twenty-five (25) feet of a property line or one hundred (100) feet of a septic system.
- (c) All drain lines, except laterals crossing street to basins on other side, will be laid on the upgrade side of the street.
- (d) No drain line will exceed three hundred (300) feet without a catch basin or manhole. A manhole or catch basin is also required where any change of slope or horizontal angle in the pipe line is made.
- (e) All drainage lines shall have a minimum diameter of twelve (12) inches and shall be at a minimum depth of three (3) feet. Minimum pitch of all lines shall be five-tenths (0.5) percent or six (6) inches in one hundred (100) feet of run.
- (f) Where necessary, drains shall be designed to accept ground water as well as surface

water.

- (g) Pipes shall be Class III reinforced concrete (State of Rhode Island Specifications) unless poor ground support indicates use of metal pipe of proper gauge, coated and paved.
- (h) Catch basins shall be constructed to State of Rhode Island Specifications as approved by the plan commission.
- (i) All back fill of pipe lines shall be done with suitable type material such as gravel or pea stone with no stone larger than four (4) inches or any organic or frozen material. All pipes must be bedded in back fill and properly tamped below the center line of the pipe before covering. Where ditch bottom is on rock or ledge, at least eight (8) inches of bedding material must be under pipe.
- (j) The plans of all drainage systems must include profiles showing grade of all lines, depth of catch basin and pipe invert dimensions on lines entering or exiting from them. These plans must be accompanied with figures from a hydraulic study of the system justifying sizes of pipe specified. After construction is completed, a corrected set of plans must be furnished, taking into account all changes made as constructed.

5. Location of utilities and poles.

- (a) All utility lines and poles shall be located on the downgrade side of the road six (6) feet in from the shoulder.
- (b) No pole shall be within six (6) feet of a catch basin or driveway.
- (c) All conduits, cables, poles and pipe lines shall be in place before final acceptance of road.

6. Street signs.

Adequate street signs of a type approved by the plan commission shall be provided and shall be erected in such manner and at such locations as shall be designated by the plan commission.

7. Stormwater management.

- (a) Normally storm drain outfalls shall be directed to wet bottom detention basins to control sediments and runoff volumes. These basins are the preferred method and shall be designed in accordance with the following:
 - (1) Engineering analysis required for operation during the two-, ten- and 100-year storms.
 - (2) Bottoms shall be loamed and seeded with reed canary grass.
 - (3) Side slopes shall not exceed 3:1 and shall be loamed and seeded with conservation grass seed mix.
 - (4) Rip-rap emergency overflow channels shall be provided.
 - (5) Multiple small basins are preferred to single large basins.

- (b) Alternative methods for stormwater control may be utilized only with the prior approval of the plan commission and the town engineer.

Chapter 15 TAXATION*

***Cross references:** Administration, Ch. 2.

State law references: Taxation, G.L. 1956, Title 44; power to tax property, G.L. 1956, § 45-2-2; local taxes, G.L. 1956, § 44-5-1 et seq.; levy and assessment of local taxes, G.L. 1956, § 44-5-3 et seq.

Art. I. In General, §§ 15-1--15-25

Art. II. Exemptions, §§ 15-26--15-63

Div. 1. Generally, §§ 15-26--15-40

Div. 2. Tax Relief for the Elderly, §§ 15-41--15-60

Div. 3. Tax Relief for War Veterans and Disabled War Veterans, §§ 15-61--15-70

Div. 4. Tax Exemption for the Blind, § 15-71

ARTICLE I. IN GENERAL

Sec. 15-1. Motor vehicles.

- (a) This section is enacted pursuant to General Laws 1956, section 44-34-1.
- (b) The board of assessment review is hereby established as the board of appeals pursuant to General Laws 1956, sections 44-34-8 and 44-34-10.
- (c) The board of appeals shall have the following powers:
- (1) Where the assessment is based upon the provisions of subsections (1) through (3) of this section, the board of appeals shall determine whether the establishment of the presumptive value was prepared in a manner consistent with such provisions. If the board of appeals finds an error in the presumptive value such board shall petition the state vehicle value commission for a change in the presumptive value. Within ten (10) days of the receipt of such petition, the state vehicle value commission shall respond in writing to the board of review and if the decision of the commission results in a change of the presumptive value, the commission shall notify the assessor of the new presumptive value. The board of review shall abide by the decision of the state vehicle value commission.
 - (2) Determine whether there was an error in the application of the presumptive value to the vehicle.
 - (3) Where the assessment is based upon a value established by the assessor in accordance with the provisions of General Laws 1956, section 44-34-9(c), determine whether there was an error in the value established by the assessor.
 - (4) Any appeal shall be filed within thirty (30) days of the mailing of the tax bills. The board of appeals shall make its findings within forty-five (45) days of the filing.

The town council may grant an abatement in whole or in part, correct an assessment, or uphold the original assessment following such hearing.

(Ord. of 6-26-86)

Cross references: Motor vehicles and traffic, Ch. 7.

Secs. 15-2--15-25. Reserved.

ARTICLE II. EXEMPTIONS*

***State law references:** Exemptions, G.L. 1956, § 44-3-3.

DIVISION 1. GENERALLY

Sec. 15-26. Tangible personal property.

- (a) This section is enacted pursuant to General Laws 1956, section 43-3-3.
- (b) Beginning with the December 31, 1979 assessments, the following property shall be exempt from taxation: The household furniture and family stores of a housekeeper in the whole, including clothing, bedding and other white goods, books and all other such tangible personal property items which are common to the normal household not exceeding in value the sum of twenty thousand dollars (\$20,000.00).
- (c) The exemption granted by this section shall be in addition to any other exemptions provided by statute or ordinance.

(Ord. of 12-13-79)

Sec. 15-27. Motor vehicle with wheelchair lifts exempt from taxation.

- (a) This section is enacted pursuant to General Laws 1956, 44-35-10.
- (b) Fifty (50) percent of the value of any motor vehicle that has been specifically adapted with a wheelchair lift for use by an individual with a disability shall be exempt from taxation.
- (c) This section shall apply to not more than one motor vehicle owned and registered for the personal, non-commercial use of any person who has sustained a loss, or permanent loss of use of both legs or both arms.
- (d) In the event the person suffering said loss is unable to register said motor vehicle, then the exemption shall apply where the motor vehicle is registered to an immediate family member.

(Ord. of 9-9-93, §§ 1--4)

Secs. 15-28--15-40. Reserved.

DIVISION 2. TAX RELIEF FOR THE ELDERLY

Sec. 15-41. Authority.

This division is enacted pursuant to that certain chapter of Public Laws 1979 entitled, "An Act Authorizing the Town of Scituate to Provide Tax Relief for the Elderly and Repealing Chapter 245 of the Public Laws of 1972 and Chapter 19 of the Public Laws of 1975."

(Ord. of 6-14-79, § 1)

Sec. 15-42. Definition.

For the purposes of this division, the words "single-family dwelling" shall mean and include a lot not to exceed one hundred twenty thousand (120,000) square feet and one (1) dwelling house and the outbuildings thereon, so long as the outbuildings are not used for commercial purposes.

(Ord. of 6-11-81, § 1(a))

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 15-43. Rules of construction.

- (a) For a dwelling to qualify as the "domicile" and "legal residence" of the taxpayer so as to entitle him or her to the freeze available under this division, the taxpayer must actually reside within the town for one hundred ninety-five (195) days out of each calendar year (confinement in a nursing home, convalescent home, hospital, etc., shall not be deemed absence from the town) and the taxpayer must, if he is not disqualified by law, be a registered voter in the town and the taxpayer must, if he has sufficient income to require filing of a state income tax return, file a state resident income tax return.
- (b) For a dwelling house to qualify as "owned" by a taxpayer it shall be permissible for the taxpayer to hold title with another as joint tenant, tenant in common, life tenant or tenant by the entirety; provided, however, that with the exception of the spouse of the taxpayer or another owner who meets the tests of age, domicile or residence, such other owner may not derive any financial benefit by way of rental income from the property, nor shall such other owner reside in the property.
- (c) In applying and interpreting the provisions of this section, the tax assessor may require that the taxpayer furnish such information under oath as the assessor from time to time deems appropriate.

(Ord. of 6-11-81, § 1(b)--(d))

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 15-44. Tax rate, valuation--Determination.

The tax rate and valuation on a single-family dwelling or a two-family dwelling owned and occupied as his domicile by a person who has attained age sixty-five (65) years, regardless

of income, shall be fixed at the tax rate and valuation applicable to such property for the December 31 assessment date immediately following the date on which such person meets the requirements of this division; provided, however, that persons whose rate and valuation were fixed pursuant to that certain ordinance enacted by the town council on April 13, 1972 entitled, "An Ordinance Concerning Fixed Tax Rate and Valuation for Certain Persons" shall continue at the fixed tax rate and valuation granted to them pursuant to such ordinance without necessity of presenting any further evidence or application to the assessor. Such exemption shall not be allowed unless the person entitled thereto shall have presented to the assessor, on or before the last day on which sworn statements may be filed with the assessor for the year for which the foregoing is claimed, due evidence that he is so entitled, which evidence shall stand as long as his legal residence remains unchanged. The foregoing shall be in addition to any other exemptions provided by law. Such real estate shall not be taken from the tax rolls and shall be subject to the bonded indebtedness of the town.

(Ord. of 6-14-79, § 4; Ord. of 12-9-82, § 1)

Sec. 15-45. Same--Effect of death.

If a taxpayer dies whose tax rate and valuation has been fixed pursuant to this division, the fixed tax rate and valuation shall continue for the surviving spouse of the deceased taxpayer, regardless of income and regardless of whether or not the surviving spouse has attained age sixty-five (65) years, but subject to the conditions that title in fee simple to the real estate for which rate and valuation are frozen shall have passed from the taxpayer to such spouse either by devise, descent or by right of survivorship, and that the surviving spouse shall reside in such dwelling and that the surviving spouse, if he has not attained age sixty-five (65) years, shall not remarry before attaining age sixty-five (65) years.

(Ord. of 6-14-79, § 5)

Sec. 15-46. Exemption granted--Determination.

The real property situated in the town and owned and occupied by a person who qualify for a fixed tax rate and valuation is granted an exemption in valuation in the amount of one thousand five hundred dollars (\$1,500.00) for persons age sixty-five (65) years through seventy-one (71) years and two thousand dollars (\$2,000.00) for persons ages seventy-two (72) years and older, which exemption shall be in addition to any and all exemptions from taxation to which such person may be otherwise entitled. Only one (1) exemption shall be granted to co-tenants, joint tenants and tenants-by-the-entirety even though all of such co-tenants, joint tenants or tenants-by-the-entirety are sixty-five (65) years of age or over.

(Ord. of 6-14-79, § 6)

Sec. 15-47. Same--Effect of death.

In the event a taxpayer dies who was receiving an exemption in valuation pursuant to section 15-47, the exemption shall continue for the surviving spouse of the deceased taxpayer, regardless of whether or not the surviving spouse has attained age sixty-five (65) years, but subject to the conditions that title in fee simple to the real estate for which an exemption was granted shall have passed from the taxpayer to such spouse either by devise, descent or by right of survivorship and that the surviving spouse shall reside in such dwelling and that the

surviving spouse, if he has not attained age sixty-five (65) years, shall not remarry before attaining age sixty-five (65) years. Where a surviving spouse elects to continue to receive the exemption to which the deceased spouse was entitled, the surviving spouse shall not be entitled to claim an additional exemption for himself under section 15-46.

(Ord. of 6-14-79, § 7)

Sec. 15-48. Fixed rate and valuation not portable.

Any person owning property which qualifies for the fixed tax rate and valuation who sells or gives said property to another and who either buys or builds another dwelling house shall not be entitled to transport the fixed tax rate and valuation from the former dwelling to the new dwelling, but shall only be entitled to the fixed rate and valuation for the new dwelling based on its valuation and the rate in effect as of the December 31 valuation date immediately succeeding the date of purchase or the completion of construction (which date shall be evidenced by the date of the certificate of occupancy).

(Ord. of 3-11-93, §1)

Secs. 15-49--15-60. Reserved.

DIVISION 3. TAX RELIEF FOR WAR VETERANS AND DISABLED WAR VETERANS

Sec. 15-61. Tax exemption of war veterans owning real estate and motor vehicles.

Pursuant to General Laws 1956, section 44-3-4(a), 4(b), and 4(c) and section 44-3-24, the tax exemption of war veterans owning real estate and motor vehicles in the town is hereby adjusted to forty-six dollars and ten cents (\$46.10) per one thousand dollars (\$1,000.00) of assessed value and the tax exemption of disabled war veterans to ninety-two dollars and twenty cents (\$92.20) per one thousand dollars (\$1,000.00) of assessed value. Said adjustment shall remain in effect until the next reevaluation or until modified or revalued by the town council, whichever event shall first occur.

(Ord. of 7-11-91)

Sec. 15-62. Frozen tax rates not entitled to adjustment.

War veterans with frozen tax rates shall not be entitled to this adjustment, but shall continue to receive their war veteran's exemption based upon the rate then in effect at the time said veteran's property tax rate was frozen.

(Ord. of 7-11-91)

Sec. 15-63. Application.

This division shall apply to the December 31, 1990, assessment and to all subsequent assessment dates unless repealed or amended.

(Ord. of 7-11-91)

Sec. 15-64. Tax exemption on real and personal property of veteran or widow or widower of POWs.

- (a) This section is enacted pursuant to General Laws of Rhode Island 44-3-4.
- (b) The real and personal property of any veteran entitled to an exemption by law, or the unmarried widow or widower of such veteran, who has been or who shall be classified as, or determined to be a prisoner-of-war by the Veterans Administration of the United States, shall be entitled to a fifteen-thousand-dollar exemption.

(Ord. of 8-11-94, §§ 1, 2)

Secs. 15-65--15-70. Reserved.

DIVISION 4. TAX EXEMPTION FOR THE BLIND

Sec. 15-71. Tax exemption on property for the blind.

- (a) This division is enacted pursuant to General Laws 1956, section 44-3-12, as amended.
- (b) The property of each person who has permanent vision impairment of both eyes of the status set forth in General Laws 1956, section 44-3-12(a), as amended, shall be exempted from taxation to the amount of eighteen thousand dollars (\$18,000.00), provided that such person is a legal resident of the State of Rhode Island, and provided that such person shall have presented to the tax assessor, on or before the last day on which sworn statements may be filed with the tax assessor for the year for which exemption is claimed, due evidence that he or she is so entitled, which evidence shall stand so long as his or her legal residence remains unchanged.
- (c) The exemption shall be applied in full to the total value of such person's real and tangible personal property and shall be applied to intangible personal property only to the extent that there is not sufficient real property or tangible personal property to exhaust such exemption. The exemption shall be in addition to any other exemption provided by law.
- (d) This section shall take effect upon passage and shall apply to taxes assessed as of December 31, 1987 for the year 1988 and to all subsequent years.

(Ord. of 4-14-88, §§ 1--5)

Chapter 16 TRAILERS AND TRAILER PARKS*

***Editor's note:** An ordinance adopted March 14, 1968, amended the building code by providing that no permit shall be issued for the installation of any house trailer or mobile home, so-called, or for the construction of any foundation for a house trailer or mobile home and to prohibit the location of house trailers or mobile homes in the town with the exception of so-called camping trailers and with the exception of house trailers or mobile homes already located in the town.

Cross references: Buildings and building regulations, Ch. 4; fire prevention and protection, Ch. 5; planning, Ch. 10; subdivisions, Ch. 14; utilities, Ch. 17; zoning, App. A.

- Art. I. In General, §§ 16-1--16-20
- Art. II. Trailers, §§ 16-21--16-40
- Art. III. Trailer Parks, §§ 16-41--16-74
 - Div. 1. Generally, §§ 16-41--16-50
 - Div. 2. Specifications, §§ 16-51--16-70
 - Div. 3. Operation, §§ 16-71--16-74

ARTICLE I. IN GENERAL

Secs. 16-1--16-20. Reserved.

ARTICLE II. TRAILERS

Sec. 16-21. Definitions.

For the purposes of this article, the following definition shall apply:

Trailer means any portable structure, mobile home, so-called, or vehicle designated to be drawn by vehicles or self-propelled and occupied as a dwelling or used for sleeping purposes.

(Ord. of 5-2-66, § 12)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 16-22. License required.

No person shall maintain or use any trailer as a dwelling within the town without a license for the same except as provided herein.

(Ord. of 5-2-66, § 1)

Sec. 16-23. Application for license; contents; fee.

Application for the initial issuance of a trailer license shall be made in writing to the town council and shall be accompanied by the following:

- (1) The name and address of the applicant.
- (2) A metes and bounds description of the proposed location of such trailer and a plat of such location prepared by a licensed surveyor showing the names and addresses of all adjoining property owners and of all persons owning property within two hundred (200) feet of the proposed location.
- (3) The name and address of the owner of the proposed location.
- (4) Application fee of one hundred dollars (\$100.00) to defray the expenses of recording the application, inspecting the proposed location, sending notices and

inspecting installation of the trailer and sanitary facilities.

(Ord. of 5-2-66, § 2)

Sec. 16-24. Filing application for license.

An application for the initial issuance of a trailer license shall be filed at least three (3) weeks prior to the regularly scheduled town council meeting at which hearing on such application is sought.

(Ord. of 5-2-66, § 3)

Sec. 16-25. Notice to adjoining property owners.

Upon receipt of such application the town clerk shall send, by regular mail, notice of such application and the date, time and place of hearing thereon to each property owner set forth in section 16-23(2). Such notices shall be sent at least two (2) weeks prior to the council meeting at which such application is to be considered.

(Ord. of 5-2-66, § 4)

Sec. 16-26. Issuance of license.

After hearing upon an application for initial issuance of a license the town council may grant such license conditionally upon receipt of a certificate from the health officer that the water and sanitary facilities have been installed and are adequate and the recording of a deed to the applicant or lease to the applicant for the term of at least one (1) year of the lot approved by the council. Or, after hearing, the town council may deny the application on the ground that the application does not comply with the requirements of this article or if in its judgment the granting of such license would not be compatible with the land use of the adjacent area.

(Ord. of 5-2-66, § 5)

Sec. 16-27. Setback line specifications.

Each trailer lot shall front on an established public road or street, provide for a building setback line of not less than thirty-five (35) feet therefrom and of not less than thirty-five (35) feet from any adjoining property or lot line; have a minimum width of one hundred fifty (150) feet at the required building setback line and contain an area of not less than forty thousand (40,000) square feet. Where strict adherence to the above specifications is not feasible due to special conditions of the land or other features the town council may modify the same, provided that such modification is not contrary to the general intent of this article and to any zoning ordinance which may then be in effect.

(Ord. of 5-2-66, § 6)

Sec. 16-28. Water supply and septic tank requirements.

Each trailer shall have its own individual or a municipal water supply and its own septic tank. Exception to the requirement of an individual water supply may be made by the town council where special conditions warrant.

(Ord. of 5-2-66, § 7)

Sec. 16-29. Exemptions.

- (a) The provisions of this article shall not apply to so-called camping trailers stored or parked on property in the town, provided that such camping trailers are not used as dwellings while stored or parked.
- (b) The provisions of this article shall not apply to trailers located in trailer parks which are duly licensed under the ordinance of the town regulating trailer parks.
- (c) The provisions of this article pertaining to application for issuance of an initial trailer license, minimum lot size, location and setback shall not apply to trailers located in the town on May 2, 1966.

(Ord. of 5-2-66, §§ 8--10)

Sec. 16-30. Penalty for violations.

Any person violating any provision of this article shall be punished in accordance with section 1-4.

(Ord. of 5-2-66, § 11)

Secs. 16-31--16-40. Reserved.

ARTICLE III. TRAILER PARKS

DIVISION 1. GENERALLY

Sec. 16-41. Definitions.

For the purpose of this article, the following words and terms shall have the meanings ascribed to them in this section:

Trailer coach means any portable structure or vehicle designed to be drawn by vehicles or self-propelled and occupied as a dwelling or used for sleeping purposes. The fact that the wheels are removed from the structure or that it is mounted on a permanent foundation shall not remove it from the category of "trailer coach."

Trailer coach space means a parcel of land within a trailer park occupied or designated to be occupied by one (1) trailer coach.

Trailer park means any parcel of land upon which two (2) or more trailer coaches, occupied for dwelling or sleeping purposes, are located, whether or not a charge is made therefor.

Unit means a trailer coach space in a trailer park.

(Ord. of 6-11-59, § I)

Cross references: Definitions and rules of construction generally, § 1-2.

Sec. 16-42. Permits to construct or alter.

- (a) No person shall construct or alter a trailer park without first obtaining a permit.
- (b) Application for a permit to construct or alter shall be made in writing to the town council and shall be accompanied by a plan of the proposed complete trailer park.
 - (1) The plan of the proposed complete trailer park shall show the location, boundaries, trailer coach spaces, streets, walks, utility buildings, recreational areas and any other buildings or areas.
 - (2) The plan shall in all respects conform to the specifications set forth in Division 2 hereof.
- (c) The town council shall examine the application for a permit to construct or alter a trailer park. If the specifications submitted conform to those set forth in Division 2 hereof, the town council may grant such permit. Provided, however, that no permit to construct a trailer park and no permit which would allow enlargement of the physical area of an already existing trailer park shall be granted if the owner of a majority of the land within two hundred (200) feet of the proposed or existing trailer park file their written objection to the construction or enlargement with the town council.

(Ord. of 6-11-59, § III)

Sec. 16-43. Licenses.

- (a) *Required.* No person shall operate a trailer park without first obtaining a license. No trailer park shall operate without a licensed operator.
- (b) *Fee.* The annual license fee shall be fifty dollars (\$50.00) for each trailer park plus two dollars (\$2.00) for each trailer coach space in the trailer park.
- (c) *Duration.* Such licenses shall be good for one (1) year from January 1 through December 31.
- (d) *Application.* Application for a license shall be made in writing to the town council. Applications shall state the applicant's name and address, and they shall state the location of the trailer park and the number of trailer coach spaces.
- (e) *Issuance; conformance to specifications.* The town council may grant such license only upon determination that the trailer park designated on the application conforms in all respects to the specifications set forth in Division 2 hereof.
- (f) *Revocation or suspension.* After hearing, the town council may revoke or suspend the license of any trailer park operator upon determination of any of the following:
 - (1) That the trailer park does not conform to the specifications set forth in Division 2 hereof.
 - (2) That the trailer park is not operated according to rules set forth in Division 3 hereof.

- (3) That the trailer park operator has sold or permitted to be sold any intoxicating liquor, wine or beer.
- (4) That the trailer park operator has permitted prostitution, gambling, the sale of narcotics or any other offense against morals on the premises.
- (5) That the trailer park operator has maintained or permitted a nuisance on the premises.
- (6) That the trailer park does not conform to the health regulations for trailer parks of the state.

(Ord. of 6-11-59, §§ IV, VI(B))

Cross references: Licenses and miscellaneous business regulations, Ch. 6.

Sec. 16-44. Inspection.

The town council may, from time to time, designate persons to inspect trailer parks to see that they conform to the specifications set forth in Division 2 and the rules set forth in this division.

(Ord. of 6-11-59, § VI(A))

Secs. 16-45--16-50. Reserved.

DIVISION 2. SPECIFICATIONS

Sec. 16-51. Conformance required.

All trailer parks shall conform to the specifications of this article.

(Ord. of 6-11-59, § II)

Sec. 16-52. Site.

- (a) The site of the trailer park shall be well drained and properly graded to ensure freedom from stagnant pools of water.
- (b) The trailer park may not be situated closer than two hundred (200) feet from any public street or highway.
- (c) The trailer park may not be situated closer than two hundred (200) feet from any residential structure not owned by the owner or owners of the site of the trailer park.
- (d) The trailer park shall conform to all zoning and development ordinances.

(Ord. of 6-11-59, § II(1))

Sec. 16-53. Recreational areas.

An area or areas for recreational purposes shall be set aside within the trailer park. The

recreational area shall be at least ten (10) percent of the total land area of the trailer park.

(Ord. of 6-11-59, § II(2))

Cross references: Parks and recreation, Ch. 9.

Sec. 16-54. Trailer coach spaces.

- (a) Individual trailer coach spaces shall consist of a minimum of fifteen thousand (15,000) square feet each and be at least one hundred fifty (150) feet in frontage and at least one hundred (100) feet deep.
- (b) No trailer park shall contain more than twenty (20) trailer coach spaces.
- (c) Each trailer coach space shall be clearly defined and permanently numbered.
- (d) Trailer coaches shall be located on each lot so that there will be at least a twenty-foot clearance between trailer coaches.

(Ord. of 6-11-59, § II(3); Ord. of 4-15-65(5), §§ 1, 2)

Sec. 16-55. Streets and walks.

- (a) All trailer coach spaces shall abut upon a street which street shall comply with the requirements for streets and roads of the rules and regulations governing and restricting the platting or other subdivision of land in the town enacted pursuant to the ordinance concerning the subdivision of land in the town.
- (b) All streets shall be constructed in accordance with the rules and regulations governing and restricting the platting or other subdivision of land in the town enacted pursuant to the ordinance concerning the subdivision of land in the town.
- (c) Streets shall be well marked and adequate lighting shall be provided.
- (d) Each trailer coach space shall have an all-weather, hard-surfaced or wooden walk extending from the street a distance sufficient to permit access to all doors on one (1) side of any trailer coach parked on that trailer coach space. Such walks shall have a minimum width of three (3) feet.

(Ord. of 6-11-59, § II(4); Ord. of 4-15-65(5), § 3)

Cross references: Streets and sidewalks, Ch. 13.

Sec. 16-56. Electrical service.

- (a) An electrical outlet supplying at least one hundred ten (110) volts AC and individually fused shall be provided for each trailer coach space. The outlet shall be located at least six (6) feet above the ground.
- (b) Service wires from individual outlets to each trailer shall be elevated at least eight (8) feet above the ground, along their entire distance, except where service wires leave the outlet at the meter box and where they enter the trailer coaches, unless the service is by conduit or underground cable.
- (c) All electrical wiring, apparatus or appliances shall be in strict conformity with approved

methods and practices for safety. Compliance with the National Electrical Code as published by the National Board of Fire Underwriters shall be prima facie evidence of such approved methods.

(Ord. of 6-11-59, § II(5))

Sec. 16-57. Water.

- (a) Each trailer coach space shall have an individual underground water supply controlled by an underground, nonfreezing shutoff.
- (b) The quality of the water supply shall be subject to state inspection and approval.
- (c) An adequate supply of hot and cold running water shall be provided at all times in the utility buildings for bathing, washing and laundry purposes.

(Ord. of 6-11-59, § II(6))

Cross references: Utilities, Ch. 17.

Sec. 16-58. Sewers and cesspools.

- (a) Each trailer coach lot shall have a cesspool with a minimum capacity of four hundred (400) cubic feet or a septic tank of approved size.
- (b) Cesspools or septic tanks for all buildings connected with the operation of the park shall be of sufficient size and construction so that no seepage from the same shall ever appear above the ground or on the ground around the same.
- (c) Each individual trailer coach lot cesspool, septic tank or sewer shall be provided with an entrance to the same.
- (d) All connections between the trailer coach and the cesspool shall be properly vented and shall be made by, or under the direction of the operator of the trailer park.

(Ord. of 6-11-59, § II(7))

Sec. 16-59. Garbage and rubbish.

- (a) Tightly covered metal garbage and rubbish containers shall be provided in quantities adequate to permit depositing of all garbage and rubbish. Such receptacles shall be kept in a sanitary condition at all times.
- (b) Garbage and rubbish shall be collected and removed from the premises as frequently as may be necessary to ensure that they do not overflow, give off offensive odors or become a menace to the health of the community or park.

(Ord. of 6-11-59, § III(8))

Sec. 16-60. Service buildings.

- (a) Every trailer park shall provide suitably equipped service buildings. They shall be permanent structures. They shall be permanent structures. They shall be well lighted at all times and well ventilated. They shall be constructed of such moistureproof material,

including painted woodwork, as shall permit repeated cleaning and washing. They shall be properly heated at all times. The floor of all service buildings shall be of impervious material and shall slope to a floor drain connected with sewer system or cesspool. Toilet, shower, and lavatory facilities for men and women shall be either in separate buildings or shall be separated if in the same building, by a soundproof wall. All toilets and showers shall be in separate compartments.

- (b) Toilet facilities for men shall consist of not less than one (1) flush toilet and one (1) flush urinal, one (1) hot and cold water shower and one (1) hot and cold water lavatory for each ten (10) trailer coach spaces or fraction thereof.
- (c) Toilet facilities for women shall consist of not less than one (1) flush toilet, one (1) hot and cold water shower, and one (1) hot and cold water lavatory for each ten (10) trailer coach spaces or fraction thereof.
- (d) Laundry facilities shall consist of not less than one (1) double laundry tub with hot and cold water connections and a wringer attachment or automatic laundry facilities sufficient to meet the needs of the park. Drying spaces shall be provided sufficient to accommodate the laundry of the trailer park occupants.

(Ord. of 6-11-59, § II(9))

Sec. 16-61. Landscaping.

The trailer park shall be attractively landscaped.

(Ord. of 6-11-59, § II(10))

Sec. 16-62. Telephones.

A public telephone shall be provided for the use of the inhabitants of the trailer park.

(Ord. of 6-11-59, § II(11))

Secs. 16-63--16-70. Reserved.

DIVISION 3. OPERATION

Sec. 16-71. Registry.

All trailer park operators shall keep a permanently bound registry book with consecutively numbered pages. The registry shall contain the following:

- (1) The name of the legal owners or lessees of each trailer coach;
- (2) The names of all occupants of each trailer coach;
- (3) The number of school age children in each trailer coach;
- (4) The license number, make, size, year and model of each motor vehicle in the possession of trailer coach occupants;
- (5) The number of the trailer coach space where each trailer coach is located;

- (6) The date of arrival and departure of each trailer coach;
- (7) The signature of the owner or lessee of each trailer coach;
- (8) Entries shall be made on the date of arrival of each trailer coach;
- (9) The registry shall be open at all times to inspection by all proper authorities.

(Ord. of 6-11-59, § V(A))

Sec. 16-72. Fire protection.

Every trailer park shall be equipped with fire extinguishers in good working order. Fire extinguishers shall be arranged so that there is at least one (1) fire extinguisher within at least one hundred (100) feet of each trailer coach space.

(Ord. of 6-11-59, § V(B))

Cross references: Fire prevention and protection, Ch. 5.

Sec. 16-73. Animals and pets.

- (a) No fowl and no animals other than dogs and cats shall be kept within the limits of any trailer park.
- (b) Dogs and cats shall not be permitted to run at large or to commit any nuisance within any trailer park.

(Ord. of 6-11-59, § V(C))

Cross references: Animals, Ch. 3.

Sec. 16-74. General care.

The premises and buildings of all trailer parks shall be kept in a neat, clean, orderly, safe and healthy condition.

(Ord. of 6-11-59, § V(D))

Chapter 17 UTILITIES*

***Cross references:** Buildings and building regulations, Ch. 4; planning, Ch. 10; subdivisions, Ch. 14; zoning, App. A.

State law references: Sewage charges, G.L. 1956, § 45-14-1 et seq.; installers of individual sewage disposal systems, G.L. 1956, § 5-56-1 et seq.; water pollution, G.L. 1956, § 46-12-1 et seq.; percolation tests and water table elevation determinations, G.L. 1956, § 23-19.5-1 et seq.; sewerage system cleaners, G.L. 1956, § 23-43.3-1 et seq.

Sec. 17-1. Location of utility poles.

- (a) This section is enacted to promote highway safety and to make the care and maintenance of the highways more efficient.
 - (b) Any utility pole placed in a new location after March 13, 1986, shall be located with respect to the surfaced portion of the adjacent public highway as follows:
 - (1) For highways of less than three (3) rods in width, at least three (3) feet.
 - (2) For highways of three (3) or more rods in width, at least six (6) feet.
 - (c) This section shall not apply to replacement of existing poles.
 - (d) Variances from the requirements of this section may be granted by the town council.
- (Ord. of 3-13-86)

APPENDIX A ZONING*

***Editor's note:** The zoning ordinance for the Town of Scituate, Rhode Island, adopted June 8, 1989 as amended February 10, 1994 was deleted as being superceded by an ordinance adopted December 12, 1994. The absence of a history note indicates that the provision derives unchanged from the ordinance adopted December 12, 1994. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Obvious misspellings have been corrected without notation and material in brackets [] has been added for clarity.

Cross references: Buildings and building regulations, Ch. 4; kennels, § 6-131 et seq.; restaurants, cafes and victualing houses, § 6-181 et seq.; vehicle tracks and amusement parks, § 6-231 et seq.; parks and recreation, Ch. 9; planning, Ch. 10; soil erosion and sedimentation control, Ch. 12; streets and sidewalks, Ch. 13; subdivisions, Ch. 14; trailers and trailer parks, Ch. 16; utilities, Ch. 17.

State law references: Zoning, G.L. 1956, § 45-24-1 et seq.

- Art. I. Administration and Procedures, §§ 1--7
- Art. II. District Use Regulations, §§ 1--15
- Art. III. District Dimensional Regulations, §§ 1--3
- Art. IV. Special Regulations, §§ 1--14
- Art. V. Offstreet Parking Regulations
- Art. VI. Offstreet Loading Requirements
- Art. VII. Sign Regulations, §§ 1--5
- Art. VIII. Residential Compound Development, §§ 1--5
- Art. IX. Definitions
- Art. X. Prohibited Uses
- Art. XI. Miscellaneous, §§ 1--8
- Art. XII. Validity

TOWN OF SCITUATE, RHODE ISLAND ZONING ORDINANCE

New Ordinances on the Web!

The listing below includes all legislation received by Municipal Code since the last update (printed or electronic) to the Code of Ordinances. This legislation has been enacted, but has not yet been codified.

| Legislation | Date | Description |
|--|------------|--|
| <u>Ordinance of Alcoholic Beverage Licensing</u> | 5/11/2006 | An Ordinance to Change Class C License to Class B License |
| <u>Ordinance of Art Festival</u> | 7/8/2010 | An Ordinance Amending Chapter 6, Article IX, Scituate Art Festival |
| <u>Ordinance of Chapter 11</u> | | An Ordinance Amending Chapter 11, Police Department |
| <u>Ordinance of Controlled Substance Policy</u> | 11/8/2007 | An Ordinance to Amend the Controlled Substance and Alcohol Testing Policy f... |
| <u>Ordinance of Hawkers and Peddlers</u> | 11/12/2009 | An Ordinance Amending Article IV, Hawkers and Peddlers |
| <u>Ordinance of Illicit Discharges</u> | 5/14/2009 | An Ordinance Amending Illicit Discharge Detection and Elimination Ordinance |
| <u>Ordinance of Juvenile Hearing Board</u> | 9/11/2003 | An Ordinance Establishing a Juvenile Hearing Board |
| <u>Ordinance of License Fee</u> | 7/10/2003 | An Ordinance Amending Section 6-211, License Fee |
| <u>Ordinance of Local Authority in Local Emergencies</u> | 7/13/2006 | An Ordinance to Authorize Necessary Action and to Designate Local Authority... |
| <u>Ordinance of No Smoking Policy</u> | 6/12/2003 | An Ordinance Amending Section 2-2, No Smoking Policy |
| <u>Ordinance of No Thru Trucking Ordinance</u> | 8/10/2006 | An Ordinance Authorizing the Addition of Brandy Brook Road to the No thru T... |
| <u>Ordinance of Noise</u> | 9/11/2003 | An Ordinance Amending the Noise Ordinance |
| <u>Ordinance of Nuisance Abatement</u> | 1/11/2007 | An Ordinance Amending Section 3-7, Nuisance Abatement |

| | | |
|--|-----------|--|
| <u>Ordinance of Outdoor Entertainment</u> | 8/9/2007 | An Ordinance Amending Article XII, Outdoor Entertainment |
| <u>Ordinance of Restaurants, Cafes and Victualing Houses</u> | 7/8/2010 | An Ordinance Amending Article VIII, Restaurants, Cafes and Victualing House... |
| <u>Ordinance of Storm Water Control</u> | 5/14/2009 | An Ordinance Amending the Post Construction <input type="checkbox"/> Storm Water Control Ordinance |
| <u>Ordinance of Tax Rates</u> | 6/10/2004 | An Ordinance Authorizing Various Tax Rates for the Tax Classification |
| <u>Ordinance of Tax Relief</u> | 12/8/2005 | An Ordinance Amending Division2, Tax Relief for the Elderly |
| <u>Ordinance of Through Trucking Prohibited on Certain Streets</u> | 7/12/2001 | An Ordinance Amending Section 2-7(a), Through Trucking Prohibited on Certai... |
| <u>Ordinance of Workers Compensation Act</u> | 11/9/2006 | An Ordinance to Accept the Provisions of Chapter 29-38 of Title 28 of the G... |
| <u>Ordinance of Zoning Ordinance</u> | | |

**STATE OF RHODE ISLAND
TOWN OF SCITUATE**

RESOLUTION TO CHANGE CLASS C LICENSE TO CLASS B LICENSE

WHEREAS, the rules and regulations governing the licensing for the sale of alcoholic beverages at retail in the State of Rhode Island are the responsibility of the local licensing authorities, and in particular, the Town Council of the Town of Scituate acting in accordance with the State Liquor Control Administration and the provisions of Rhode Island General Laws, Title 3: Alcoholic Beverages, and

WHEREAS, the State Liquor Control Administration requires local approval for the granting of new liquor licenses and the transfer of location or ownership of existing licenses, and

WHEREAS, the Town Council desires to discharge this responsibility in accordance with a long range policy that will accrue to the health, safety, and welfare of the Town of Scituate at large, and

WHEREAS, this resolution is intended to supercede and replace all previous resolutions and policies of the Town of Scituate with regard to the issuance of Class C liquor licenses:

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

A. CLASS C LIQUOR LICENSES

1. The Town Council, as the licensing board of the Town of Scituate, hereby prohibits the issuance of Class C liquor licenses.
2. The Town Council, as the licensing board of the Town of Scituate, shall issue Class B licenses to the holders of all Class C licenses.
3. The Town Council, as the licensing board of the Town of Scituate, acknowledges that there is, at the time of this Resolution, only one (1) Class C licensee in the Town of Scituate.
4. Nothing shall be construed to limit the authority of the Town Council, as the licensing board of the Town of Scituate to issue Class B licenses hereunder with such conditions and requirements as if said license were issued by the licensing board in the first instance.
5. All other licensing provisions, whether pursuant to R.I.G.L. § 3-1 *et seq.*, or pursuant to local Ordinance of the Town of Scituate, shall remain in full force and effect.

B. SEVERABILITY

1. In the event that a portion of this Resolution or the existing policy of the Town of Scituate is deemed unlawful or invalid, the offensive portion shall be deemed severable and the remaining portions of said policy shall have full force and effect.

C. EFFECTIVE DATE

1. This Resolution shall become effective upon the Town Council's approval and issuance of the Class B license to the former Class C licensee referred to in paragraph A (3), and upon such conditions and requirements as the Town Council shall deem appropriate.

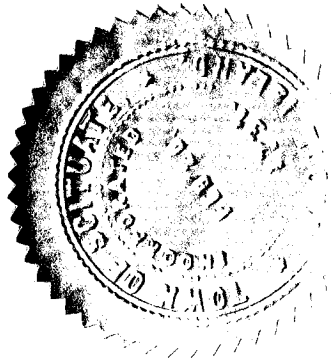
I hereby certify that the foregoing Resolution was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the 11th day of May, 2006.

Attest:

By the order of the Town Council

Margaret M Long
Town Clerk

[Signature]
Town Council President



It is ordained by the Town Council of the Town of Scituate to amend Chapter 6, Article IX:
Scituate Art Festival, as follows:

WHEREAS, the Town Council as the governing body of the Town of Scituate has become aware of the public safety concerns regarding the presence of certain animals, including dogs, and other pets at the Scituate Art Festival;

WHEREAS, the Town Council has exclusive authority to enact such ordinances and regulations necessary to promote the health, welfare, and safety of the public and that restrictions on the presence of certain animals, including dogs, and other pets at the Scituate Art Festival shall preserve and promote public safety and prevent public health hazards that may be associated with the presence of such animals at the Scituate Art Festival;

WHEREAS, the Town Council is mindful that certain animals are personal service animals training to be of assistance to persons with disabilities and such animals should be excluded from any such prohibition;

WHEREAS, the Town Council endeavors to preserve the aesthetic, cultural, and community event known as the Scituate Art Festival and to promote the exhibitors and community organizations that participate in the Scituate Art Festival.

ARTICLE IX. SCITUATE ART FESTIVAL

Sec. 6-206. Purpose.

This article is enacted to promote the safe and orderly flow of vehicular and pedestrian traffic; to protect the quiet enjoyment of their homes by residents of North Scituate village; to permit access to the North Scituate village area by police, fire, rescue and ambulance vehicles; to confine the area used for art festival events to an area which is manageable in terms of the size of the police department; to control litter and to protect public health with regard to the sale of food and beverages during the Scituate Art Festival.

(Ord. of 6-9-83, § 1)

Sec. 6-207. Application.

This article shall apply during the three-day period in October of each year when the Scituate Art Festival is held.

(Ord. of 6-9-83, § 2)

Sec. 6-208. License required.

During the Scituate Art Festival no person, organization or corporation, except as exempted by this article, shall sell or offer for sale from any cart, vehicle, stand, building or otherwise, any food or beverages within North Scituate Village, which is hereby for purposes of this article designated as Assessor's Plats 16, 19 and 39 of the records of the town tax assessor, without first

obtaining either an art festival arts and crafts license or an art festival victualing license from the town council.

(Ord. of 6-9-83, § 3; Ord. of 9-9-99(1))

Sec. 6-209. Exemption.

Persons holding regular victualing licenses shall be excepted from the requirement of an art festival victualing license, but only for the premises for which they hold a regular victualing license. Such exception shall not be construed to permit sale of food or beverages outside the building where their victualing license permits them to operate.

(Ord. of 6-9-83, § 4)

Sec. 6-210. Issuance restricted.

(a) The town council shall grant, upon application, art festival arts and crafts licenses and art festival victualing licenses to the following organizations provided that such licenses shall only be for the premises owned by such organizations and shall only be to permit the sale of arts and crafts and food and beverages by members of the following organizations and their affiliated clubs, societies and fraternal organizations:

- (1) North Scituate Public Library Association;
- (2) North Scituate Baptist Church;
- (3) St. Joseph's Church;
- (4) Hamilton Lodge F. & A.M.;
- (5) Chopmist Hill Fire Department;
- (6) Trinity Episcopal Church.

(b) The town council shall grant, upon application, art festival arts and crafts licenses and art festival victualing licenses, to those persons or organizations which have been given space to sell arts, crafts, food and beverages by the Scituate Art Festival Committee on the town property occupied by the Scituate Art Festival.

(c) The town council may, in its discretion, grant art festival arts and crafts licenses and art festival victualing licenses to persons owning property zoned business or having a preexisting non-conforming business use or persons leasing space on property zoned business or having a preexisting non-conforming business use, as it deems will not interfere with the purposes of this article. License applications pursuant to this section must be made no later than the first day of October.

(d) The town council may, in its discretion, grant art festival arts and crafts licenses and art festival victualing licenses to those residential property owners whose property is located in the art festival district as defined in section 6-208 of this Code. Licenses granted under this paragraph (d) shall be subject to the limitation that one (1) license shall be required for each space of ten (10) feet by twelve (12) feet to be used by the licensee. The maximum number of licensed spaces on any lot within the art festival district to be granted under the provisions of this paragraph (d) shall be one (1) license per ten (10) feet of road frontage of said lot, but in no event more than twenty (20) licenses per lot.

(e) All licenses issued under the provisions of this article shall be subject to the following restrictions:

(1) There shall be only one (1) vendor per license and only one (1) vendor shall be permitted per booth or stand.

- (2) The minimum space per license shall be ten (10) feet by ten (10) feet.
- (3) The maximum space per license shall be ten (10) feet by twelve (12) feet except for antique dealers who are licensed for a location on town property pursuant to paragraph (b) of this section.
- (4) The minimum aisle width between spaces facing each other shall be ten (10) feet.
- (5) There shall be no dead end aisles.
- (6) No booths or stands shall be permitted on sidewalks.
- (7) No food vendors shall be permitted for spaces licensed under the provisions of paragraph (d) of this section, except for food vendors licensed in 1999. A food vendor's failure to apply for a victualing license in any year shall be deemed a waiver to any right to such license, and shall forever preclude such vendor from applying for such license in the future.
- (f) The maximum number of licenses to be issued pursuant to paragraphs (a) and (c) of this section shall be limited to the maximum number of licenses authorized per lot during the year 1999, based on a maximum space per license of ten (10) by twelve (12) feet.
(Ord. of 6-9-83, §§ 5--7; Ord. of 9-9-99(1); Ord. of 8-14-00(2), §§ 1--3)

Sec. 6-211. License fee.

There shall be no fee for art festival, arts and crafts licenses and art festival victualing licenses issued pursuant to paragraphs (a) and (b) of section 6-210. There shall be a fee for each ~~license issued~~ license issued pursuant to section 6-210(c) and (d) which fee shall be set from time to time and a schedule of such fees is on file in the town clerk's office.
(Ord. of 6-9-83, § 8; Ord. of 9-9-99(1))

Sec. 6-212. Penalty for violation.

Any person violating this article shall be fined in accordance with section 1-4.
(Ord. of 6-9-83, § 9)

Sec. 6-213. Dogs restricted; Wild animals prohibited.

(a) It shall be unlawful for any person or owner to permit or cause any dog, rather licensed and/or leashed, to be on or along the grounds of the Scituate Art Festival, including, the North Scituate Village, which is hereby for purpose of this article designated as Assessor's Plats 16, 19 and 39 of the records of the town tax assessor, between the hours of 10:00 AM and 5:00 PM. However, this section shall not apply to Seeing Eye Dogs assisting blind or handicapped persons, or such other personal service dogs or animals that are controlled by such persons and/or their companions.

(b) In addition to those animals prohibited by Rhode Island General Laws, it shall be unlawful for any person or owner to keep, possess, permit or cause certain specific creatures at or along the grounds of the Scituate Art Festival, including the North Scituate Village, which is hereby for purposes of this article designated as Assessor's Plats 16, 19 and 39 of the records of the town tax assessor, is designated as a public nuisance. For purposes of this section, these creatures include: fowl, poultry, rabbits, pigeons, reptiles (i.e. poisonous snakes, iguana, etc.).

Town of Scituate
Art Festival Ordinance

pigs, minks and any similar species which carry or may carry and spread disease or other may be considered unsanitary or present a nuisance or hazard to the general public shall be prohibited. However, this section shall not prohibit the keeping of any such animals regulated by special permit or for personal enjoyment and/or use.
Secs. 6-2134--6-230. Reserved.

EFFECTIVE DATE: **This Ordinance shall become effective upon passage.**

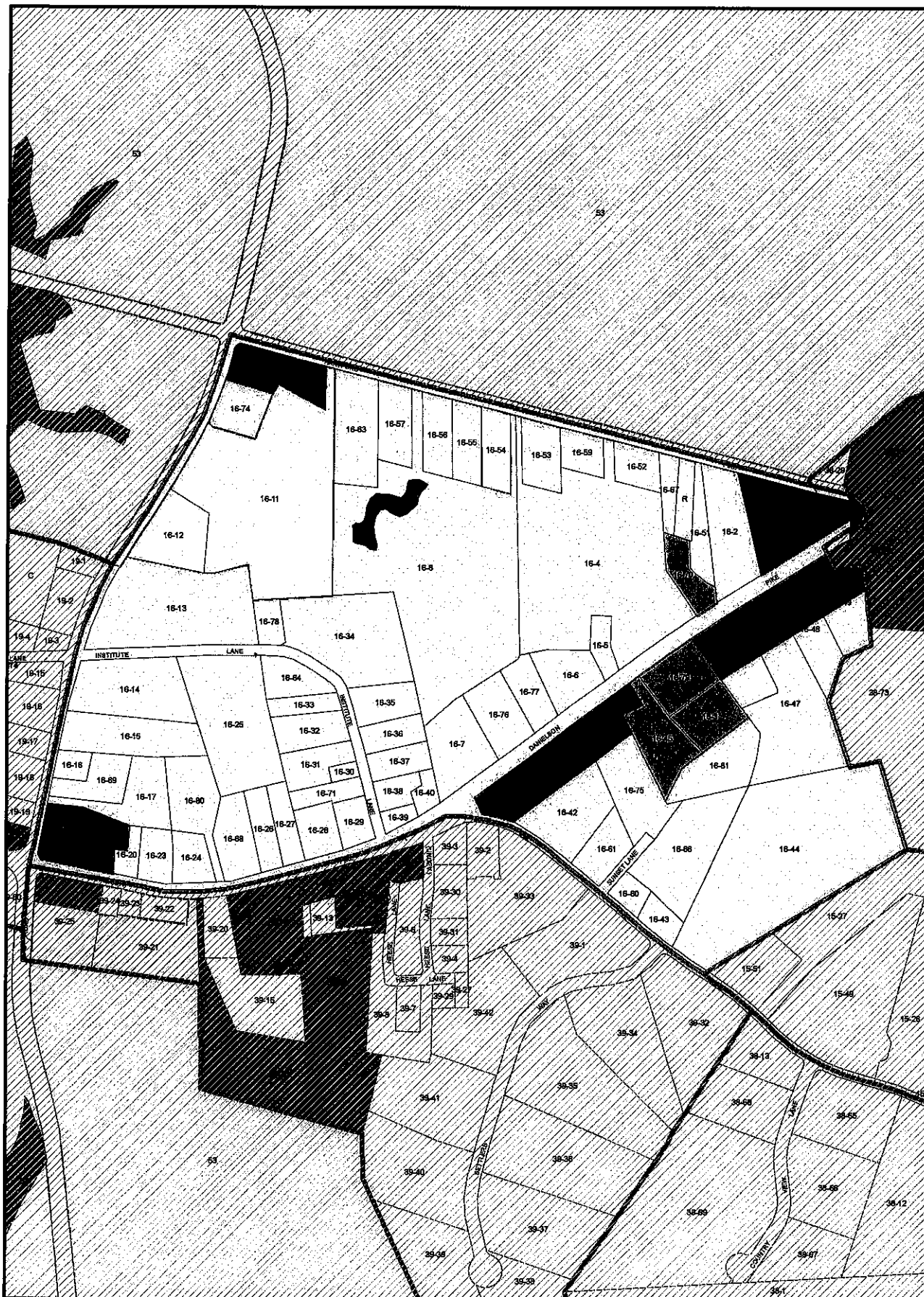
I hereby certify that the foregoing Ordinance was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the _____ day of _____, 2010.


Attest:

Margaret M. Long
Town Clerk

Robert Budway
President, Town Council

Server://Town of Scituate/Town Council Matters/Art Festival Ordinance (Rev. 06-07-10)





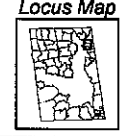
Legend

| | | | | | |
|--|----------|--|----------------|--|---------|
| | Water | | Zoning Polygon | | ROWW060 |
| | Pavement | | R0 | | R0120 |
| | Road | | R0120 | | R0120 |
| | Road | | R0120 | | R0120 |

This map is intended to support the inventory of real property in the Town of Scituate. Map data should not be interpreted as the actual field survey data. This data should not be used for legal description or conveyance purposes.

Town of Scituate, Rhode Island **Plat 16**


Locus Map



0 290 580 1,160 Feet

Each map is labeled with Parcel ID number

Map produced by:



2014 CapeGIS & Associates
(401) 651-1200 www.capegis.com

**STATE OF RHODE ISLAND
TOWN OF SCITUATE**

It is ordained by the Town Council of the Town of Scituate to amend Chapter 11, "Police Department," as follows: (The proposed Amendments are italicized.)

ORDINANCE AMENDMENTS

Sec. 11-1. Composition.

The permanent police department of the town shall consist of a chief of police, *a deputy chief of police, a lieutenant, five (5) sergeants and as many patrol officers* as the town council shall from time to time determine.

Sec. 11-2. Increasing, decreasing membership.

The town council may increase or diminish the number of such police officers whenever, in its sole discretion, it deems necessary. *The town council may, at any time and in its sole discretion, change the composition of the permanent police department as set forth in Sec. 11-1, above.*

Sec. 11-6, Probationary period – For officers

Every new police officer shall first be appointed for a term *of fifteen (15) months* during which time *the officer* shall be probationary, and upon the completion of such term *the officer* shall be eligible for appointment by the town council as a permanent member of the department.

Sec. 11-12. No Application to Collective Bargaining.

No part of this ordinance shall be used as a basis to establish minimum staffing requirements or mandatory composition for the permanent police department in any collective bargaining or labor negotiation.

[THIS AREA INTENTIONALLY LEFT BLANK]

STATE OF RHODE ISLAND
TOWN OF SCITUATE

**ORDINANCE TO AMEND THE CONTROLLED SUBSTANCE AND ALCOHOL
TESTING POLICY FOR EMPLOYEES (CMV DRIVERS)**

WHEREAS THE TOWN OF SCITUATE:

- Is required by the U.S. Department of Transportation, Federal Motor Carrier Safety Administration to establish programs designed to help prevent accidents and injuries resulting from the misuse of alcohol or use of controlled substances by drivers of commercial motor vehicles; and
- Values its employees and recognizes each employee's need for a safe and healthy work environment and is committed to maintaining a safe workplace for its drivers and other users of the roadways that is free from illegal controlled substance use and the misuse of alcohol; and
- Recognizes employees who use illegal controlled substances and abuse alcohol tend to be less productive, less reliable, more prone to accidents, and more prone to absenteeism, all of which potentially will result in increased accidents, costs, and risk to the Employer, its employees, and the general public.

Accordingly, the Town of Scituate has amended its **“Controlled Substance and Alcohol Testing Policy”** in compliance with the following laws and regulations.

REGULATORY REFERENCES:

U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration Regulations (FMCSA), 49 CFR Parts 382 et al as originally published February 15, 1994, **Revised August 1, 2002**, and including any subsequent amendments (including Parts 383, 392 and 395 as applicable).

U.S. Department of Health and Human Services (DHHS) and the Substance Abuse and Mental Health Services Administration (SAMHSA) Regulations, 49 CFR Part 40, as originally published December 1, 1989, **Revised August 1, 2001**, and including any subsequent amendments.

PREEMPTION OF STATE AND LOCAL LAWS

- (a) Except as provided in (b) below, Federal regulations preempt any State or local law, rule, regulation, or order to the extent that:

Compliance with both the State or local requirement and Federal regulations is not possible; or Compliance with the State or local requirement is an obstacle to the accomplishment and execution of any regulatory requirement.

- (b) The Federal Regulations shall not be construed to preempt provisions of State criminal law that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, employers, or the general public.

Except as expressly provided above, nothing in these regulations shall be construed to affect the authority of employers, or the rights of drivers, with respect to the use of alcohol or the use of controlled substances, including authority and rights with respect to testing and rehabilitation.

NOW, THEREFORE, BE IT ORDAINED THAT:

Article V. Controlled Substance and Alcohol Testing Policy for Employees (CMV Drivers) Secs. 2-146 – 163 are repealed; and,

Article V. Controlled Substance and Alcohol Testing Policy for Employees (CMV Drivers) is amended as follows:

Sec. 3-100 INTRODUCTION

The following is the policy of the Town of Scituate, Department of Public Works regarding testing for controlled substances and alcohol of those employees who operate certain commercial motor vehicles which require a commercial driver's license. A discussion of the physical effects of alcohol and certain controlled substances on the body is also included. The name and telephone number of the person who can answer any questions about this controlled substance and alcohol policy and assist you in any abuse situation appears on the last page of this policy.

Sec. 3-101 APPLICABILITY

The drivers subject to drug and alcohol testing under this Policy are those drivers required to have a Commercial Driver's License (CDL), and operate a Commercial Motor Vehicle (CMV) which is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the CMV:

- has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- has a gross vehicle weight rating of 26,001 or more pounds; or
- is designed to transport 16 or more passengers including the driver; or
- is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded, 49 CFR part 172, Subpart F.

(Includes the Licencia Federal de Conductor (Mexico) requirements; and the commercial driver license requirements of the Canadian National Safety Code)

Exceptions: 49 CFR part 382 shall not apply to employers and their drivers: (1) Required to comply with the alcohol and/or controlled substances testing requirements of 49 CFR part 655 (Federal Transi

Administration alcohol and controlled substances testing regulations); or (2) Who a State must waive from the requirements of 49 CFR part 383. These individuals include active military personnel; members of the Reserves; and members of the National Guard on active duty, including personnel on full-time National Guard training and National Guard military technicians (civilians who are required to wear military uniforms), and active duty U.S. Coast Guard personnel; or (3) Who a State has, at its discretion, exempted from the requirements of 49 CFR part 383.

Sec. 3-102 DEFINITIONS

The following terms and abbreviations used in this Program are further defined below:

| | | | |
|-------------|------------------------------------|--------------|---|
| BAT | Breath Alcohol Technician | EBT | Evidential Breath Testing Device |
| CDL | Commercial Driver's License | FMCSA | Federal Motor Carriers Safety Administration |
| CFR | Code of Federal Regulations | MRO | Medical Review Officer |
| CMV | Commercial Motor Vehicle | SAP | Substance Abuse Professional |
| DER | Designated Employer Representative | STT | Screening Test Technician |
| DHHS | Dept. of Health & Human Services | | |
| DOT | Dept. of Transportation | | |

For purposes of this Program, the following definitions are adopted.

ACCIDENT means an occurrence involving a commercial motor vehicle:

1. resulting in the death of a human being (surviving driver(s) must be tested);
2. when the operator receives a citation under state, or local law for a moving traffic violation arising from the accident, AND the accident involved:
 - a. bodily injury to a person, who, as a result of the injury immediately receives medical treatment away from the scene of the accident; or
 - b. one or more vehicles incur disabling damage as a result of the occurrence and are transported away from the scene by a tow truck or other motor vehicle.

ADULTERATED SPECIMEN means a specimen contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine. If a specimen is reported by the laboratory to the Medical Review Officer to have been adulterated or substituted, the Medical Review Officer will offer the employee/applicant the right to have his or her split specimen tested. If the Medical Review Officer reports that the employee/applicant has a verified adulterated or substituted test result, it is considered a refusal to take a drug test. A refusal to take a drug test results in consequences specified under DOT Federal Motor Carrier Safety Administration (FMCSA) regulations.

ALCOHOL means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl or isopropyl alcohol.

ALCOHOL CONCENTRATION means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test in part 40.

BREATH ALCOHOL TECHNICIAN (BAT) means a trained and certified individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath-testing device (EBT).

CANCELED OR INVALID TEST means a test that is determined to be invalid by the Medical Review Officer in the instance of a drug test or by a BAT in the instance of an EBT alcohol test.

CHAIN OF CUSTODY/ PROCEDURES account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen.

CFR means the Code of Federal Regulations.

COLLECTION SITE means a place where individuals present themselves for the purpose of providing a specimen of urine to be analyzed for the presence of drugs or a breath or saliva specimen *to* determine alcohol concentration.

COMMERCE means:

1. Any trade, or transportation within the jurisdiction of the United States between a place in a State and a place outside of such State, including a place outside of the United States: and
2. Trade, traffic, and transportation in the United States which affects any trade, traffic, and transportation described in #1 above.

COMMERCIAL MOTOR VEHICLE means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. Has a gross combination weight rating of 11,794 or more kilograms (26,001 or more pounds) inclusive of a towed unit with a gross vehicle weight rating of more than 4,536 kilograms (10,000 pounds); or
2. Has a gross vehicle weight rating of 11,794 or more kilograms (26,001 or more pounds); or
3. Is designed to transport 16 or more passengers, including the driver; or
4. Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR part 172, Subpart

CONFIRMATION (or confirmatory) DRUG TESTING means a second analytical procedure performed by the laboratory on a urine specimen to identify and quantify the presence of a specific drug or drug metabolite which is independent of the initial (screening) test, and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Currently, a confirmation drug test is conducted by gas chromatography/mass spectrometry (GC/MS).

CONFIRMATION (OR CONFIRMATORY) VALIDITY TEST means a second test performed on a urine specimen to further support a validity test result.

COUNSELING, TREATMENT, OR REHABILITATION PROGRAM is determined by a substance abuse professional (SAP) knowledgeable in substance abuse disorders based upon, but not limited to, an evaluation of the nature and extent of an individual's substance abuse, use, or problem, and includes a recommended treatment program, if applicable.

DER-DESIGNATED EMPLOYER REPRESENTATIVE is an employer or an individual(s) identified by the employer: (1) as able to receive communications and test results directly from medical review officers, BATs, screening test technicians, collectors, and substance abuse professionals; (2) who is authorized to take immediate action to remove employees from safety-sensitive functions; and (3) to make required decisions in the testing and evaluation process. Service agents cannot serve as DERs.

DHHS means the U.S. Department of Health and Human Services Regulations, 49 CFR Part 40 entitled, "Mandatory Guidelines for Federal Workplace Drug and Alcohol Testing Programs."

These regulations provide a system of checks and balances to eliminate errors and the possibility of false positive results, etc., during collection and analysis of specimens, and review of results by a Medical Review Officer.

DILUTE SPECIMEN means a urine specimen whose creatinine and specific gravity values are diminished by the employee (donor) through the introduction of fluid (usually water) into the specimen either directly or through excessive consumption of fluids.

DIRECT OBSERVATION means observation of alcohol or controlled substances use and does not include observation of employee behavior or physical characteristics sufficient to warrant reasonable suspicion testing as defined herein.

DISABLING DAMAGE means damage that precludes departure of a motor vehicle from the scene of an accident in its usual manner in daylight after simple repairs.

1. Includes damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
2. Excludes:
 - a. Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - b. Tire disablement without other damage even if no spare tire is available.
 - c. Headlight or taillight damage.
 - d. Damage to turn signals, horn, or windshield wipers, which make them inoperative.

DRIVER/EMPLOYEE means any person who operates a CMV and is designated in FMCSA regulations as subject to drug and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in FMCSA regulations and applicants for employment subject to pre-employment testing. This definition includes, but is not limited to: full time, regularly employed drivers; casual, intermittent or occasional drivers; leased/contract drivers and independent, owner operator contractors who are either directly employed by, or under lease to a company, or who operate a commercial motor vehicle at the direction of or with the consent of a company.

EMPLOYER means the Town of Scituate who employs one or more employees subject to DOT/FMCSA agency regulations requiring compliance with 49 CFR Part 382 and 49 CFR Part 40. As used in this Policy the term means the entity responsible for overall implementation of DOT drug and alcohol program requirements, including individuals employed by the Town of Scituate who take personnel actions resulting from violations of this Program. "Employer" is used interchangeably with "Company" in this policy. Service agents are not employers for the purposes of DOT/FMCSA regulations.

EVIDENTIAL BREATH TESTING DEVICE (EBT) means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List" (CPL) as conforming with the model specifications available from NHTSA, Office of Alcohol and State Programs, and approved by DOT. This definition includes any subsequent amendments to the CPL of evidential and non-evidential screening or breath measurement devices approved by DOT.

LABORATORY means a testing laboratory which is certified by the Dept. of Health and Human Services under the National Laboratory Certification Program, Substance Abuse and Mental Health Services Administration.

MEDICAL REVIEW OFFICER (MRO) means a licensed physician (doctor of medicine or osteopathy), responsible for receiving laboratory results generated by this program; who has

knowledge of substance abuse disorders, and has appropriate training to interpret and evaluate a donor's confirmed laboratory positive or "unsuitable" drug test result together with the donor's medical history and any other relevant biomedical information. The MRO is also required to have a working knowledge of the DOT FMCSA regulations applicable to the employer for whom he/she evaluates drug test results.

ON DUTY means any period during which a driver is actually performing, ready to perform, or is immediately available to perform, including four (4) hours prior to reporting to perform a safety sensitive function. On duty time also means any of those on duty functions set forth in Part 395.2 "On Duty" paragraphs (1) through (7) of 49 CFR, and also listed under the definition "safety-sensitive functions" in this Policy.

PERFORMING A SAFETY SENSITIVE FUNCTION means any period in which the driver is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

POLICY means the initiative related to the Controlled Substance and Alcohol Testing Policy of the Town of Scituate for drivers in compliance with U.S. Department of Transportation and Federal Motor Carrier Safety Administration regulations for drug and alcohol testing.

PRIMARY SPECIMEN (in drug testing Bottle A) is the urine specimen that is opened and tested by the original laboratory to determine whether the employee has drug(s) or drug metabolite(s) in his/her system. The primary specimen is distinguished from the split specimen, defined in this section.

RANDOM means that drug and alcohol tests are unannounced and every person subject to testing will have an equal chance with all other persons of being selected for testing. There is never a "safe period" for any driver in the scheduling of random tests. The odds of being selected to provide a specimen are equal for all drivers on each collection/testing day, regardless of whether or not the driver was previously selected for testing.

REASONABLE SUSPICION means the employer believes the actions, appearance, or conduct of a driver are indicative of the use of a chemical substance(s), including alcohol. Such beliefs are based on the actions, appearance, odor or conduct of a driver while performing, immediately available to perform, or immediately after performing a safety sensitive function.

REFUSAL TO TEST (DRUG OR ALCOHOL) means that a donor refuses to submit to testing when directed; fails to provide an adequate specimen for testing without a valid medical explanation after receiving notice of the requirement to be tested; or, engages in conduct that clearly obstructs the testing process.

SAFETY SENSITIVE FUNCTION means any of the on-duty functions listed below:

1. All time at a carrier or shipper plant, terminal, facility, or other property, waiting to be dispatched, unless the driver has been relieved from duty by the employer.
2. All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations, or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at anytime.
3. All time spent at the driving controls of a commercial motor vehicle.
4. All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth).
5. All time loading or unloading a commercial motor vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle or in giving or receiving receipts for shipments loaded or unloaded.

6. All time spent performing the covered person's requirements associated with an accident.
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

SAMHSA means the U.S. Substance Abuse and Mental Health Services Administration, formerly the National Institute on Drug Abuse (NIDA). SAMHSA was established by the U.S. Department of Health and Human Services (DHHS), to regulate laboratories performing analytical drug tests on human body fluids.

SCREENING TEST (OR INITIAL TEST) (1) in drug testing, a laboratory test to eliminate "negative" urine specimens from further analysis or to identify a specimen that requires additional testing for the presence of drugs; (2) in alcohol testing, an analytical procedure to determine whether an employee may have a prohibited concentration of alcohol in a breath or saliva specimen.

SERVICE AGENTS are all parties who provide services to employers in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collection site personnel, BATs and STTs, laboratories, MRO's, substance abuse professionals (SAP's), consortia, and third party administrators.

SHY BLADDER means a donor is unable to provide a sufficient quantity of urine for a drug test. When this occurs, the donor is offered up to 40 ounces of fluid over a three (3) hours period to try to obtain an adequate urine specimen for testing in one void. If the donor is still unable to provide a sufficient quantity of urine, the donor must be evaluated by a physician, acceptable to the MRO, to determine if there is a medical explanation for the inability to provide the specimen.

SHY LUNG means an individual is unable to provide a sufficient amount of breath to perform an evidential breath test for alcohol. When this occurs, the donor must be evaluated by a physician, approved by the Employer, to determine if there is a medical explanation for the inability to provide sufficient breath.

SPECIMEN means a body fluid that is analyzed to detect the presence of a drug or determine the alcohol concentration level. This Program may be amended to include specimens other than urine, breath, or saliva that are approved by the U.S. Department of Health and Human Services for federal workplace drug testing programs and the U.S. Department of Transportation.

SPLIT SPECIMEN (Bottle B) is a part of the urine specimen that is sent to the first laboratory and retained unopened, and which will be transported to a second laboratory in the event that the employee requests it be tested following a verified positive, adulterated, or substituted test of the primary specimen.

STAND DOWN means the practice of temporarily removing an employee from the performance of safety-sensitive functions based only on a report from a laboratory to the MRO of a confirmed positive test for a drug or drug metabolite, an adulterated test, or a substituted test, before the MRO has completed verification of the test results. Employers are prohibited from standing down employees unless a waiver has been requested and granted by FMCSA, in accordance with 49 CFR Part 40.21. An employer does not need a 40.21 waiver to take other actions involving the performance of safety sensitive functions.

SUBSTANCE ABUSE PROFESSIONAL (SAP) means a licensed physician (Medical Doctor or Doctor of Osteopathy), or a licensed or certified psychologist, social workers, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission or by the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse). All must have knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled substances related disorders.

The SAP is also required to have a working knowledge of DOT/FMCSA applicable to the employer for whom he/she evaluates employees who have engaged in a DOT drug or alcohol regulation violation.

SUBSTITUTED SPECIMEN is a specimen not consistent with human urine that has been submitted by the employee in place of his or her own urine.

SUBSTITUTED TEST means a specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine. If a specimen is reported to the Medical Review Officer to have been substituted, the Medical Review Officer will offer the employee/applicant the right to have his/her split specimen tested. If the specimen is determined to have been substituted, the Medical Review Officer will advise the employee/applicant of specific additional procedural steps that may be taken to challenge the result. If the Medical Review Officer reports that the employee/applicant has a verified substituted test result, it is considered a refusal to take a drug test. A refusal to take a drug test has the same consequences as a verified positive test under FMCSA regulations.

SUPERVISOR means all operational supervisors employed by the Town of Scituate to supervise driver employment activities, and who have received 60 minutes of training on the specific and contemporaneous physical, behavioral, and performance indicators of probable drug use, and an additional 60 minutes of similar training of probable alcohol use/misuse. A supervisor does not have to be a supervisor by job description title.

VALIDITY TESTING is performed to determine whether a urine specimen is adulterated or substituted. An adulterated specimen means that a specimen contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration level so high that it is not consistent with human urine. Substituted specimen means that the creatinine and specific gravity values of the specimen are so diminished that they are not consistent with human urine.

VERIFIED NEGATIVE DRUG TEST means the result of a confirmed laboratory positive test has established the presence of a drug (s) or drug metabolite(s) in a specimen at or above the threshold level, and has been determined negative by the MRO after an evaluation of the donor's medical history and any other relevant biomedical information.

VERIFIED POSITIVE DRUG TEST means the result of a confirmed laboratory positive test has established the presence of a drug(s) or drug metabolite(s) in a specimen at or above the threshold level, and has been determined positive by the MRO after an evaluation of the donor's medical history and any other relevant biomedical information.

WORKPLACE means a building, property or premise owned or utilized for official business, jobsites, and any type of vehicles owned and/or operated by an employee on behalf of the Town of Scituate.

Sec. 3-103 PROHIBITED CONDUCT

In accordance with 49 CFR Part 382, subpart B, "Prohibitions" and the Town of Scituate's own authority, conduct listed in this Section is prohibited. *A driver in violation of the provisions in this Section is subject to disciplinary action up to and including termination for gross and willful misconduct.*

- A. A driver is prohibited from performing, and the Employer is prohibited from using a driver to perform safety sensitive functions upon notification of a verified positive, substituted or adulterated drug test result or an EBT alcohol test result indicating a measured alcohol concentration of 0.02 or greater, regardless of when the drug or alcohol was ingested and

regardless of whether or not the driver is under the influence of alcohol or using drugs, as defined in federal, state or local law.

B. Refusal to Test (alcohol or controlled substance test). Refusal to test means that the driver:

1. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the Employer, consistent with DOT/FMCSA regulations, after being directed to do so by the Employer;
2. Fails to remain at the testing site until the testing process is complete. If the reason for the test is pre-employment, then a driver who leaves the testing site before the testing process commences a pre-employment test is not deemed to have refused to test;
3. Fails to provide a urine specimen for any drug test required by Part 40 or FMCSA regulations. If the reason for the test is pre-employment, then a driver who does not provide a urine specimen because he/she has left the testing site before the testing process commences is not deemed to have refused to test;
4. In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the driver's provision of a specimen;
5. Fails to provide a sufficient amount of urine when directed, and it has been determined through a required medical evaluation that there was no adequate medical explanation for the failure;
6. Fails or declines to take a second test the employer or collector has directed the driver to take;
7. Fails to undergo a medical examination or evaluation, as directed by the MRO as part of the verification process, or as directed by the Employer under 49 CFR part 40.193. In the case of a pre-employment drug test, the driver is deemed to have refused to test on this basis only if the pre-employment test is conducted following a contingent offer of employment;
8. Fails to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process); or is reported by the MRO as having a verified adulterated or substituted test result.

C. Controlled Substances

The following conduct is prohibited when a driver is performing safety sensitive functions on the Employer's property, in the workplace, on duty, or off duty when the conduct affects the driver's fitness for duty.

1. Use of illicit drugs.
2. Having a verified positive, adulterated or substituted drug test result. If a properly conducted urinalysis shows that the donor has in his/her urine any amount of a drug(s) or drug metabolite(s) whose possession or use is unlawful or in violation of this Program; and, that amount is not the result of medical treatment, prescribed by a licensed medical practitioner for that individual, it will constitute a verified positive drug test. Legally prescribed medications must be written ONLY for the driver. Any driver taking a medication prescribed for another person (including a spouse) will be considered to be taking an illegal substance.
3. Misuse or impairment by authorized drug use which may affect work performance or pose a danger to the safety of the driver or others. Drivers are required to inform the Employer's designated representative of any therapeutic drug use.
4. Reporting for duty or remaining on duty requiring the performance of safety sensitive functions when the driver uses any controlled substance unless the controlled substance is prescribed for the driver and is used pursuant to the instructions of a licensed medical

practitioner who has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle.

5. If the Employer has actual knowledge that a driver has used a controlled substance the driver shall not be permitted to perform or continue to perform a safety sensitive function.
6. When a driver fails to provide an adequate urine sample, the Employer, after consulting with Medical Review Officer (MRO) shall direct the driver to obtain, within five days, an evaluation from a licensed physician, acceptable to the MRO. The referral physician must have expertise in the medical issues raised by the driver's failure to provide a sufficient specimen, to determine if a medical condition precluded the driver from providing a sufficient amount of urine. The referral, if other than the MRO, must provide a written report to the MRO. The MRO will seriously consider and assess the referral physician's recommendation in making a determination of the reason for the inability to provide an adequate specimen.
 - a. If the MRO determines the failure to provide an adequate specimen was due to a medical condition, the test will be reported as cancelled to the Employer. A cancelled test will not constitute a "refusal to test" and no disciplinary action will be taken.
 - b. If the MRO determines the failure to provide an adequate specimen was not due to a medical condition, the MRO will report a "refusal to test" to the Employer.
7. Leaving the scene of an accident without a valid reason, except to submit to a drug test or to receive or to obtain medical treatment, will create a rebuttable presumption of a refusal to test.
8. Consuming any chemical substance within 32 hours after an accident unless a post accident drug test has been performed.

D. Alcohol

The following conduct is prohibited when a driver is performing safety sensitive functions on the Employer's property, in the workplace, on duty, or when the conduct affects the driver's fitness for duty.

1. Use of alcohol, an alcohol concentration of 0.02 or greater, or under the influence of alcohol while performing safety-sensitive functions, operating or having physical control of a vehicle, or within four (4) hours before going on duty operating or having physical control of a vehicle.
2. Leaving the scene of an accident, except to submit to an alcohol test or to receive or obtain medical treatment, or consuming any alcohol within eight (8) hours after an accident unless a post accident alcohol test has been performed.
3. Having ANY measured alcohol concentration or detected presence of alcohol while on duty, operating or in physical control of a vehicle (Ref: 49 CFR Part 392.5).
4. Be on duty or operate a vehicle if, by the driver's general appearance or conduct or by other substantiating evidence, the driver appears to have used alcohol within the preceding four (4) hours regardless of whether an EBT alcohol test has been performed.
5. Report for duty, perform or continue to perform safety sensitive functions including driving a vehicle with an alcohol concentration level of 0.02 or greater. No employer having actual knowledge that a driver has an alcohol concentration of 0.02 or greater shall permit the driver to perform or continue to perform safety-sensitive functions.
 - a. When a driver has a confirmed alcohol concentration level of 0.02 but less than 0.04 the driver will be immediately removed from performing any safety sensitive function until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following administration of the test. No action, under DOT/FMCSA, may be taken against a driver based solely on test results showing an

alcohol concentration level less than 0.04. The Employer is not prohibited from taking action, under its own authority, or as otherwise consistent with law.

- b. When a driver has a confirmed alcohol concentration level of 0.04 or greater the driver will be immediately removed from performing any safety sensitive function.
6. Any driver whose appearance, conduct, or other substantiating evidence gives reasonable suspicion of alcohol use and a test cannot be administered will be immediately removed from performing any safety sensitive function. Removal from duty for reasonable suspicion when unable to administer a test for alcohol does not require evaluation by a substance abuse professional.
7. When a driver fails to provide an adequate breath sample, the driver will be referred to a licensed physician, approved by the Employer, for a medical evaluation to determine the reason for the inability to provide an adequate sample.
 - a. If the physician determines the failure to provide an adequate specimen was due to a medical condition, it will not constitute a "refusal to test" and no disciplinary action will be taken.
 - b. If the physician determines the failure to provide an adequate specimen was not due to a medical condition, it will constitute a "refusal to test."

Sec. 3-104 REQUIRED TESTING

This Program provides for testing of applicants for employment and employee drivers for the use of controlled substances, including alcohol, for the following purposes:

Pre-employment (Drug Test Only)
Random
Return to Duty and Follow Up, if applicable
Reasonable Suspicion
Post Accident

Employees will be compensated for time expended to provide test samples only if testing is directed by the Employer. Applicants are not compensated for time expended to provide test samples.

A. PRE-EMPLOYMENT

1. As a condition of employment, all driver applicants are required to comply with the provisions of the Town of Scituate controlled Substances and Alcohol Testing Policy and the requirements of 49 CFR part 40, and 49 CFR part 382.
2. All driver applicants are subject to pre-employment drug testing unless otherwise exempted by regulation. Testing must be completed, and the Employer must receive a verified negative test result for the driver prior to the first time a driver performs a safety-sensitive function. The Employer is not required to administer a pre-employment controlled substances test if the driver meets the exceptions of 49 CFR part 382.301(b) as follows:
 - a. Has participated in a controlled substances testing program that meets the requirements of 49 CFR part 382 within the previous thirty (30) days; and
 - b. Was tested for controlled substances within the past six (6) months (from the date of application with the Employer), or participated in the random controlled substances testing program for the previous 12 months (from the date of application with the Employer); and

- c. The Employer ensures that no prior employer of the driver has records of a violation of the MCSA regulations or the controlled substances use rule of another DOT agency within the previous six (6) months.
3. If the Employer exercises the exception to perform a pre-employment controlled substances test, the Employer must contact the controlled substances testing program(s) in which the driver participated and shall obtain and retain the following information:
 - a. Name(s) and address (es) of the program(s).
 - b. Verification that the driver participates or participated in the program(s) and the program conforms to Part 40.
 - c. Verification that the driver is qualified under FMCSA regulations, including that the driver has not refused to be tested for controlled substances.
 - d. The date the driver was last tested for controlled substances and the results of any tests taken within the previous six (6) months and any other violations of FMCSA regulations.
4. If the Employer uses, but does not employ a driver more than once a year to operate a CMV, the information enumerated above in #2 must be obtained at least once every six (6) months.
5. Upon an offer of employment and as a condition of employment: **(1)** An applicant will be asked to disclose, under affidavit, whether he/she has had a positive drug or alcohol test result, or refusals to test on any **pre-employment test** administered by an employer to which the applicant applied for, but did not obtain safety-sensitive transportation work covered by DOT during the past **three (3)** years. If the applicant admits that he/she had a positive or a refusal to test on a pre-employment test, the applicant must satisfy the requirements of V. A. 5.d (1)-(6) below to be considered for employment. **(2)** The applicant will also be required to sign a release authorizing the Town of Scituate to obtain information on the applicant's alcohol tests with a concentration result of 0.04 or greater, verified positive controlled substances test results, refusals to be tested, and other violations of DOT/FMCSA drug and alcohol testing regulations from DOT employers for whom the individual worked during the **three (3)** years prior to the date of application or transfer.
 - a. If feasible, the information required in V.A.5 above must be obtained from previous employers prior to the first time the applicant performs safety sensitive functions for the Town of Scituate.
 - b. If not feasible, the information must be obtained and reviewed as soon as possible, but no later than 30 calendar days after the first time the applicant performs safety sensitive functions unless the Employer obtained or made and documented a good faith effort to obtain this information.
 - c. The Employer must retain this information (including documentation of a good faith effort to obtain) for three years from the date of the driver applicant's first performance of safety sensitive duties.
 - d. Upon receipt of the information described in V.A5., above, if the information states or if the driver applicant admits that he/she has had a verified positive drug or alcohol test, or refusal to be tested, the Employer is prohibited from using the driver applicant to perform safety-sensitive functions until and unless the applicant documents successful completion of the return-to-duty process by submitting evidence of:

- (1) Evaluation by a substance abuse professional;
 - (2) Completion of any treatment, counseling, rehabilitation, etc., recommended by the substance abuse professional;
 - (3) Reevaluation by a substance abuse professional to determine the applicant has successfully and properly complied with the treatment, counseling, rehabilitation, etc.
 - (4) Passed a return to duty test with a result indicating an alcohol concentration of less than 0.02 and/or a controlled substances test with a verified negative result;
 - (5) Completion of at least six follow up tests with negative results within 12 months after a return to duty; and
 - (6) The applicant has been medically certified as qualified to drive. If the driver applicant refuses to provide written consent to authorize release of the drug and/or alcohol testing history he/she will not be permitted to perform safety sensitive functions as a driver.
- e. If the Town of Scituate is the employer from whom information is requested, after reviewing a driver applicant's specific, written consent, the information must immediately be released to the employer making the inquiry. All information provided must be in writing, and a written, confidential record of the information, including the date, the party to whom it was released, and a summary of the information provided documented and maintained on file.

B. REASONABLE SUSPICION

This Policy provides for the testing of drivers for controlled substances, including alcohol, when a Town of Scituate supervisor, who is trained in accordance with 49 CFR part 382.603, has reasonable suspicion the driver is unfit to perform his/her duties or has used or is using controlled substances and/or alcohol prohibited under this Program.

1. Reasonable suspicion arises from direct observation of use (as defined in this policy), or based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odors of the driver. A written record shall be made of the observations leading to an alcohol or controlled substances reasonable suspicion test, and signed by the supervisor or Company official who made the observations, within 24 hours of the observed behavior or before the results of the alcohol or controlled substances tests are released, whichever is earlier.
2. Drivers may be directed by the Town of Scituate to undergo reasonable suspicion testing while the driver is performing safety-sensitive functions, just before the driver is to perform safety-sensitive functions, or just after the driver has ceased performing such functions.
3. Determinations to test will be made immediately before, during or immediately after a driver is performing a safety sensitive function.
4. The supervisor who makes a determination to test a driver for reasonable suspicion of drugs or alcohol shall not perform the specimen collection for the drug test or perform the EBT test for alcohol.

5. Reasonable suspicion alcohol tests will be performed within eight (8) hours of the determination that such testing is required.
6. A driver will be removed from performing safety sensitive functions until a test can be performed confirming an alcohol concentration less than 0.02; for a minimum of 24 hours if an alcohol test is not performed.
7. Procedure - A driver directed to submit to a reasonable suspicion controlled substances and/or alcohol test will be transported to a collection/testing site by the Employer's designated representative for the collection of urine and/or a breath specimen.

C. RANDOM

1. All covered employees are subject to random testing for drugs and alcohol. The selection of drivers for random alcohol and controlled substances testing is made by a scientifically valid method, using a computer based random number generator that is matched with the drivers' social security numbers, and is fully documented. Selections are spread reasonably throughout the calendar year, and each driver selected for testing must be tested during the selection period.
2. Drivers selected for random testing will be notified and shall immediately report to the collection/testing site upon notification to be tested. If the driver is performing a safety sensitive function, other than driving a commercial motor vehicle, at the time of notification, the Employer will ensure the driver ceases to perform the safety sensitive function and proceed to the testing site as soon as possible. Failure to immediately proceed to the collection/testing site may be deemed a refusal to test.
3. Random alcohol tests will be performed while the driver is performing or just before performing safety sensitive functions or just after the driver has ceased performing safety sensitive functions.
4. Random controlled substances testing will be conducted at any time the driver is working for the Employer
5. When a driver is off work due to long term layoffs, illnesses, injuries or vacation more than 30 days, the pre-employment controlled substances provisions apply prior to the driver performing safety sensitive functions.

D. POST ACCIDENT

1. Drivers are subject to post accident testing for drugs and alcohol as defined in Section III. "Definitions" of this Program. Drivers will be provided with necessary post accident information, procedures, and instructions so that testing can be performed.
2. Post accident drug and alcohol tests will be performed as soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce.
Drivers must remain readily available for testing, in the absence of receiving or obtaining medical treatment, and are prohibited from using any drugs or alcohol until testing has been completed. The administration of legal drugs determined to be medically necessary for treatment of injuries of the driver when prescribed by a licensed medical practitioner will not be delayed pending a drug test.

3. Post accident controlled substance tests must be performed as soon as possible but within 32 hours after an accident. If the test is not administered within 32 hours following the accident, the supervisor shall cease any attempt to administer the test, under DOT authority, and document why it was not possible to perform it and maintain on file. Records must be submitted to the FMCSA upon request.
4. Post accident EBT alcohol tests must be performed as soon as possible but within eight (8) hours after the accident.
 - a. If an EBT test is not administered within two (2) hours following the accident, the supervisor is required to document why it was not performed and maintain on file. Records must be submitted to the FMCSA upon request.
 - b. If an EBT test is not administered within eight (8) hours following the accident, the supervisor shall cease any attempt to administer the test and document why it was not performed, and if it would have been possible to perform a blood alcohol test.
5. Any "missed" tests, e.g., tests could not be performed, shall be reported to FMCSA, upon request.
6. A breath or blood test for the use of alcohol and/or a urine test for the use of controlled substances conducted by Federal, State, or local officials having independent authority for the test, shall be considered to satisfy the post accident testing requirements, provided such tests conform to the applicable Federal, State, or local testing requirements and that the results of the tests are obtained by the Employer.

The following table notes when post-accident drug and alcohol tests are required to be performed in accordance with DOT/FMCSA regulations.

| Type of Accident Involved | Citation Issued to the CMV Driver | Test Must Be Performed By Employer |
|---|-----------------------------------|------------------------------------|
| Human Fatality | YES | YES |
| | NO | YES |
| Bodily injury with immediate medical treatment away from the scene. | YES | YES |
| | NO | NO |
| Disabling damage to any motor vehicle requiring tow away. | YES | YES |
| | NO | NO |

- The driver must receive a citation within 32 hours of the occurrence under State or local law for a moving traffic violation arising from the accident.

E. RETURN TO DUTY

When a driver is in violation of the controlled substances or alcohol prohibitions in the Policy, before a driver returns to duty requiring the performance of safety, he/she must:

1. Be evaluated by a Substance Abuse Professional (SAP);
2. Complete the recommended treatment, counseling plan, etc.

3. Be re-evaluated by the SAP to determine successful completion of treatment; and
4. Submit to a return to duty test for drugs and/or alcohol
 - a. The result for a controlled substances test result must be negative and/or;
 - b. The alcohol test result must confirm an alcohol concentration level less than 0.02.

F. FOLLOW UP

1. After passing a return to duty test, the driver is required to submit to at least six (6) follow up tests during the first 12 months following return to duty.
2. Follow up testing may be required for up to 60 months unless the substance abuse professional makes a determination testing is no longer warranted.
3. Follow up tests are unannounced and may include testing for drugs and/or alcohol.
4. Follow-up alcohol testing will be conducted only when the driver is performing or just before performing safety sensitive functions, or just after the driver has ceased performing safety sensitive functions.

Sec. 3-105 SUBSTANCES TO BE TESTED

- A. Under this Program applicants and drivers will be routinely tested for the substances listed below:

Cocaine
Opiates
Phencyclidine (PCP)
Cannabinoids (Marijuana)
Amphetamines, and
Alcohol

The threshold levels (screening and confirmation) for the substances specifically listed above have been established by DHHS/SAMHSA Regulations, 49 CFR Part 40, and this Program adopts, by reference, these threshold levels for testing purposes as published and including any subsequent amendments

The name of the Town of Scituate designated employee to contact to answer any questions, third party administrator, testing laboratory, and Medical Review Officer are listed in Appendix B.

Sec. 3-106 INDIVIDUAL RIGHTS

- A. The individual being tested will receive a copy of the Chain of Custody form upon completion of the specimen collection process for a urine drug test.
- B. A copy of the Chain of Custody form, which includes the test result, will be given to the individual tested for alcohol when performed using an EBT.

Sec. 3-107 GENERAL PROVISIONS

- A. If a driver is using a legally obtained prescription or over the counter drug which has actual mind or performance altering effects, he/she must show the medication and/or prescription to the DER at the beginning of the work period. Depending upon the nature of the drug and the

driver's job duties, the DER may refuse to allow the driver to perform safety sensitive functions unless he/she refrains from taking the medicine/drug:

1. Until such time as the effects will not be experienced during the driver's on duty time; or
 2. Upon presenting a note from the prescribing licensed medical practitioner stating there are no adverse side effects from taking the prescription which would impair the driver's ability to safely perform safety sensitive functions.
- B. Witnessed urine specimen collection (specimens collected under direct observation) shall or may be required when:
1. A donor alters or attempts to alter, substitute, or contaminate a urine specimen.
 2. A donor attempts to obstruct the testing process.
 3. The temperature of the urine specimen is outside of the established temperature range 90-100 degrees F.
 4. A previous drug test report indicated an adulterated or substituted specimen.
 5. A donor has previously had a verified positive test result.
- C. Drivers shall notify the Designated Employer Representative (DER) of any conviction of a violation, in any type of motor vehicle, a State or local law relating to motor vehicle traffic control (other than a parking violation) but including a criminal drug or alcohol statute conviction. Drivers are also required to notify the DER if his/her driver's license is suspended, revoked, or canceled by a State or jurisdiction; who loses the right to operate a CMV for any period; or, who is disqualified from operating a CMV. The notification must be made before the end of the business day following the day the employee received notice of the suspension, revocation, cancellation, lost privilege, or disqualification.
- D. Legally prescribed medications must be written ONLY for the driver. Any driver taking a medication prescribed for another person (including a spouse) will be considered to be taking an illegal substance. Medications and any food substance containing alcohol are prohibited for drivers on duty and while performing safety sensitive functions. Ingestion of hemp foods or products is not a legal medical explanation as a defense to a positive drug test under DOT.
- E. The Employer reserves the right to implement a policy, in accordance with 49 CFR Parts 40.155(c) and 40.197, that requires an employee to immediately take another drug test upon the receipt of a "negative dilute" test result from the MRO. When an employee is directed to take another test (but not under direct observation), the result of the second test becomes the test of record. The employer is not permitted to make the employee take a third test because the second test was also "negative dilute." If an employee does not take a second test, it becomes a refusal to test and the employee will be subject to the same disciplinary action as provided herein on a refusal to test.

Sec. 3-108 CONSEQUENCES OF PROGRAM VIOLATION(S)

- A. Except as otherwise provided in this Policy, no driver shall perform safety sensitive functions, including driving a CMV, if the driver has engaged in conduct prohibited by this Policy or an alcohol or controlled substances rule of another U.S. Department of Transportation agency. For purposes of this section, "CMV" means a commercial motor vehicle in commerce as defined herein and a CMV in interstate commerce as defined in 49 CFR part 390.

- B. No driver who has engaged in conduct prohibited by this Policy shall perform safety sensitive functions, including driving a CMV, unless the driver has successfully completed the referral, evaluation, and treatment listed in this Policy.
- C. No driver tested under the alcohol testing requirements of the DOT/FMCSA listed in this Policy who is found to have an alcohol concentration of 0.02 but less than 0.04 shall perform or continue to perform safety sensitive functions for the Town of Scituate including driving a CMV, until the start of the driver's next regularly scheduled duty period, but not less than twenty-four (24) hours following the administration of the test.
- D. Drivers who have engaged in conduct prohibited by this Policy will be advised by the Town of Scituate of the resources available to the driver in evaluating and resolving problems associated with the misuse of alcohol and use of controlled substances, including the names, addresses, and telephone numbers of substance abuse professionals and counseling and treatment programs. **(Appendix C)**
- E. Drivers who have engaged in conduct prohibited by this Policy will be evaluated by a SAP who will determine what assistance the employee needs in resolving problems associated with alcohol misuse and controlled substances use.
- F. In the event a driver is returned to duty requiring the performance of safety sensitive functions after engaging in conduct prohibited by this Policy, and after successfully completing the return-to-duty requirements, the driver shall undergo a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02, and/or a controlled substances test with a verified negative result, and be subject to the follow-up testing requirements.
- G. The requirements of this Policy with respect to referral, evaluation and rehabilitation do not apply to applicants who refuse to submit to a pre-employment controlled substances test or who have a pre-employment controlled substances test with a verified positive, substituted, or adulterated test result.
- H. An employee cannot voluntarily self-identify that he/she needs assistance to avoid testing or disciplinary action related to a violation of this Policy.

Sec. 3-109 AVAILABLE ASSISTANCE

- A. A list of names, addresses, and telephone numbers of counseling, treatment and rehabilitation providers is available in **(Appendix C)**. The Employer does not imply any endorsement of these services in furnishing such a list.
- B. An employee may contact the Employer's Designated Representative listed in **(Appendix B)** to identify additional resources for treatment.
- C. Periodically the Employer will disseminate drug abuse and alcohol misuse information to drivers.
- D. A driver identified as needing assistance in resolving problems associated with alcohol misuse or controlled substances use must:
 - 1. Be evaluated by a Substance Abuse Professional (SAP);
 - 2. Complete the recommended treatment, counseling plan, etc.
 - 3. Be re-evaluated by the SAP to determine successful completion of treatment; and
 - 4. Submit to a return to duty test for drugs and/or alcohol

- a. The result for a controlled substances test result must be negative and/or;
 - b.
 - c. The alcohol test result must confirm an alcohol concentration level less than 0.02.
- 5. After passing a return to duty test, the driver is required to submit to at least six (6) follow up tests during the first 12 months following return to duty.
 - 6. Follow up testing may be required for up to 60 months unless the substance abuse professional makes a determination testing is no longer warranted.
 - 7. Follow up tests are unannounced and may include testing for drugs and/or alcohol.
 - 8. Follow-up alcohol testing will be conducted only when the driver is performing or just before safety sensitive functions, or just after the driver has ceased performing safety sensitive functions.

Sec. 3-110 NOTIFICATION OF PROGRAM

- A. Applicants for driver positions may be notified of this Policy by letter, by posting the Policy or a notice thereof prominently in the applicant processing area or by including such notice on the application for employment.
- B. All incumbent employee drivers were notified of the Policy prior to implementation and will receive notice of any amendments to this Policy. Copies of the Policy are available for inspection during regular business hours in the Employer's business office.
- C. Questions regarding this Program may be directed to the Employer's Designated Representative listed in (Appendix B).

Sec. 3-111 CONSENT TO TESTING

Applicants and employee drivers are required to complete and sign a form that includes, but is not limited to, the information listed below. The form will be executed and maintained as part of the pre-placement/employment procedures. As such, the requirements for confidentiality are the same as any other record.

- A. Acknowledges that notice of this Policy, 49 CFR part 382, U.S. Department of Transportation/Federal Motor Carrier Safety Administration regulations and testing procedures required in 49 CFR part 40 has been provided.
- B. Acknowledges consent by the applicant or employee to be tested for chemical substances, as defined herein, and comply with the provisions of the Policy.
- C. Authorizes the Employer's Medical Review Officer and a breath alcohol technician, when an EBT test is performed or STT when a saliva/breath screening alcohol test is performed, to release results to the DER.
- D. Acknowledges that no applicant or employee can be forced to submit to a chemical substance screening test, but that failure to submit constitutes a refusal to test and shall create a rebuttable presumption that a chemical substance was present.

Sec. 3-112 DISCLAIMER - SEPARABILITY AND SAVINGS

- A. Federal regulations shall not be construed to preempt provisions of state criminal laws that impose sanctions for reckless conduct leading to actual loss of life, injury, or damage to property, whether the provisions apply specifically to transportation employees, employers, or the general public.
- B. This Policy does not imply any contractual employment relationship and the Employer explicitly reserves the right to "employment at will."
- C. If any portion of this Policy or any amendments hereto should be held invalid by operation of law or by any tribunal of competent jurisdiction, or if compliance with or enforcement of any portions should be restrained by such tribunal pending a final determination as to its validity, the remainder of this program and amendments, or the application of such portion to persons or circumstances other than those to which it has been held invalid or as to which compliance with or enforcement of has been restrained shall not be affected.
- D. This Policy is not intended to and shall not constitute any waiver of any rights possessed by the Employer from any source whatsoever. Nothing in this Policy shall be construed as limiting the Employer's right to take disciplinary action up to and including termination for willful misconduct due to involvement with drugs or alcohol not specifically addressed herein.
- E. This Policy may be amended as required by federal, state, or local laws and regulations affecting drug and alcohol testing programs in the workplace.

Sec. 3-113 DISCIPLINE

- A. The town, department of public works has adopted additional employee policies with respect to the use or possession of alcohol or controlled substances, including consequences for a driver found to have a specified alcohol or controlled substance level, based upon the employer's authority independent of the DOT/FHWA Federal Regulations.
- B. The town, department of public works adopts the following discipline policy which is to be appended and implemented in conjunction with the town substance and alcohol testing policy reviewed by the town council originally on January 11, 1996, and as amended.
- C. In addition to all of the consequences set forth in such policy, such consequences being incorporated herein by reference, any employee found to have violated the policy shall be disciplined as follows:
 - (1) *First offense*: Suspension from job without pay for up to fourteen (14) days and a letter of reprimand in personnel file at the discretion of the director of public works.
 - (2) *Second offense*: Suspension from job without pay for at least fourteen (14) days up to and including termination and a letter of reprimand in the personnel file at the discretion of the director of public works.
 - (3) *Third offense*: Termination.

Appendix A

DHHS/SAMHSA Certified Drug Testing Laboratories

Drugs Tested/Cutoff Concentrations/Validity Testing/Retention of Specimens

A laboratory must only test a specimen for the following five drugs or classes of drugs in a DOT drug test. The laboratory is prohibited from testing specimens for any other drugs including DNA testing.

| Type of Drug/Metabolite | Initial Test | Confirmation Test |
|---|--------------|--|
| <u>Marijuana</u> | 50 | |
| Metabolite Delta-9-teretrahydrocannabinol-9-carboxylic acid (THC) | | 15 |
| <u>Cocaine Metabolites</u> (Benzoylecgonine) | 300 | 150 |
| <u>Phencyclidine(PCP)</u> | 25 | 25 |
| <u>Amphetamines</u> | 1000 | |
| Amphetamine | | 500 |
| Methamphetamine | | 500 |
| | | (specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/ml). |
| <u>Opiates</u> | 2000 | |
| Morphine | | 2000 |
| Codeine | | 2000 |
| 6-MAM | | 10 * |

*A 6-MAM test is only performed when a specimen contains morphine at a concentration equal to or greater than 2000 ng/ml.

1. On an initial test: (1) If the result is below the cutoff concentration level it is reported as negative. (2) If the result is at or above the cutoff level, a confirmation test must be performed.
2. On a confirmation test: (1) If the result is below the cutoff level it is reported as negative. (2) If the result is at or above the cutoff level, it is reported as a confirmed positive result.
3. Quantitative values for morphine or codeine must be reported at 15,000 ng/ml or above.

Alcohol testing performed by a Certified Breath Alcohol Technician (BAT) using an Evidential Breath Testing (EBT) Device, which appears on the CPL of the National Highway Traffic Safety Administration and approved by DOT. Prohibited alcohol concentration levels are:

Screening

0.02> requires confirmation

Confirmation

0.02<0.04 requires 24 hours removal

0.04> requires removal and referral to SAP

Appendix B

Contacts/Providers

PERSON IDENTIFIED TO ANSWER QUESTIONS

As part of the Town of Scituate Policy to ensure fair and equal treatment of drivers, the Town of Scituate understands that there may be questions and concerns involving the Controlled Substances and Alcohol Testing Policy.

To assist drivers in understanding the requirements placed on drivers and the Town of Scituate, the following individual(s) have been designated to answer any questions that may arise concerning the Controlled Substances and Alcohol Testing Policy, and may be contacted at:

Phone:

Fax:

Address

THIRD PARTY ADMINISTRATOR

Health Resources
600 West Cummings Park, Suite 3400
Woburn, MA 01801
800-350-4511

DRUG TESTING LABORATORY

Laboratory Corporation of America
69 First Avenue
Raritan, NJ 08869
800-437-4986

MEDICAL REVIEW OFFICER

Brian Morris, M.D., MRO et al
600 West Cummings Park, Suite 3400
Woburn, MA 01801
800-350-4511
Fax 781-938-4690

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at <http://www.dot.gov/ost/dapc>, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

Appendix C

Sources of Assistance and Help

SAMHSA Facility Locator <http://findtreatment.samhsa.gov>. This searchable directory of drug and alcohol treatment programs shows the locations around the country that treat alcoholism, alcohol abuse and drug abuse problems. The Locator includes more than 11,000 addiction treatment programs, including resource centers, outpatient treatment programs, and hospital inpatient programs for drug addiction and alcoholism. Listings include treatment programs for marijuana, cocaine, and heroin as drug and alcohol treatment programs for adolescents, and adults.

National Clearinghouse for Drug and Alcohol Information

Monday-Friday
1-800-729-6686

National Council on Alcoholism

7 days a week, 24 hours a day
1-800-622-2255

APPENDIX D

TOWN OF SCITUATE

CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY AND PROCEDURES

ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING

I HEREBY ACKNOWLEDGE that I have received, read and understand my Employer's *Controlled Substances and Alcohol Testing Model Policy* and procedures and understand that I must abide by the terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and my Employer's policy, and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences related to controlled substances use or alcohol misuse conduct as prohibited by my Employer's policy.

I acknowledge that the provisions of my *Employer's Controlled Substances and Alcohol Testing Model Policy* and procedures are part of the terms and conditions of my employment, and that I agree to abide by them.

THE UNDERSIGNED STATES THAT HE OR SHE HAS READ THE FOREGOING ACKNOWLEDGEMENT AND UNDERSTAND THE CONTENTS THEREOF:

Date: _____

Date: _____

Signature of Employee/Applicant

Witness Signature

Printed Name

Social Security Number

Original Acknowledgment of Receipt and Understanding will be kept on file with the Town of Scituate. A copy of the Acknowledgement of Receipt and Understanding will be provided to the employee/applicant.

Appendix A

DHHS/SAMHSA Certified Drug Testing Laboratories

Drugs Tested/Cutoff Concentrations/Validity Testing/Retention of Specimens

A laboratory must only test a specimen for the following five drugs or classes of drugs in a DOT drug test. The laboratory is prohibited from testing specimens for any other drugs including DNA testing.

| Type of Drug/Metabolite | Initial Test | Confirmation Test |
|---|--------------|--|
| <u>Marijuana</u> | 50 | |
| Metabolite Delta-9- tetrahydrocannabinol-9- carboxylic acid (THC) | | 15 |
| <u>Cocaine Metabolites</u> | 300 | 150 |
| (Benzoylecgonine) | | |
| <u>Phencyclidine(PCP)</u> | 25 | 25 |
| <u>Amphetamines</u> | 1000 | |
| Amphetamine | | 500 |
| Methamphetamine | | 500 |
| | | (specimen must also contain amphetamine at a concentration of greater than or equal to 200 ng/ml). |
| <u>Opiates</u> | 2000 | |
| Morphine | | 2000 |
| Codeine | | 2000 |
| 6-MAM | | 10 * |

*A 6-MAM test is only performed when a specimen contains morphine at a concentration equal to or greater than 2000 ng/ml.

1. On an initial test: (1) If the result is below the cutoff concentration level it is reported as negative. (2) If the result is at or above the cutoff level, a confirmation test must be performed.
2. On a confirmation test: (1) If the result is below the cutoff level it is reported as negative. (2) If the result is at or above the cutoff level, it is reported as a confirmed positive result.
3. Quantitative values for morphine or codeine must be reported at 15,000 ng/ml or above.

Alcohol testing performed by a Certified Breath Alcohol Technician (BAT) using an Evidential Breath Testing (EBT) Device, which appears on the CPL of the National Highway Traffic Safety Administration and approved by DOT. Prohibited alcohol concentration levels are:

Screening

0.02> requires confirmation

Confirmation

0.02<0.04 requires 24 hours removal

0.04> requires removal and referral to SAP

Appendix B

Contacts/Providers

PERSON IDENTIFIED TO ANSWER QUESTIONS

As part of the Town of Scituate Policy to ensure fair and equal treatment of drivers, the Town of Scituate understands that there may be questions and concerns involving the Controlled Substances and Alcohol Testing Policy.

To assist drivers in understanding the requirements placed on drivers and the Town of Scituate, the following individual(s) have been designated to answer any questions that may arise concerning the Controlled Substances and Alcohol Testing Policy, and may be contacted at:

Phone: (401) 647-3366

Fax: (401) 647-0660

Address: 1 Lincoln Circle
North Scituate, RI 02857

THIRD PARTY ADMINISTRATOR

Health Resources
600 West Cummings Park, Suite 3400
Woburn, MA 01801
800-350-4511

DRUG TESTING LABORATORY

Laboratory Corporation of America
69 First Avenue
Raritan, NJ 08869
800-437-4986

MEDICAL REVIEW OFFICER

Brian Morris, M.D., MRO et al
600 West Cummings Park, Suite 3400
Woburn, MA 01801
800-350-4511
Fax 781-938-4690

49 CFR part 40 and 49 CFR part 382 must be available upon request to covered employees and representatives of employee organizations. 49 CFR part 40 is accessible on line at <http://www.dot.gov/ost/dapc>, by fax on demand at 1-800-225-3784 requesting document 151, by phone at 1-866-512-1800, or by writing to U.S. Department of Transportation, Office of Drug and Alcohol Policy and Compliance, 400 Seventh Street SW, Room 10403, Washington, D.C. 20590.

Appendix C

Sources of Assistance and Help

SAMHSA Facility Locator <http://findtreatment.samhsa.gov>. This searchable directory of drug and alcohol treatment programs shows the locations around the country that treat alcoholism, alcohol abuse and drug abuse problems. The Locator includes more than 11,000 addiction treatment programs, including resource centers, outpatient treatment programs, and hospital inpatient programs for drug addiction and alcoholism. Listings include treatment programs for marijuana, cocaine, and heroin as drug and alcohol treatment programs for adolescents, and adults.

National Clearinghouse for Drug and Alcohol Information

Monday-Friday

1-800-729-6686

National Council on Alcoholism

7 days a week, 24 hours a day

1-800-622-2255

APPENDIX D

TOWN OF SCITUATE

CONTROLLED SUBSTANCES AND ALCOHOL TESTING POLICY AND PROCEDURES

ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING

I HEREBY ACKNOWLEDGE that I have received, read and understand my Employer's *Controlled Substances and Alcohol Testing Model Policy* and procedures and understand that I must abide by the terms as a condition of employment. I understand that during my employment I may be required to submit to a controlled substances and/or alcohol test based on U.S. Department of Transportation (DOT) and Federal Motor Carrier Safety Administration (FMCSA) regulations.

I also understand that refusal to submit to a controlled substances or alcohol test is a violation of DOT regulations and my Employer's policy, and may result in disciplinary action, including suspension (with or without pay) or termination of employment for gross and willful misconduct. I further understand the consequences related to controlled substances use or alcohol misuse conduct as prohibited by my Employer's policy.

I acknowledge that the provisions of my *Employer's Controlled Substances and Alcohol Testing Model Policy* and procedures are part of the terms and conditions of my employment, and that I agree to abide by them.

THE UNDERSIGNED STATES THAT HE OR SHE HAS READ THE FOREGOING ACKNOWLEDGEMENT AND UNDERSTAND THE CONTENTS THEREOF:

Date: _____

Date: _____

Signature of Employee/Applicant

Witness Signature

Printed Name

Social Security Number

Original Acknowledgment of Receipt and Understanding will be kept on file with the Town of Scituate. A copy of the Acknowledgement of Receipt and Understanding will be provided to the employee/applicant.

EFFECTIVE DATE

1. **This Ordinance shall become effective upon passage.**

I hereby certify that the foregoing Ordinance was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the 8th day of November 2007.

Attest:

Margaret M. Long
Town Clerk

Robert R. Burdick
President, Town Council



It is ordained by the Town Council of the Town of Scituate to amend Chapter 6, Article IV: Hawkers and Peddlers, as follows:

ARTICLE IV. HAWKERS AND PEDDLERS*

*State law references: Hawkers and peddlers, G.L. 1956, § 5-11-1 et seq.; itinerant vendors, G.L. 1956, § 5-15-1 et seq.

Sec. 6-81. License required.

No person shall sell or offer for sale any goods, wares, merchandise, ice cream or other articles or substances on the street, nor shall any person sell fruits or vegetables from carts or baskets nor shall any person offer for sale any articles or substances as a hawker or peddler within this town without first having obtained a license from the town council.
(Ord. of 4-15-65, § 1)

Sec. 6-82. Exemptions.

The provisions of this article shall not apply to:

- (1) Any person selling religious books and publications in behalf of Bible, tract or other religious or moral societies for the purpose of promoting religious or moral improvement, and which are sold for that purpose and not for pecuniary profit.
- (2) Any butcher retailing meats, or fisherman selling fish or shellfish from carts or otherwise.
- (3) Any person peddling or selling any tow-cloth, knit stockings, gloves, mitts or other articles of household manufacture, or articles manufactured with his own hands.
- (4) Any milkman or to any farmer selling the produce of his farm or selling both the produce of his farm and the produce of other farms.

(Ord. of 4-15-65, § 3)

Sec. 6-83. Expiration, fee.

All licenses issued under this article shall expire on the 31st day of December of each year. The annual fee for such license shall be five dollars (\$5.00) for a person and fifty dollars (\$50.00) per truck.

(Ord. of 4-15-65, § 2; Res. of 4-1-79; Ord. of 1-13-94)

Sec. 6-84. Number of Licenses.

No more than seven (7) licenses shall be issued and outstanding under this section at any time.

Sec. 6-85. Proof of State Retail Sales Permit.

No license shall issue under this section without said applicant providing proof that he/she has been issued a permit to make sales at retail by the Rhode Island Division of Taxation.

Sec. 6-86. Location from like businesses and Town property.

(a) Any person licensed under this section is prohibited from selling or offering for sale any goods, wares or merchandise, including food or beverage within five hundred feet (500') of another business which sells the same or similar goods, wares or merchandise, including food or beverage, with the exception of another hawker or peddler.

(b) Any person licensed under this section is prohibited from selling or offering for sale any goods, wares or merchandise, including food or beverage within five hundred feet (500') of Town property.

Sec. 6-87. Adequate parking, State roadways, Limits on standing.

(a) Any person licensed under this section shall have available, adequate off-street parking for his/her customers.

(b) If a person licensed under this section is located on a State of Rhode Island roadway, then evidence of securing state permission to be located in the right-of-way must be provided along with the license application.

(c) Any person licensed under this section shall not stand stationary at a single location for more than one hundred and twenty (120) minutes at any one time.

Sec. 6-88. Hours of operation.

No person licensed under this section shall remain open after 10:00 p.m.

Sec. 6-89. Food Safety Attire.

Any person licensed under this section shall be prohibited from wearing swimming attire or underwear as outerwear while offering for sale any goods, wares or merchandise, including food or beverage.

Sec. 6-90. Criminal Background Check Required.

Any person licensed under this section is required to complete a Bureau of Criminal Information ("BCI") check prior to the issuance of any license. All personnel working under the licensee within Scituate shall also provide a BCI check to the licensing authority at the time of issuance of said license.

Sec. 6-91. Violations and penalties.

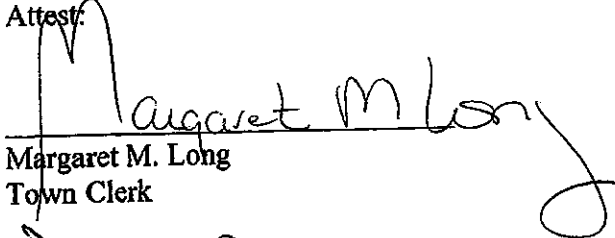
Any person violating this Article or any of the sections therein, shall, upon conviction, be fined for each offense an amount not exceeding two hundred dollars (\$200) or imprisoned not exceeding ten (10) days.


Secs. 6-92--6-105. Reserved.

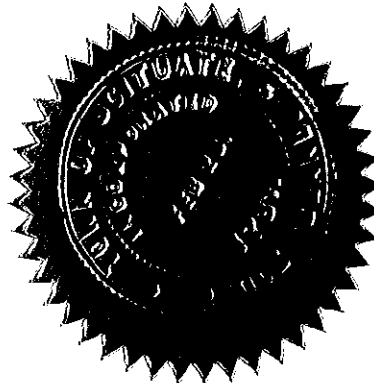
EFFECTIVE DATE: This Ordinance shall become effective upon passage.

I hereby certify that the foregoing Ordinance was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the 12th day of November 2009.

Attest:


Margaret M. Long
Town Clerk


Robert Budway
President, Town Council



TOWN OF SCITUATE ILLICIT DISCHARGE DETECTION AND ELIMINATION ORDINANCE

ARTICLE I

Section 1. Illicit Discharges

Illicit discharges to the municipal storm sewer system are comprised of non-storm water discharges that are expressly prohibited from the municipal storm sewer system unless the discharges have received all required federal, state and local permits including the Rhode Island Pollutant Discharge Elimination System (RIPDES) or is included in one of the following categories of discharges: discharges which result from the washdown of vehicles at retail dealers selling new and used automobiles where no detergents are used and individual residential car washing; external building washdown where no detergents are used; the use of water to control dust; fire fighting activities; fire hydrant flushing; natural springs; uncontaminated groundwater; dechlorinated pool discharges; air conditioning condensate; lawn watering; potable water sources including waterline flushing; irrigation drainage; pavement washwaters where spills or leaks of toxic or hazardous materials have not occurred (unless all spilled materials have been removed) and where detergents are not used; discharges from foundation or footing drains where flows are not contaminated with process materials such as solvents, or contaminated by contact with soils where spills or leaks of toxic or hazardous materials have occurred; uncontaminated utility vault dewatering; dechlorinated water line testing water; hydrostatic test water that does not contain any treatment chemicals and is not contaminated with process chemicals.

Section 2 Notification of Spills

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in unauthorized discharges or pollutants discharging into storm water, the storm drain system, or waters of the State from said facility, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of a hazardous material said person shall immediately notify emergency response officials of the occurrence via emergency dispatch services (911). If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three years. Nothing in this section shall preclude any owner/lessee from compliance with relevant provisions of the Rhode Island Clean Water Act, R.I.G.L. 46-12-1, et seq. or other applicable laws or regulations.

Section 4 Enforcement

1. If an illicit discharge to the municipal storm sewer system is detected, the owner or other party in control of the property shall cease the discharge. If the discharge does not cease within seven (7) calendar days, the owner or

other party in control of the property may be fined seventy-five (\$75) per calendar day that the violation goes un-repaired and the Town of Scituate shall have the right to take whatever action it deems necessary to correct the violations and to assess a lien on the subject property in an amount equal to the cost of the remedial actions. The lien shall be enforced in the manner provided or authorized by law for the enforcement of common law liens on personal property. The lien shall be recorded in the land evidence records of the Town of Scituate and shall incur legal interest from the date of the recording. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this ordinance, including revocation of the performance bond or assessment of a lien on the property.

2. Any person is prohibited from discharging waste, including construction waste, building material, truck washout, chemicals, litter, sanitary wastes or other waste into a Town of Scituate Right of Way, storm sewer system, or other Town of Scituate property. If such a violation occurs the Town of Scituate may fine the violator two hundred (\$200) and required removal of the waste within ten (10) calendar days at the violator's expense. The Town of Scituate may charge the violator any costs associated with removal or repair of damage resulting from the violation.
3. For purposes of this section, "person" is defined as to include: corporations, associations, firms, partnerships, and individuals.

AN ORDINANCE ESTABLISHING A JUVENILE HEARING BOARD

For the purposes of promoting the public health, safety, morals or general welfare, and pursuant to the authority delegated to the town council pursuant to 2003H-5016 and 2003-S-959, it is hereby ordained by the Town Council of the Town of Scituate that a Juvenile Hearing Board be established, appointed and empowered as follows:

SECTION 1. Establishment. -- There is hereby established a juvenile hearing board for the town of Scituate for the purpose of hearing all cases referred to it by the juvenile division of the police department or the chief of police of the town of Scituate with respect to persons under the age of eighteen (18) who are charged with violating the criminal laws of the state of Rhode Island or the town of Scituate.

SECTION 2. Membership. - (a) The membership of the Scituate juvenile hearing board (the board) shall consist of five (5) members, all of whom shall be electors of the town of Scituate over the age of eighteen (18) years, provided that no elected official or employee of the Town of Scituate or any person who has been convicted of a felony or any crime involving moral turpitude shall be eligible for appointment.

(b) The members of the board shall be appointed by majority vote of the town council.

(c) The term of appointment for members of the board shall be for three (3) years except that the initial appointments shall be for less than three (3) years, and the town council may stagger such initial appointments as in its discretion it shall see fit, by majority vote.

(d) Appointed members of the board shall be eligible for reappointment, and upon

expiration of their term shall continue to serve until replaced or reappointed. In the event of a vacancy on the board, interim appointments of appointed members may be made by the town council to complete the unexpired term of the vacant position.

SECTION 3. Referral to the Board. -- (a) Persons who are under the age of eighteen (18) years may be referred to the board, which shall have concurrent jurisdiction with the Rhode Island Family Court if the alleged offense is one which, if committed by an adult, would be a misdemeanor, provided, however, that the requirement shall not apply in the case of any person:

(1) charged with the offense of simple assault,

(2) who shall have been twice previously referred to the board or have been once previously referred and refused or failed to abide by the sanctions imposed or make the restitution recommended; or

(3) at the time of the alleged commission of such offense shall be within the custody and control of the Family Court.

(b) The juvenile division of the police department or the chief of police of the town of Scituate may also refer to the board any other juvenile offender if, in the opinion of the juvenile division or the chief of police, such referral would be beneficial to the juvenile concerned and the community at large.

(c) No referral to the board shall be made until such person together with his/her legal guardian(s) and/or legal representative shall have in writing waived such person's right to a hearing in Family Court with respect to the offense charged, has admitted to the alleged offense, and shall have agreed to abide by the decision of the board.

SECTION 4. Duties of the board. -- (a) The board shall be authorized to hear all cases, referred by the juvenile division of the police department or the chief of police, and to impose and order sanctions other than incarceration. Sanctions may include, but not limited to:

- (1) Fines up to a maximum of one hundred dollars (\$100) for each offense charged;
- (2) Community service;
- (3) Restitution for any injuries and/or damages, where appropriate, resulting from the commission of any offense;
- (4) Imposition of a reasonable curfew;
- (5) Denial or revocation of the juvenile's driving privileges for a period of up to two (2) years.

In any such proceedings, the board, prior to imposing sanctions, shall request the juvenile offender and his/her parents or legal guardian(s) to agree to the sanctions imposed, the amount of the restitution and manner of making the same. In ordering restitution, the board shall take into account the juvenile offender's ability to pay and the amount of actual damage caused as a result of the commission of such offenses.

SECTION 5. Quorum -- Rules. -- (a) A majority of the board's membership shall constitute a quorum, and a majority of the members present shall be required to take any action. Any juvenile offender may be represented by counsel and may present evidence on his or her behalf.

(b) The board shall have the power from time to time to adopt and publish all rules and regulations necessary to carry out its function under the provisions of this ordinance.

(c) The board shall give notice of the date and time of meeting to the juvenile division of the police department or the chief of police of the town of Scituate, and the

alleged juvenile offender and his/her parents or legal guardian(s). not less than seven (7) days prior to the date of the hearing.

(d) Board proceedings shall be closed to the public, and the provisions of chapters 42-46 of the Rhode Island general laws shall not apply to such proceedings. All records or proceedings, including records concerning the arrest, apprehension or detention of any juvenile offender, shall be withheld from public inspection but such records shall be available to the parent, legal guardian(s), or attorney of the juvenile for inspection.

SECTION 6. This ordinance shall take effect upon passage and shall apply to all juveniles alleged to have committed an offense after the date of enactment.

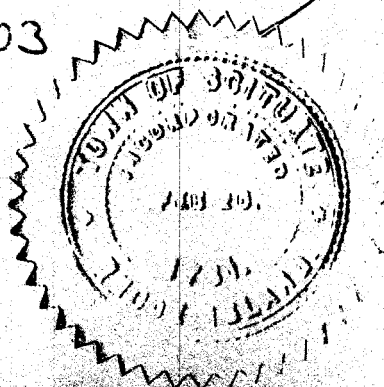
ATTEST:

Margaret M Long
Margaret M Long, Town Clerk

SCITUATE TOWN COUNCIL:

Theodore Richard III
Theodore Richard III, President

ADOPTED: September 11, 2003
September 11, 2003



AMENDMENT TO ORDINANCE

Be it ordained by the Town Council of the Town of Scituate:

That Sec. 6-211 of the ordinances of the Town of Scituate be amended as follows:

License Fee

There shall be no fee for art festival, arts and crafts licenses and art festival victualing licenses issued pursuant to paragraphs (a) and (b) of section 6-210. There shall be a fee for each license issued pursuant to section 6210(c) and (d) which fee shall be set from time to time and a schedule of such fees is on file in the Town Clerk's office.

There shall be a penalty for any application for an Art Festival License which is either incomplete or late, and a schedule of such penalties is on file in the Town Clerk's Office.

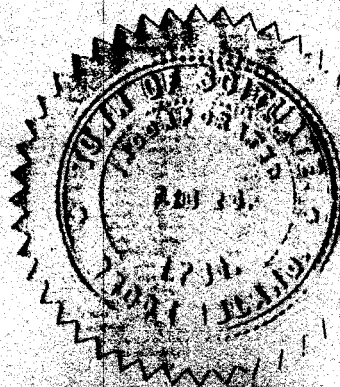
ATTEST:

SCITUATE TOWN COUNCIL

Margaret M. Long
Margaret M. Long, Town Clerk

Theodore Richard III
Theodore Richard III, President

Adopted: July 10, 2003



**STATE OF RHODE ISLAND
TOWN OF SCITUATE**

**ORDINANCE TO AUTHORIZE NECESSARY ACTION AND TO DESIGNATE
LOCAL AUTHORITY IN LOCAL EMERGENCIES**

WHEREAS, the preparation for and response to a hurricane, natural disaster, influenza pandemic, or other designated, comparable state or condition of emergency, requires a coordinated response by public health authorities, emergency management authorities, and other emergency response entities at the federal, state, and more specifically, local levels of government;

WHEREAS, local government must be able to mobilize the necessary equipment and personnel to respond to the directives from federal and state officials in the event of a hurricane, natural disaster, influenza pandemic or other designated, comparable state or condition of emergency;

WHEREAS, local government must be able to develop and implement an Emergency Operations Plan in case of a hurricane, natural disaster, or widespread outbreak of communicable disease, which may include, but not be limited to: assisting with public education efforts; the identification of community resources; the closure of public buildings; the implementation of isolation and/or quarantine, if necessary; and, such other public safety, public health, and general police power functions as may be necessary; and,

WHEREAS, the Town Council, as the main governing body in the Town of Scituate, desires to discharge this responsibility in accordance with a long range policy that will accrue to the health, safety, and welfare of the Town of Scituate at large:

NOW, THEREFORE, BE IT ORDAINED THAT:

A. AUTHORITY FOR ACTION IN LOCAL EMERGENCIES

1. The Town Council, as the governing body of the Town of Scituate, hereby authorizes the President of the Town Council to take any action necessary for the preservation and maintenance of the health, safety and welfare of the Town of Scituate, in the event of and in response to a hurricane, natural disaster, influenza pandemic, or other designated, comparable state or condition of emergency.
2. The Town Council, as the governing body of the Town of Scituate, hereby authorizes the President of the Town Council to designate emergency management, emergency response, law enforcement, or other personnel to enforce public health orders or such other directives necessary to maintain the

health, safety, and welfare of the Town of Scituate take any action necessary for the preservation and maintenance of the health, safety and welfare of the Town of Scituate, in the event of and in response to a hurricane, natural disaster, influenza pandemic, or other designated, comparable state or condition of emergency.

3. The Town Council, as the governing body of the Town of Scituate, hereby authorizes the President of the Town Council to initiate and implement the Town's Emergency Operations Plan.

B. EFFECTIVE DATE

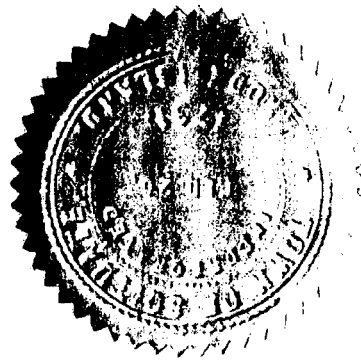
1. This Ordinance shall become effective upon passage.

I hereby certify that the foregoing Ordinance was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the 13th day of July, 2006.

Attest:

Margaret M Long
Town Clerk

[Signature]
President, Town Council



AMENDMENT TO ORDINANCE

Be it ordained by the Town Council of the Town of Scituate:

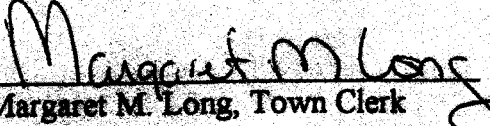
That Sec. 2-2 of the ordinances of the Town of Scituate be amended as follows:

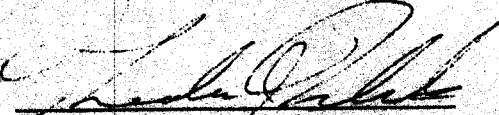
No Smoking Policy:

- (a) Effective upon passage there shall be no smoking in the buildings owned by the town.
- (b) Smoking is not permitted at meetings or conferences held in any town facility.
- (c) There shall be no smoking in private offices located in town buildings and facilities. Visitors to private work areas hosted in town buildings and facilities must honor this policy.
- (d) Consistent with state law, smoking is not permitted and "no smoking" signs shall be posted in all departments and buildings in the town.
- (e) There shall be no smoking permitted by any student or adult on any of the town's school property. "School property" shall include but not be limited to school playground, school administration buildings, indoor and outdoor school athletic facilities and fields, school gymnasium, school locker rooms, school buses, and parking lots.
- (f) Smoking shall not be allowed in any part of the police department.
- (g) Enforcement of the town smoking policy shall be the responsibility of all employees of the town in order to make the policy most equitable and effective.
- (h) Unresolved complaints or problems related to employee smoking practices shall be referred to the department head or the town council. All complaints to the town council shall be filed with the town clerk and shall be submitted in writing.
- (i) The department heads and town council shall continue to monitor nonsmoking situations in town buildings and facilities and may make additional recommendations as appropriate to promote and protect the health of town employees.
- (j) The town nonsmoking policy and a copy of the state law relating to the "Rhode Island Workplace Smoking Pollution Control Act" shall be distributed to all town employees.
- (k) This policy shall take effect upon passage.

ATTEST:

SCITUATE TOWN COUNCIL


Margaret M. Long, Town Clerk


Theodore Richard III, President

ADOPTED

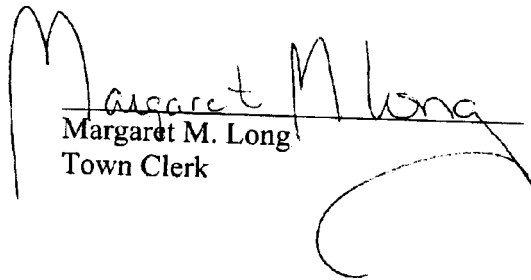
June 12, 2003



August 11, 2006

TO: Municipal Code Corporation

On August 10, 2006, the Scituate Town Council authorized the addition of Brandy Brook Road to the No Thru Trucking Ordinance.


Margaret M. Long
Town Clerk

NOISE ORDINANCE OF THE TOWN OF SCITUATE

REPEAL

This ordinance shall repeal section 8-6 of the Ordinances of the Town of Scituate.

DECLARATION OF POLICY

It is declared to be the policy of the Town of Scituate to prohibit unnecessary, excessive, and annoying noise from all sources subject to its power to protect the health, safety, and quiet enjoyment of its citizenry. At certain levels, noises are detrimental to the health and welfare to the people of the Town of Scituate. Each person has a right to an environment reasonably free from excessive noise which unnecessarily degrades the quality of life. Therefore, in the public interest, such noises shall be systematically proscribed.

PURPOSE

The purpose of this chapter is to establish standards for the control of excessive noise in the town by setting maximum permissible sound levels for various zones within the town.

This chapter shall be referred to as the "Noise Control Ordinance of the Town of Scituate."

DEFINITIONS

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context indicates a different meaning.

Ambient noise means the all-encompassing noise associated with a given environment, being a composite of sounds from many sources, near and far.

"A" band level" is the total sound level of all noise as measured with a sound level meter using the "A" weighing network. The unit of measure is the dB(A).

"Construction" is any and all activity necessary or incidental to the erection, assembly, alteration, installation, repair or equipment of buildings, dwellings, roadways, or utilities including but not limited to: land clearing, grading, excavating, and filing.

"Emergency work" is activity made necessary to restore property to a safe condition following a public calamity or work required to protect person or property from imminent exposure to danger or work by private or public utilities when restoring utility service.

Motor vehicles means, but is not limited to, automobiles, trucks, buses, motorcycles, mini-bikes and go-carts.

Sound level in decibels means the level measured on the A-weighted scale as defined in the American National Standard Institute s-1.4-1071.

Sound level meter is an instrument which includes a microphone, amplifier, RMS detector, integrator or time averager, output or display meter, and weighting networks, used to measure sound pressure levels, which complies with American National Standard Institute (ANSI).

EXCEPTIONS

The provisions of this ordinance shall not apply to:

1. The emission of sound for the purpose of alerting persons to the existence of an emergency, including sound that emanates from emergency rescue, fire, and police vehicles.
2. The emission of sound in the performance of emergency work.
3. The emission of sound in the operation of snow removal equipment.
4. The un-amplified human voice.
5. The emission of sound relative to construction and demolition activities, provided that such activities do not occur between the hours of 9 p.m. and 7:00 a.m. Monday through Friday and 8 p.m. and 9:00 a.m. on Saturdays, Sundays, and any state or federal holiday.
6. The emission of sound relative to the operation of yard or lawn maintenance equipment, including but not limited to lawn mowers, lawn tractors, leaf blowers, and chain saws, provided that such activities do not occur between the hours of 9:00 p.m. and 7:00 am weekdays and 9:00 p.m. and 8:00 a.m. on weekends and legal holidays.
7. The emission of sound related to agricultural and farming activities.
8. The emission of sound in a residential area made in the course of the maintenance of a dwelling and or property from 8:00 am and 9:00 pm.

Maximum permissible sound levels by receiving land use.

- (a) With the exception of sound levels elsewhere specifically authorized or allowed in this article, in the following areas the maximum permissible sound levels allowed at or within the real property boundary of a receiving land are as follows:

| ZONE | TIME | SOUND LIMIT dBA |
|-------------------------------------|----------------------|-----------------|
| RR 120; RRW 60/80 RS-120; RSW 60/80 | 7 am to 9 p.m. | 65 |
| | 9:00 pm to 7:00 A.M. | 60 |
| BL, BG, M | At all times | 75 |

MEASUREMENT

The measurement of sound or noise shall be made with a sound level meter. The instrument shall be maintained in calibration and in good working order. A calibration check shall be made of the system at the time of any noise measurement. Measurements recorded shall be taken so as to provide proper representation of the noise source.

PRIMA FACIE VIOLATION

Any noise level exceeding the Ambient Base Level, as defined in the above section, anywhere along the receiving real property line, or receiving property lines of any property, by more than (5) decibels, shall be deemed to be prima facie evidence of a violation of this section.

VEHICLE RADIOS AND STEREOS

It shall be unlawful for any person to operate any radio, CD player, television, or other similar sound making equipment within their motor vehicle within the Town of Scituate that exceeds 70 dBA at anytime.

IMPLEMENTATION, ADMINISTRATION AND ENFORCEMENT

Enforcement Agency. This ordinance shall be implemented, administered and enforced by the Scituate Police Department.

Article provisions to be enforced. The provisions of this article which prohibit a person from making or continuing noise disturbance, or causing the same to be made or continued, across a real property boundary shall be enforced by the police department.

PENALTIES/FINE REPORTING

Any person found to be in violation of this section by any duly authorized police officer shall be given a written warning for the first offense and shall immediately cease such activity.

Any person who commits a second violation within one year of receiving a written warning shall be fined \$50.00. A person who violates this ordinance within one year of receiving a written offense shall have the ability to admit said violation, and pay the fine directly to the Town of Scituate within 20 days of the offense.

The Chief of Police or his/her designee shall have the power to implement written rules and regulations regarding the collection of said fine. All fines paid to the Town of Scituate shall be deposited into the general fund of the town and the Town Treasurer shall report, on any annual basis, the total amount of fines collected under this ordinance in a fiscal year to the Town Council in written form.

All subsequent violations shall result in a maximum fine of \$500.00 upon conviction by a court of competent jurisdiction.

SEVERABILITY

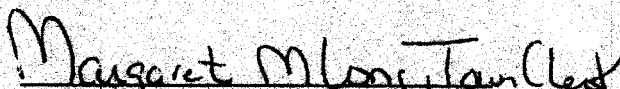
If any provision of any section of this ordinance shall be held invalid, the remainder of the sections and the application of the provisions to person or circumstances other than those as to which it is invalid, shall not be affected thereby.

EFFECTIVE DATE

This Ordinance shall take affect upon passage.

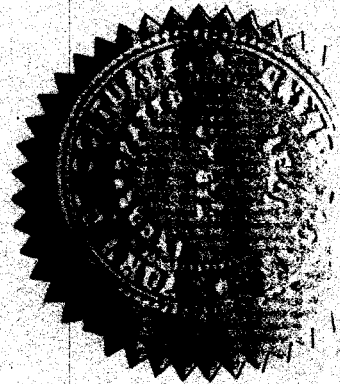
ATTEST:

SCITUATE TOWN COUNCIL:


Margaret M. Long, Town Clerk


Theodore J. Richard III, President

ADOPTED: 
September 11, 2003



AMENDMENT TO ORDINANCE

Ordained by the Town Council of the Town of Scituate:

That Sec. 7-2 (a) of the ordinances of the Town of Scituate be amended as follows:

Trucking Prohibited on certain streets:

(a), Pursuant to R.I.G.L. § 31-25-26, trucks and commercial vehicles exceeding five (5) tons, are prohibited from operating on the following public highways and streets, except for the purpose of delivering goods, wares and merchandise upon such streets and highways:

- 1) Shun Pike;
- 2) Howard Avenue;
- 3) Westcott Road;
- 4) Carpenter Road;
- 5) Matteson Road;
- 6) Silk Lane; and
- 7) Hope Furnace Road
- 8) Burnt Hill Road

This amendment shall take effect upon passage.

ADOPTED:

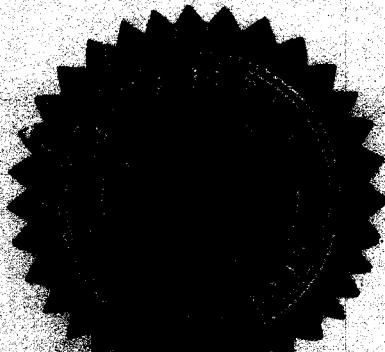
July 12, 2001

ATTEST:

Margaret M. Long
Margaret M. Long, Town Clerk

SCITUATE TOWN COUNCIL

Theodore Richard III
Theodore Richard III, President



ORDINANCE

It is ordained by the Town Council of the Town of Scituate as follows:

Section 3-7. Nuisance Abatement.

- (a) The keeping or harboring of any dog, or other animal or fowl, whether licensed or not, which by unreasonable and habitual howling, yelping, barking or other loud or unusual noise disturbs or annoys one (1) or more persons is unlawful and is hereby declared to be a public nuisance and each day shall constitute a separate offense. Unreasonable annoyance, alarm, or noise disturbances as provided for herein shall include, but not be limited to any barking, howling, whining, snarling, or other loud or unusual noise which goes on for longer than fifteen (15) minutes without stopping, anytime day or night.
- (b) It shall be unlawful to allow or permit any animal to trespass on private or public property so as to damage or destroy any property or thing of value and the same is hereby declared to be a nuisance. Wherever it shall be alleged in writing by one (1) or more persons that any animal is a nuisance by reason of activity described in the preceding sentence, or by reason of unreasonable annoyance as defined in paragraph (a) above, the animal control officer if he/she finds such nuisance to exist, shall serve notice upon the owner or custodian that such nuisance must be abated.
- (c) Thereafter, if the nuisance is not abated and upon continuance of such unreasonable annoyance or disturbance, the animal control officer shall issue a verbal or written warning to the owner or custodian of said animal. The animal control officer is further authorized to issue citations to any person violating the provisions of this ordinance as provided and set forth in Chapter 3, Article II, Section 3-34. Each day shall constitute a separate offense.
- (d) Procedures for abatement shall not be exclusive and shall not in any manner limit or restrict the Town from enforcing Town Ordinance or abating public nuisance in any other manner provided by law. The Town shall have the right to file a civil action and seek judgment for all fines assessed and costs incurred, including attorney fees, by the Town in prosecuting said action.

Section 3-8. Miscellaneous Provisions.

All complaints made under the provisions of this chapter shall be made to the animal control officer or the police department, and may be made orally; provided, however, that such complaint is within forty-eight (48) hours, reduced to writing on forms provided by the animal control officer and shall be signed by the complainant showing his address and telephone number, if any.

ARTICLE XII OUTDOOR ENTERTAINMENT

Sec. 6-301 Purpose

The purpose of this chapter is to establish standards to provide limited recurring outdoor entertainment for restaurants, taverns, victualing houses, cookshops, oyster houses or oyster cellars, from time to time and at the same time provide an opportunity for the Town of Scituate to know in advance about outdoor entertainment at said establishments and to take precautions for orderliness, safety, pedestrian traffic in and around said establishments, and noise levels.

Sec. 6-302 Definitions

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(a) Outdoor Entertainment includes but is not limited to singing, playing of musical instruments, recitations, drama productions, or playing recorded music, whether amplified or not, beyond the exterior walls of any building or structure.

Sec. 6-303

(a) All outdoor entertainment will be strictly limited to performances on porches, patios, or decks physically attached to the licensed premises, or within seventy-five (75) feet of the principal structure, whether in the open air, under a tent or within a temporary structure.

(b) Such entertainment will strictly be limited to a precise area on the premises as described in the application and as expanded or contracted by the Town Council at the hearing on the license.

(c) To limit projection of sound, any amplification or projection of any sounds shall be inward towards the building space and not towards other properties.

Sec. 6-304 Exceptions

This chapter shall not apply to:

- (1) Religious events sponsored by a religious organization;**
- (2) Events sponsored by the Town of Scituate or the School Committee;**
- (3) Traditional Town of Scituate sanctioned events such as the Memorial Day Parade or the Fourth of July fireworks display;**
- (4) Funerals and funeral processions; and,**
- (5) Events sponsored by or for 501(c)(3) non-profit charitable organizations.**

Sec. 6-305 License Required

(a) Any establishment offering or holding outdoor entertainment shall apply for an Outdoor Entertainment License in the office of the Town Clerk.

(b) Only the owner of the property to be licensed or the authorized agent of the owner may apply for and hold an Outdoor Entertainment License.

(c) The fee for such Outdoor Entertainment License shall be on file in the Town Clerk's office.

(d) All Outdoor Entertainment Licenses are issued for a period of no more than one year and shall be renewable December 1st of each year.

(e) The holder of an Outdoor Entertainment License is entitled to have the License renewed, provided the License renewal application is complete and timely and submitted by October 1st.

(f) Prior to the Town Council hearing to consider issuing any new Outdoor Entertainment License, notice of the application must be given by regular mail to all owners of property within two hundred (200) feet of the premises seeking the application. The notice is to be given by the Town Clerk's Office and the cost paid by the applicant. The notice must state that restaurants, taverns, victualing houses, cookshops, oyster houses or oyster cellars have a right to be heard and specify the time and place of the hearing.

Sec. 6-306

To provide hours of respite from outdoor sound, outdoor entertainment shall be strictly limited to the hours of 12:00 p.m. through 10:00 p.m.

Sec. 6-307

The holder of an Outdoor Entertainment License shall comply with all provisions in any ordinance of the Town of Scituate.

Sec. 6-308

To limit the projection of sound beyond the property line, any amplification equipment or projection of sound shall be directed away from abutting properties. The holder of an Outdoor Entertainment License shall cooperate with any official of the Town of Scituate in the collection of accurate noise data.

Sec. 6-309

(a) Any license holder who violates the terms of the license or any ordinance of the Town of Scituate, shall be subject to a fine of fifty dollars (\$50.00) for each violation. The amount of such fine shall be on file in the Town Clerk's Office.

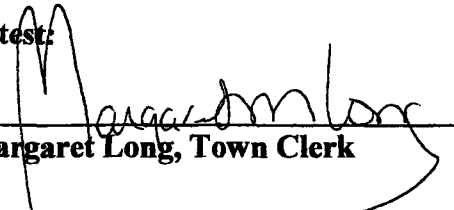
(b) In addition, the Town Council may revoke a license for the calendar year, or suspend it, or reissue it conditionally, or deny any application for a subsequent calendar year, after notification has been given to the license holder and a duly advertised Show Cause Hearing


has been convened by the Town Council acting in its capacity as the local licensing and regulatory authority for alcoholic beverages.

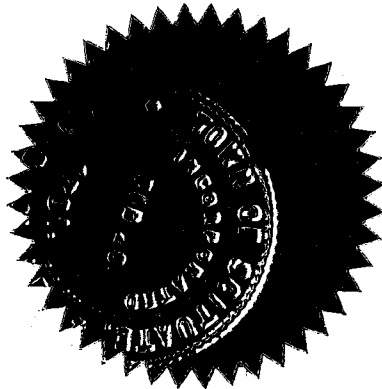
This ordinance shall become effective upon passage.

I hereby certify the foregoing Ordinance was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the 9th day of August 2007.

Attest:


Margaret Long, Town Clerk


Robert Budway, Town Council President



It is ordained by the Town Council of the Town of Scituate to amend Chapter 6, Article VIII: Restaurants, Cafes and Victualing Houses, as follows:

ARTICLE VIII. RESTAURANTS, CAFES AND VICTUALING HOUSES*

***Cross references:** Zoning, App. A.

State law references: Licensing and regulation of taverns, cookshops, and oyster houses, G.L. 1956, § 5-24-1 et seq.

Sec. 6-181. License required.

(a) No person shall open or keep open any tavern, victualing house, cookshop, oyster house or oyster cellar, without a license first had and obtained from the town council, or in any place other than that specified in such license.

(b) Every such person violating the provisions of this section shall be fined fifty dollars (\$50.00) for each offense, one-half thereof to the use of the town and one-half thereof to the use of the state.

(Ord. of 5-2-66, § 1)

Sec. 6-182. Issuance of license, fee.

The town council may grant a license required by this article upon receipt of an application signed by the person seeking to be licensed stating the location for which such license is sought and the business sought to be licensed, accompanied by a fee of fifty dollars (\$50.00), and in the case of application for renewal of the license, a fee of fifty dollars (\$50.00). Such fee shall not be refunded by the town in the event the application is denied.

(Ord. of 5-2-66, § 4; Ord. of 1-13-94)

Sec. 6-183. Contents of license, expiration.

Every license issued under this article shall specify the person licensed, the business licensed, and the building or room in which the same shall be pursued, and shall continue and be in force until the 1st of December of each year, unless sooner revoked for cause.

(Ord. of 5-2-66, § 5)

Sec. 6-184. Duty to maintain order.

(a) Every person licensed under section 6-181 shall maintain good order in the building licensed, and shall not suffer any person in the licensed building to become intoxicated, nor shall he take in pawn or pledge any article whatsoever; neither shall he suffer the licensed building to become frequented by any common drunkard or person addicted to the intemperate use of spirituous or intoxicating liquors, or by any person who is a disturber of the peace, or who is

wasting his property or earnings and means of supporting himself and family, or by any person under lawful age.

(b) Every such person violating the provisions of this section shall be deemed the keeper of a disorderly house and shall be fined fifty dollars (\$50.00), one-half thereof to the use of the town and one-half thereof to the use of the state.

(Ord. of 5-2-66, § 2)

Sec. 6-185. Revocation of license.

In case any person licensed under this article shall be convicted of keeping a disorderly house, the town council shall forthwith withdraw and annul his license; and he shall not be licensed during the two (2) years next following his conviction.

(Ord. of 5-2-66, § 3)

Sec. 6-186. Alcoholic beverages restricted.

~~(a) Except where there is a retailer's license issued pursuant to General Laws 1956, section 3-7 and in good standing for the premises, no person holding a license pursuant to General Laws 1956, section 5-24-1 for the keeping of a tavern, victualing house, cookshop, oyster house or oyster cellar shall permit consumption of alcoholic beverages on the premises by patrons of the licensed establishment, nor shall patrons be permitted to bring alcoholic beverages onto the licensed premises for purposes of consumption.~~

~~(b) (a)~~ For purposes of this section, the term "alcoholic beverages" shall mean any beverage which is subject to retail license requirements of General Laws 1956, section 3-7, but shall exclude beer and wine provided that said beer and wine is consumed by patrons on the premises of a licensed establishment or brought into the premises for consumption therein.

~~(c) (b)~~ Violation of this section shall be considered cause for revocation of license pursuant to General Laws 1956, section 5-24-2.

~~(d) Every victualing license to which this section applies shall contain a notice to the effect that it is issued on condition that no alcoholic beverages will be consumed by patrons on the premises or brought into the premises for purposes of consumption.~~

(Ord. of 10-20-83, §§ 1-4)

Cross references: Liquor licenses limited, § 6-4.

Sec. 6-187. Closing hours.

(a) It shall be unlawful for any restaurant, cafe or other establishment holding a victualing license or a license for the sale of alcoholic beverages, or both, to remain open between the hours of 1:00 a.m. and 6:00 a.m., except establishments may remain open on December 31 of each year as provided by General Laws section 1956, 5-22-3, as amended.

(b) For the purposes of this section, the words "remain open" shall be construed to mean the presence of persons (other than employees), in or upon the premises during the hours mentioned in (a) above.

(c) Nothing contained in this section shall enlarge the hours during which any establishment holding a license to sell alcoholic beverages may remain open, as otherwise provided by law.

(d) The town council may, for proper cause shown, upon application in writing, grant permission for closing hours different from those set forth in (a) above, applicable only to legal holidays not falling upon Sundays.

(e) Any person violating the provisions of this section shall be fined not exceeding twenty dollars (\$20.00) for each first violation. In addition thereto, such person shall be subject to having any license issued for the place of establishment suspended or revoked for violation of this section.

(Ord. of 4-15-65, §§ 1--5)

Secs. 6-188--6-205. Reserved.

EFFECTIVE DATE: **This Ordinance shall become effective upon passage.**

I hereby certify that the foregoing Ordinance was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the ____ day of _____, 2010.

Attest:

Margaret M. Long
Town Clerk

Robert Budway
President, Town Council

| Server://Town of Scituate/Town Council Matters/Restaurants, Cafes & Victualing Houses/Houses Ordinance (Rev. 06-02-10)

TOWN OF SCITUATE POST CONSTRUCTION - STORM WATER CONTROL ORDINANCE

ARTICLE I

Section 1. Purpose

Unmitigated storm water from areas altered by development may pose public health and safety threats. Potential contaminants in storm water runoff may include suspended solids, nitrogen, phosphorus, hydrocarbons, heavy metals, pathogenic organisms (bacteria and viruses), and road salts.

This Ordinance establishes the administrative mechanisms necessary for the Town of Scituate to ensure proper storm water management. The Ordinance is written to work in conjunction with current state regulations.

Section 2. Applicability

This Ordinance shall apply to all development occurring within the Town of Scituate. No person shall engage in land development activities without receiving approval from the Scituate Plan Commission, unless specifically exempted by Article I Section 3 of this Ordinance.

Section 3. Exemptions

The following activities do not require written approval pursuant to this Ordinance:

- A. Agricultural land management activities carried out in accordance with a conservation management plan that has been approved by the Natural Resources Conservation Service (NRCS). Proof of said approval by the NRCS shall be submitted to the Scituate Plan Commission in order for this exemption to apply.
- B. Construction, alteration or use of any additions to existing single-family or duplex homes or related structures, provided that the grounds coverage of such addition is less than ten thousand (10,000) square feet, and such construction, alteration and use does not occur within one hundred (100) feet of any watercourse or coastal feature and the slopes at the site of land disturbance do not exceed five percent (5%).
- C. Grading, as a maintenance measure or for landscaping, on contiguous areas of developed land, parcels and lots, which in aggregate do not exceed five thousand (5,000) square feet.

Section 4. Variance

The Scituate Plan Commission reviewing an application under this Ordinance may:

- A. Vary requirements of this Ordinance when strict implementation of the requirements of this Ordinance create an unnecessary hardship or are not feasible.
- B. Allow use of an innovative management practice where strict adherence to existing criteria would be costly or of negligible environmental benefit.

Section 5. Submissions and Approvals

In accordance with this Ordinance, all persons must obtain approval from the Scituate Plan Commission prior to engaging in any land development activities, unless exempted by Article 1 Section 3 of this Ordinance. To obtain approval applicants must demonstrate compliance with all policy, standards and requirements of this Ordinance to the satisfaction of the Scituate Plan Commission. Applicants may demonstrate compliance via submission of materials and documentation including but not limited to a Storm Water Management Plan, site plan and maintenance agreement in accordance with this Ordinance. Plans will be reviewed in conjunction with site plan reviewed by the Scituate Plan Commission.

ARTICLE II

Section 1. Technical Standards

All applicants are required to develop and submit a Storm Water Management Plan. All Storm Water Management Plans must address storm water management on a site-by-site basis and all requirements of this Ordinance. All storm water management practices shall be consistent with the *Rhode Island Stormwater Design and Installation Standards Manual* and the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended.

A. Performance Standards

Storm Water Management Plans shall incorporate Best Management Practices (BMPs) for water quality control, which in combination are demonstrated to reduce the average annual total suspended solids in postdevelopment runoff by eighty percent (80%). Development in drinking water supply watersheds or watersheds where impaired waters as defined by the State's 303(d) list exist may be held to higher standards.

B. Disallowed Storm Water Best Management Practices (BMPs)

The placement of detention basins and other storm water structures within a floodplain shall be avoided. If there is no alternative, the applicant must show what effects, if any, the tailwaters created by the floodplain will have on the outflow and effective storage capacity of the detention facility.

C. Facilitation of Maintenance

Facilities that require maintenance shall be designed to minimize the need for regular maintenance, facilitate required maintenance, and ensure accessibility of components that require maintenance. At a minimum, all Storm Water Management Plans must incorporate BMPs with appropriate maintenance design in accordance with the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended; or the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended.

D. Flood Protection

Storm Water Management Plans shall demonstrate that a proposed project provides for protection of life and property from flooding and flood flows. Water quantities must be controlled in accordance with the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended, or a municipally approved regional Storm Water Management Plan for the watershed in which the project site is located. Storm Water Management Plans shall demonstrate incorporation of the following standards into the proposed project:

1. Control and maintenance of post-development peak discharge rates from the 2-year, 10-year, 25-year, and 100-year storm events such that they meet predevelopment levels.
2. Downstream analysis of the 100-year storm event and control of the peak discharge rate for the 100-year storm to mitigate significant downstream impacts.
3. Discharge from any storm water facility must be conveyed through properly constructed conveyance system to provide for non-erosive flows during all storm events. The proposed storm water conveyance system consisting of open channels, pipes, and other conveyance devices shall at a minimum accommodate the runoff from a 25- year storm event. The storm water conveyance system must provide for non-erosive flows to receiving waters.

E. Surface Water and Groundwater

Storm Water Management Plans shall demonstrate that during post-development, all receiving waters will be recharged in a manner closely resembling predevelopment conditions and that the developed site will retain hydrological conditions that closely resemble of those prior to disturbance. The goal of the storm water design shall be that hydrologic conditions in each subwatershed match predevelopment conditions.

ARTICLE III

Section 1. Maintenance Requirements for Best Management Practices (BMPs)

A. Routine Maintenance and Repair Procedures

Preventative maintenance procedures are required to maintain the intended operation and safe condition of the storm water management facility by greatly reducing the occurrence of problems and malfunctions. To be effective, preventative maintenance shall be performed on a regular basis and include such routine procedures as training of staff, periodic inspections, grass cutting elimination of mosquito breeding habitats, and pond maintenance. Disposal of sediment and debris must occur on a regular basis (unless otherwise specified within an approved plan), at suitable disposal sites or recycling sites and shall comply with applicable local, state and federal regulations.

Corrective maintenance procedures are required to correct a problem or malfunction at a storm water management facility and to restore the facility's intended operation and safe condition. Based upon the severity of the problem, corrective maintenance must be performed on an as-needed or emergency basis and includes such procedures as structural repairs, removal of debris, sediment and trash removal, erosion repair, snow and ice removal, fence repair, mosquito extermination, and restoration of vegetated and nonvegetated linings.

B. General Maintenance Standards for Storm Water Best Management Practices (BMPs).

Maintenance design and maintenance procedures for all storm water BMPs shall be in accordance *Rhode Island Stormwater Design and Installation Standards Manual*, as amended; or the *Rhode Island Soil Erosion and Sediment Control Handbook*, as amended as well as in accordance with Manufacturer's recommendations. Storm Water Management Plans shall demonstrate appropriate maintenance design and procedures for each proposed best management practice.

A maintenance schedule for each type of BMP must be included in the Storm Water Management Plan. These schedules shall list the frequency and type of maintenance operations necessary along with the legally responsible party's name, address, and telephone number. If the storm water drainage facility is to be deeded to the local municipality the applicant must obtain a letter from the municipality acknowledging maintenance responsibility and intent of ownership.

ARTICLE IV

Section 1. Storm Water Management Plans

A. Calculations

In addition to the information required for the site plan the following information must also be included with the application, where applicable.

1. The area of each subwatershed shall be identified on final site plans.
2. The area of impervious surfaces (including all roads, driveways, rooftops, sidewalks, etc.) for each subbasin as identified in the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

3. Weighted curve numbers, (CN) as determined by the SCS TR-55 method, for each subbasin as identified in the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.
4. Invert elevations for all applicable BMPs. In addition, for all basins include the elevations for permanent and/or flood pool stages, including peak discharge rates for each stage.
5. The total volume capacity for all flood control and water quality BMPs (e.g., infiltration basin, detention basins, wet ponds, etc.). Volumes must be segregated into permanent and flood pool stage volumes where applicable. Furthermore, the volumes of all sediment storage (basins, forebays, etc.) areas must also be provided.
6. Predevelopment and post-development peak discharge rates and runoff volumes for the 2-year, 10-year, 25-year, and 100-year frequency storm events for each subwatershed to each separate water or discharge point. The water quality volume must also be calculated for each subwatershed. All relevant variables such as curve numbers and time of concentration, along with the supporting computations and worksheets must be included. The entire site shall be included in an evaluated subwatershed.

B. Narrative Description

As part of the Storm Water Management Plan, the applicant shall include a discussion of the protection of environmental resource functions and values. The following outline is provided as guidance for preparing a narrative description for the Storm Water Management Plan. Depending on the size and scope of the proposed project, the amount of information required by the permitting agency may vary, therefore, it is advised to consult the appropriate permitting agency for specific requirements.

1. Site description – general topography, soil types, current vegetative composition and relative abundance, existing infrastructure, and/or adjacent properties, identification of major resources (e.g., wetlands, groundwater, surface waters, etc.), name of receiving water(s), potential water quality and/or hydrologic impacts on resources.
2. Site input data – watershed characteristics, area of all impervious surfaces, total area of site, annual mean rainfall, runoff coefficients, curve numbers for various land uses, peak discharge rates.
3. Land use planning and source control plan.
4. Best Management Practices (BMPs) – identify the type of BMP(s) employed both during and post construction and justification for selection, including any deviation from the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended, and the potential effect on pollutant removal efficiency.

5. Technical feasibility – of BMPs including sizing, location, hydraulic and environmental impacts. Alternatives, which were considered but determined not to be feasible, should also be discussed.
6. Maintenance schedule – of BMPs to be used, both during and post construction including frequency of inspection and maintenance.

Section 2. Maintenance Agreements

Maintenance agreements shall provide written, contractual documentation, which demonstrates compliance with this Ordinance and legal arrangements for the upkeep of storm water facilities to assure their functionality and safety in accordance with this Ordinance.

Maintenance agreements, which describe all maintenance schedules and requirements, must be developed for each storm water management facility unless the facility is dedicated to and accepted by the Town of Scituate. Schedules shall be based on the complexity and frequency of maintenance needs and shall be subject to the approval of the Town. At a minimum, maintenance frequency should be in accordance with the *Rhode Island Stormwater Design and Installation Standards Manual*, as amended.

A. Right of Entry

The right of entry shall be allowed if the owner or other party in control of the property gives permission to , the Director of Public Works and/or his/her designated representative(s) to enter said privately owned property for the purpose of performing their duties under this Ordinance and to perform such inspections as the Town deems reasonably necessary in furtherance of the goals of this ~~Ordinance~~Ordinance.

B. Record Keeping for Maintenance Activities

Maintenance agreements shall include provisions for maintenance record keeping. All activities conducted in accordance with a maintenance agreement must be recorded in a work order and inspection log. Timely updates of the log shall be the responsibility of the storm water management facility owner or other responsible party pursuant to this Ordinance. Review of the maintenance and inspection log shall be completed by the Town of Scituate, or designee, to determine the effectiveness of operation, maintenance and safety activities. Reviews shall occur as part of each on-site inspection. Additional reviews may be made as deemed appropriate by the Town of Scituate or designee.

C. Responsibility for Maintenance to Assure Functionality and Safety

Appropriate maintenance to assure functionality and safety of storm water management facilities shall be the responsibility the owner or may be assumed by another party via a written contractual arrangement in accordance with this Ordinance.

D. Alterations to Maintenance Agreements

Any alterations in maintenance responsibility or alterations to maintenance agreements must be reviewed and approved by the Scituate Plan Commission or designee. If portions of the land serviced by a storm water management facility are to be sold, written contractual arrangements shall be made to pass all responsibility of the maintenance agreement to the purchaser and shall be subject to review and approval of the Scituate Plan Commission or designee. All alterations to maintenance agreements shall be made and recorded in accordance with this Ordinance.

E. Recordation of Maintenance Agreements

All maintenance agreements and alterations to maintenance agreements shall be recorded in the land evidence records of the Town of Scituate. Copies of all maintenance agreements and alterations to maintenance agreements shall be included in Storm Water Management Plans. Recordation of maintenance agreements in accordance with this Ordinance shall be the responsibility of the owner.

Section 3. Application Fees

The Town of Scituate shall be empowered to collect fees from permit applicants, which are commensurate with the cost of administering this Ordinance.

ARTICLE V

Section 1. Enforcement

The Town of Scituate shall have the authority and discretion to invoke penalties and/or impose a lien whenever a storm water management facility is not implemented, operated, and/or maintained in accordance with its approval under this Ordinance. Any penalty invoked shall be in accordance with this Ordinance.

A. Notification of Violation

In the event that the storm water management facility becomes a danger to public safety or public health, is in need of maintenance, or has not been maintained in accordance with the Maintenance Agreement, the Director of Public Works and/or his/her designated representative shall notify the responsible person in writing by certified mail. Upon receipt of that notice, the responsible person shall have five (5) calendar days to temporarily correct the violations and thirty (30) calendar days to complete maintenance and permanently repair the facility in a manner that is approved by the municipality. If the responsible person fails or refuses to perform such maintenance and repair, the municipality may immediately proceed to do so and enforce penalties and/or liens as described herein.

If the storm water management facility violation causes imminent danger to public safety, the Town shall have the right to correct the problem without delay and shall bill the cost thereof to the property owner.

B. Enforcement of Penalties and Liens

Should the applicant/owner fail to take the corrective actions, the Town of Scituate shall then have the right to take whatever actions it deems necessary to correct the violations including fining the owner seventy-five dollars (\$75) per calendar day that the violation goes un-repaired and to assert a lien on the subject property in an amount equal to the costs of remedial actions. The lien shall be enforced in the manner provided or authorized by law for the enforcement of common law liens on personal property. The lien shall be recorded in the land evidence records of the Town of Scituate, and shall incur legal interest from the date of recording. The imposition of any penalty shall not exempt the offender from compliance with the provisions of this Ordinance, including assessment of a lien on the property.

C. Hearing

Any owner or responsible party, receiving a written notice of violation, shall be given an opportunity, within a reasonable time frame, for a hearing before the Scituate Plan Commission to state their case. If evidence indicates that a violation has not occurred, the Scituate Plan Commission shall revoke the notice of violation.

ORDINANCE AUTHORIZING VARIOUS TAX RATES FOR THE TAX
CLASSIFICATION

Pursuant to G.L. 44-5-11.8 the Scituate Town Council hereby adopts a Tax Classification System as directed below:

(a) *Upon completion of any comprehensive revaluation or statistical update thereof, the Tax Assessor will adopt a tax classification plan by ordinance with the following limitations:*

- (1) The designated classes of property shall be limited to the four classes as defined herein.
- (2) The effective tax rate applicable to any class shall not exceed by 50% the rate applicable to any other class.
- (3) Any tax rate changes from one year to the next shall be applied such that the same percentage rate change is applicable to all classes, except as provided by law.
- (4) Notwithstanding sections (a)(2) and (a)(3) above, the tax rates applicable to wholesale and retail inventory within class 3 as defined below.

(b) *Classes of Property*

- (1) Class 1: Residential real estate consisting of no more than five (5) dwelling units, land classified as open space, and dwellings on leased land including mobile homes.
- (2) Class 2: Commercial and industrial real estate, residential properties containing partial commercial business uses and residential real estate of more than five (5) dwelling units and utilities.
- (3) Class 3: All ratable tangible personal property.
- (4) Class 4: Motor vehicles and trailers subject to the excise tax.

The Tax Assessor is hereby directed to implement the following tax rates:

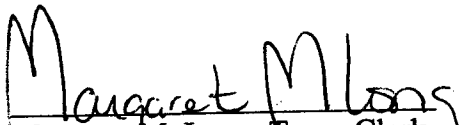
- | | | |
|--|----|-------------|
| (1) Residential Real Estate - | \$ | per \$1,000 |
| (2) Commercial & Industrial Property - | \$ | per \$1,000 |
| (3) Tangible Personal Property- | \$ | per \$1,000 |
| (4) Motor Vehicles - | \$ | per \$1,000 |

EFFECTIVE DATE

This ordinance shall take affect upon passage.

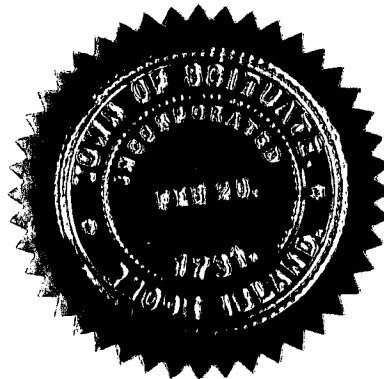
ATTEST:

SCITUATE TOWN COUNCIL


Margaret M. Long, Town Clerk


Theodore J. Richard III, President

Adopted: June 10, 2004
June 10, 2004



**TOWN OF SCITUATE, RHODE ISLAND
CODE OF ORDINANCES**

DIVISION 2. TAX RELIEF FOR THE ELDERLY

Sec. 15-41. Authority.

This division is enacted pursuant to that certain chapter of Public Laws 1979 entitled, "An Act Authorizing the Town of Scituate to Provide Tax Relief for the Elderly and Repealing Chapter 245 of the Public Laws of 1972 and Chapter 19 of the Public Laws of 1975." Enabling Legislation: RIGL 44-3-16.
(Ord. of 6-14-79, § 1)

Sec. 15-42. Definition.

(a) For the purposes of this division, the word "dwelling" shall mean and include a lot not to exceed one hundred twenty thousand (120,000) square feet and containing a single-family or multi-family structure, and the outbuildings thereon, so long as the outbuildings are not used for commercial purposes.
(Ord. of 6-11-81, § 1 (a))

Cross reference--Definitions and rules of construction generally, § 1-2.

(b) For the purposes of this division, the word "elderly" or "elderly resident" shall mean any person who is a taxpayer in the town and has attained the age of sixty-five (65) years.

Sec. 15-43. Rules of construction.

(a) For a dwelling to qualify as the legal residence of the elderly resident so as to entitle him to the freeze available under this division, the elderly resident must have owned and occupied the dwelling on which he is seeking the exemption for at least ten (10) years, and must actually reside within the town for one hundred ninety-five (195) days out of each calendar year (confinement in a nursing home, convalescent home, hospital, etc., shall not be deemed absence from the town) and the elderly resident must, if he is not disqualified by law, be a registered voter in the town and the elderly resident must, if he has sufficient income to require filing of a state income tax return, file a state resident income tax return.

(b) For a dwelling to qualify as owned by an elderly resident it shall be permissible for the elderly resident to hold title with another as joint tenant, tenant in common, life tenant or tenant by the entirety; provided, however, that with the exception of the spouse of the elderly resident or another owner who meets the tests of age, and legal residence, such other owner may not derive any financial benefit by way of rental income from the property, nor shall such other owner reside in the property. The foregoing shall not preclude any other owner from rendering care and services as necessary to maintain the elderly resident in that home.

(c) In applying and interpreting the provisions of this section, the tax assessor may require that the elderly resident furnish such information under oath as the assessor from time to time deems appropriate.
(Ord. of 6-11-81, § 1 (b)--(d))

Cross reference(s)--Definitions and rules of construction generally, § 1-2.

Sec. 15-44. Tax rate, valuation--Determination.

(a) The tax rate and valuation on a dwelling, owned as the legal residence of the elderly resident who has attained age sixty-five (65) years, regardless of income, shall be fixed at the tax rate and valuation applicable to such property for the December 31 assessment date immediately following the date on which such person meets the requirements of this division; provided, however, that persons whose rate and valuation were fixed pursuant to that certain ordinance enacted by the town council on April 13, 1972 entitled, "An Ordinance Concerning Fixed Tax Rate and Valuation for Certain Persons" shall continue at the fixed tax rate and valuation granted to them pursuant to such ordinance without necessity of presenting any further evidence or application to the assessor. Such exemption shall not be allowed unless the person entitled thereto shall have presented to the assessor, on or before the last day on which sworn statements may be filed with the assessor for the year for which the foregoing is claimed, due evidence that he is so entitled, which evidence shall stand as long as his legal residence remains unchanged. The foregoing shall be in addition to any other exemptions provided by law. Such real estate

shall not be taken from the tax rolls and shall be subject to the bonded indebtedness of the town.
(Ord. of 6-14-79, § 4; Ord. of 12-9-82, § 1)

(b) For multi-family structures, the assessor shall fix the tax rate and valuation, as provided for in section (a) above, only in the elderly resident owner-occupied unit or portion of said multi-family structure.

Sec. 15-45. Same--Effect of death.

If an elderly resident dies whose tax rate and valuation has been fixed pursuant to this division, the fixed tax rate and valuation shall continue for the surviving spouse of the deceased elderly resident, regardless of income and regardless of whether or not the surviving spouse has attained age sixty-five (65) years, but subject to the conditions that title in fee simple to the real estate for which rate and valuation are frozen shall have passed from the elderly resident to such spouse either by devise, descent or by right of survivorship, and that the surviving spouse shall reside in such dwelling and that the surviving spouse, if he has not attained age sixty-five (65) years, shall not remarry before attaining age sixty-five (65) years.
(Ord. of 6-14-79, § 5)

Sec. 15-46. Exemption granted--Determination.

The real property situated in the town, owned and occupied by an elderly resident who qualifies for a fixed tax rate and valuation is granted an exemption in valuation in the amount of one thousand five hundred dollars (\$1,500.00) for elderly residents age sixty-five (65) years through seventy-one (71) years and two thousand dollars (\$2,000.00) for elderly residents ages seventy-two (72) years and older, which exemption shall be in addition to any and all exemptions from taxation to which such elderly resident may be otherwise entitled. Only one (1) exemption shall be granted to co-tenants, joint tenants and tenants-by-the-entirety even though all of such co-tenants, joint tenants or tenants-by-the-entirety are sixty-five (65) years of age or over.
(Ord. of 6-14-79, § 6)

Sec. 15-47. Same--Effect of death.

In the event an elderly resident dies who was receiving an exemption in valuation pursuant to section 15-46, the exemption shall continue for the surviving spouse of the deceased elderly resident, regardless of whether or not the surviving spouse has attained age sixty-five (65) years, but subject to the conditions that title in fee simple to the real estate for which an exemption was granted shall have passed from the elderly resident to such spouse either by devise, descent or by right of survivorship and that the surviving spouse shall reside in such dwelling and that the surviving spouse, if he has not attained age sixty-five (65) years, shall not remarry before attaining age sixty-five (65) years. Where a surviving spouse elects to continue to receive the exemption to which the deceased spouse was entitled, the surviving spouse shall not be entitled to claim an additional exemption for himself under section 15-46.
(Ord. of 6-14-79, § 7)

Sec. 15-48. Fixed rate and valuation not portable.

Any elderly resident owning property which qualifies for the fixed tax rate and valuation who sells or gives said property to another and who either buys or builds another dwelling shall not be entitled to transport the fixed tax rate and valuation from the former dwelling to the new dwelling, but shall only be entitled to the fixed rate and valuation for the new dwelling based on its valuation and the rate in effect as of the December 31 valuation date immediately following the date of purchase or the completion of construction (which date shall be evidenced by the date of the certificate of occupancy). For purposes of this section only, the ten (10) year owner-occupied requirement under Section 15-43(a) is waived.
(Ord. of 3-11-93, § 1)

Sec. 15-49. Effective Date of Ordinance.

This Ordinance shall become effective upon passage. December 8, 2005.

AMENDMENT TO ORDINANCE

Be it ordained by the Town Council of the Town of Scituate:

That Sec. 7-2 (a) of the ordinances of the Town of Scituate be amended as follows:

Through Trucking Prohibited on certain streets:

(a) Pursuant to R.I.G.L. § 31-25-26, trucks and commercial vehicles exceeding five (5) tons, are prohibited from operating on the following public highways and streets, except for the purpose of delivering goods, wares and merchandise upon such streets and highways:

- 1) Shun Pike;**
- 2) Howard Avenue;**
- 3) Westcott Road;**
- 4) Carpenter Road;**
- 5) Matteson Road;**
- 6) Silk Lane; and**
- 7) Hope Furnace Road**
- 8) Burnt Hill Road**

This amendment shall take effect upon passage.

ADOPTED: July 12, 2001

**STATE OF RHODE ISLAND
TOWN OF SCITUATE**

**ORDINANCE TO ACCEPT THE PROVISIONS OF CHAPTER 29-38 OF TITLE
28 OF THE GENERAL LAWS OF THE STATE OF RHODE ISLAND,
THE WORKERS' COMPENSATION ACT**

WHEREAS, at the Annual Financial Town Meeting of the Town of Scituate, held on the 4th day of April, 2000, the electors of the Town of Scituate passed a resolution to authorize the Town Council of the Town of Scituate, pursuant to the authority vested in it by the General Assembly of the State of Rhode Island in Section 1 of Chapter 31 of Title 28 of the General Laws of the State of Rhode Island to accept for the Town of Scituate the provisions of Chapter 29-38 of Title 28 of the General Laws of the State of Rhode Island, referred to as the "Workers' Compensation Act," and to designate the class of employees or the nature of the employment to which the provisions of those Chapters shall apply; and,

WHEREAS, the Town Council, as the main governing body in the Town of Scituate, desires to discharge this responsibility:

NOW, THEREFORE, BE IT ORDAINED THAT:

**A. ACCEPTANCE OF THE PROVISIONS OF THE RHODE ISLAND
WORKERS' COMPENSATION ACT**

1. The Town Council, as the governing body of the Town of Scituate, hereby accepts for the Town of Scituate the provisions of Chapter 29-38 of Title 28 of the General Laws of the State of Rhode Island.
2. The Town Council hereby designates the class of employees or the nature of the employment to which the provisions of those Chapters shall apply as including the following: 8831 – animal shelter; 5606 – building official; 8810 – clerical; 9409 – municipal; 9402 – street cleaning; 8742 – family care; 9102- recreation; and, to all School Department employees. Said designations correspond to the codes provided in the Workers' Compensation Payroll Worksheet.
3. The Town Council as the governing body of the Town of Scituate shall designate the manner in which the provisions of Chapter 29-38 of Title 28 of the General Laws of the State of Rhode Island shall be administered and by whom.

4. The Town Council shall ratify or reject any recommendation for changing the aforementioned designation of employee classification made by the administrator of the provisions of Chapter 29-38 of Title 28 of the General Laws of the State of Rhode Island.

B. EFFECTIVE DATE

1. This Ordinance shall become effective upon passage.

I hereby certify that the foregoing Ordinance was adopted by the Honorable Town Council of the Town of Scituate at a regular meeting held on the 9th day of November 2006.

Attest:

Margaret M. Long
Town Clerk

[Signature]
President, Town Council



ZONING ORDINANCE



TOWN OF SCITUATE RHODE ISLAND

This pamphlet is a reprint of Appendix A, Zoning, of the Code of Ordinances of the Town of Scituate, Rhode Island, published by order of the Scituate Town Council

APPENDIX A ZONING*

***Editor's note:** The zoning ordinance amendments for the Town of Scituate, Rhode Island, adopted June 8, 1989 and amended February 10, 1994 was deleted as being superceded by an ordinance adopted December 12, 1994. The absence of a history note indicates that the provision derives unchanged from the ordinance adopted December 12, 1994. For stylistic purposes, a uniform system of headings, catchlines, capitalization, citation to state statutes, and expression of numbers in text has been used to conform to the Code of Ordinances. Obvious misspellings have been corrected without notation and material in brackets [] has been added for clarity.

Cross references: Buildings and building regulations, Ch. 4; kennels, § 6-131 et seq.; restaurants, cafes and victualing houses, § 6-181 et seq.; vehicle tracks and amusement parks, § 6-231 et seq.; parks and recreation, Ch. 9; planning, Ch. 10; soil erosion and sedimentation control, Ch. 12; streets and sidewalks, Ch. 13; subdivisions, Ch. 14; trailers and trailer parks, Ch. 16; utilities, Ch. 17.

State law references: Zoning, G.L. 1956, § 45-24-1 et seq.

Art. I. Administration and Procedures, §§ 1--7
Art. II. District Use Regulations, §§ 1--15
Art. III. District Dimensional Regulations, §§ 1--3
Art. IV. Special Regulations, §§ 1--15
Art. V. Offstreet Parking Regulations
Art. VI. Offstreet Loading Requirements
Art. VII. Sign Regulations, §§ 1--6
Art. VIII. Residential Compound Development, §§ 1--5
Art. IX. Definitions
Art. X. Prohibited Uses
Art. XI. Miscellaneous, §§ 1--8
Art. XII. Validity

Adopted: December 30, 1965

Amended: December 11, 1969
March 4, 1976
April 8, 1976
December 9, 1976
July 26, 1976
April 9, 1981
September 30, 1982
February 14, 1985
January 8, 1986
June 8, 1989
December 1995
March 1996
February 13, 1997
September 1997
April 23, 1998
September 9, 1999
August 14, 2000
January 2004
April 2008 (corrections & re-printing)

**TOWN OF
SCITUATE, RHODE ISLAND
ZONING ORDINANCE**

ARTICLE I. ADMINISTRATION AND PROCEDURES

It is ordained by the Town Council of the Town of Scituate as follows:

Section 1. Statement of consistency with the comprehensive plan.

The zoning regulations and districts herein set forth have been made in accordance with the goals and policies articulated in the Scituate, Rhode Island Comprehensive Plan (as amended) adopted pursuant to Chapter 22.2 of Title 45 of the General Laws and in the instance of uncertainty in the construction or application of any section of this ordinance, the ordinance shall be construed in a manner that will further the implementation of, and not be contrary to, the goals and policies and applicable elements of the comprehensive plan. At all times there shall be coordination between contiguous communities, the state and other agencies as set forth in the plan.

Section 2. Statement of purpose.

The regulations set forth in this ordinance have been made in accordance with a comprehensive plan for the purpose of:

- (1) Promoting the public health, safety, morals and general welfare.
- (2) Providing for a range of uses and intensities of use appropriate to the character of the town and reflecting current and expected future needs.
- (3) Providing for orderly growth and development which recognizes:
 - (a) The goals and patterns of land use contained in the comprehensive plan of the town adopted pursuant to chapter 22.2 of title 45 of the General Laws;
 - (b) The natural characteristics of the land, including its suitability for use based on soil characteristics, topography, and susceptibility to surface or groundwater pollution;
 - (c) The values and dynamic nature of coastal and freshwater ponds, the shoreline and freshwater and coastal wetlands;
 - (d) The values of unique or valuable natural resources and features;
 - (e) The availability and capacity of existing and planned public and/or private services and facilities;
 - (f) The need to shape and balance urban and rural development; and
 - (g) The use of innovative development regulations and techniques.
- (4) Providing for the control, protection and/or abatement of air, water, groundwater, and noise pollution, and soil erosion and sedimentation.
- (5) Providing for the protection of the natural, historic, cultural and scenic

character of the town or areas therein.

- (6) Providing for the preservation and promotion of agricultural production, forest, silviculture, aquaculture, timber resources and open space.
- (7) Providing for the protection of public investment in transportation, water, storm water management systems, sewage treatment and disposal, solid waste treatment and disposal, schools, recreation, public facilities, open space and other public requirements.
- (8) Promoting a balance of housing choices, for all income levels and groups, to assure the health, safety and welfare of all citizens and their rights to affordable, accessible, safe and sanitary housing.
- (9) Providing opportunities for the establishment of low and moderate income housing.
- (10) Promoting safety from fire, flood and other natural or manmade disasters.
- (11) Promoting a high level of quality in design in the development of private and public facilities.
- (12) Promoting implementation of the comprehensive plan of the town adopted pursuant to chapter 22.2 of title 45 of the General Laws.
- (13) Providing for coordination of land uses with contiguous municipalities, other municipalities, the state and other agencies, as appropriate, especially with regard to resources and facilities that extend beyond municipal boundaries or have a direct impact on that municipality.
- (14) Providing for efficient review of development proposals, to clarify and expedite the zoning approval process.
- (15) Providing for procedures for the administration of the zoning ordinance, including, but not limited to, variances, special use permits and, where adopted, procedures for modifications.

Section 3. Regulations.

After the effective date of this ordinance (December 30, 1965), no land shall be used and no building, structure or sign shall be used or erected unless it conforms to the provisions of this ordinance. Uses and structure, existing on the effective date of this ordinance (December 30, 1965), and used in a manner not conforming to this ordinance, shall be permitted to continue under the provisions of article IV of this ordinance. Structures which have not been built or completed on the effective date of this ordinance (December 30, 1965), but for which a building permit has been issued by the Town of Scituate prior to the effective date of this ordinance (December 30, 1965), for use in a manner not conforming to this ordinance, shall be permitted to continue under the provisions of article IV of this ordinance.

(Ord. of 1-8-04)

Section 4. Zoning districts and zoning map.

For the purpose of this ordinance, the Town of Scituate is hereby divided into

eight (8) zoning districts as follows:

RR-120 Rural Residential. This district covers a large portion of the town into which urban type development should logically expand as the need occurs. The district is characterized by a commingling of open land interspersed with residential and agricultural uses. The district generally is not furnished with a public water supply and is generally in an area where intensive building and development could adversely affect the water supply of the City of Providence. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

RS-120 Single-Family Residence. This district is composed of certain quiet, low density residential areas of the town plus certain open areas where similar residential development appears likely to occur. The district generally is not furnished with a public water supply and is generally in an area where intensive building and development could adversely affect the water supply of the City of Providence. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

RRW-60/80 Rural Residential/Water. This district covers a portion of town into which urban-type development should logically expand as the need occurs. The district is characterized by a commingling of open land interspersed with residential and agricultural uses. The features which distinguish the district from RR-120 are general availability of a public water supply and that the areas are not such that intensive building and development could adversely affect the water supply of the City of Providence. Lots within the district which are served by a public water supply shall have a minimum area of sixty thousand (60,000) square feet, and lots which are not served by a public water shall have a minimum area of eighty thousand (80,000) square feet.

RSW-60/80 Single-Family Residence/Water. This district is composed of certain quiet, low density residential areas of the town plus certain open areas where similar residential development appears likely to occur. The features which distinguish the district from RS-120 are general availability of a public water supply and that the areas are not such that intensive building and development could adversely affect the water supply of the City of Providence. Lots within the district which are served by a public water supply shall have a minimum area of sixty thousand (60,000) square feet, and lots which are not served by a public water supply shall have a minimum area of eighty thousand (80,000) square feet.

BL Limited Business. This district is composed of certain land and structures used primarily to provide for the retailing of commodities classed by merchants as "convenience goods" such as groceries and drugs, and the furnishing of certain personal services. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or

established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

BG General Business. This district is composed of certain land and structures to provide for the retailing of commodities and the furnishing of services which depend upon a great volume of vehicular and pedestrian traffic, such as gasoline stations, supermarkets and drive-in theaters. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

M General Manufacturing. This district is composed of certain land and structures for light, clean industrial uses. The land included in this district are those suited for use by most industries, subject only to those regulations needed to control congestion and to protect nearby residential and business districts, and protect the waters and watershed of the water supply of the City of Providence. The furnishing of a public water supply does not constitute the sole criteria for reduction in minimum lot area nor shall said reduction be deemed inherently approved or established. Any proposal to modify the minimum lot size must be accompanied by comprehensive data such as any negative impacts on the watershed/water supply of the City of Providence/Providence Water Supply Board and effects on the town's rural character and any such data or information as may be required by the governing boards, commissions and officials of the town.

W Watershed. This district is composed of all the property owned by the City of Providence under the jurisdiction of the Providence Water Supply Board. The property in this district is used for the collection, storage, processing and distribution of water and, as an incident thereto, the planting and harvesting of forest products and the production of electricity.

The boundaries of such districts are hereby established as shown on a map entitled "Scituate Zoning Map" filed at the office of the Town Clerk of the Town of Scituate. Such map is hereby adopted and made part of this ordinance.

(Ord. of 1-8-04)

Section 5. Enforcement.

- A. *Zoning inspector.* A zoning inspector who shall be a resident of the town shall be appointed by the town council. It shall be the duty of the zoning inspector to enforce the provisions of this ordinance and to record all amendments to this ordinance on the record copy of the zoning ordinance and map.
- B. *Zoning certificate.* No building, structure or sign shall hereafter be erected, enlarged, or relocated and no nonstructural use shall be initiated until the zoning inspector has certified, in writing, that the proposed use, structure or sign conforms to the provisions of this ordinance. The zoning inspector may require that copies of plans, specifications and such other information as he may deem

necessary, be filed with the application for such certificate.

The zoning inspector shall issue the following copies of each certificate:

Applicant Town Clerk
Building/Zoning Inspection Department

No certificate may be issued by the zoning inspector for any use not specifically permitted in this ordinance, except where the inspector receives a statement in writing from the zoning board of review, indicating the granting of an appeal, special use permit or variance or a statement in writing, from the town council, indicating an amendment to this ordinance.

- C. *Violation.* Any person or persons who violate any of the provisions of this ordinance or any safeguard or condition attached to the granting of a special use permit or variance may be fined not more than five hundred dollars (\$500.00) for each offense and each day of the existence of any such violation shall be deemed a separate offense, such fine to inure to the Town of Scituate. Immediately upon request of the zoning inspector, the town solicitor shall institute appropriate action in the Supreme or Superior Court to restrain the violation of, or to compel compliance with the provisions of this ordinance.

Section 6. Zoning board of review.

- A. *Membership.* A zoning board of review, hereinafter called the board is hereby created. The board shall be appointed by the town council and shall consist of five (5) regular members and three (3) auxiliary members. Each regular member shall be appointed for a term of five (5) years, except for members who are appointed to fill unexpired terms. The auxiliary members shall be appointed for a term of one (1) year. If a vacancy occurs in the board, the town council shall appoint a new member for the unexpired term. All members of the board shall be residents of the Town of Scituate and no member shall be an elected official or salaried employee of the town.
- B. *Organization.* At its first meeting and at intervals of one (1) year thereafter the zoning board of review shall organize by electing from its membership a chairman and a vice-chairman. The board may engage the services of a secretary within the limit of the funds available to it or may appoint one of its membership as secretary.

Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the vice-chairman, may administer oaths and compel the attendance of witnesses and the submission of data. An auxiliary member of the board shall sit as an active member upon the request of the chairman when and if a member of the board is unable to serve at any hearing. All hearings of the board shall be open to the public. In conducting hearings and arriving at its decisions the board shall consist of five (5) participating members.

The board shall make a record of all its proceedings and actions, indicating its reasons for its decisions, the vote of each member participating therein, and the absence of a member or his failure to vote. This record shall be filed immediately in the office of the town clerk and shall be available for review by the public.

- C. *Powers of the zoning board of review.* The board shall have the powers set forth

in section 45-24-27 of the General Laws as follows:

- (1) Pursuant to section 45-24-16 of the General Laws to hear and decide appeals where it is alleged there is error in any order, requirement, decision, determination made by the zoning inspector or building inspector in the enforcement of this ordinance. Appeals must be taken within thirty (30) days by filing with the officer from whom the appeal is taken and with the zoning board of review a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. In using this power the board may reverse or affirm wholly or partly or may modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the zoning inspector from whom the appeal was taken.
- (2) To hear and decide appeals from a party aggrieved by a decision of an historic district commission, pursuant to sections 45-24.1-7.1 and 45-24.1-7.2 of the General Laws.
- (3) To hear and decide appeals where the zoning board of review is appointed as the board of appeals for airport zoning regulations pursuant to section 1-3-19 of the General Laws.
- (4) To authorize, upon application, in specific cases of hardship, variances in the application of the terms of the zoning ordinance, pursuant to section 45-24-41 of the General Laws.
- (5) To authorize, upon application, in specific cases, special use permits, pursuant to section 45-24-42(A) of the General Laws.
- (6) To refer matters to the planning board or commission, or to other boards or agencies of the town as the zoning board of review may deem appropriate, for findings and recommendations.
- (7) To provide for issuance of conditional zoning approvals where a proposed application would otherwise be approved, except that one (1) or more state or federal agency approvals which are necessary are pending. A conditional zoning approval shall be revoked in the instance where any necessary state or federal agency approvals are not received within a specified time period.
- (8) To hear and decide other matters, according to the terms of the ordinance or other statutes, and upon which the board may be authorized to pass under the ordinance or other statutes; and
- (9) An appeal from a decision of the zoning board may be taken by an aggrieved party to the Superior Court for Providence County.
- (10) To hear and decide special use permits to the terms of this ordinance, according to the provisions set forth as follows:

A use designated as special use in article II or elsewhere in this ordinance shall be permitted by the board following a public hearing if

such use meets the following requirements:

- A. It will be compatible with the neighboring land uses.
- B. It will not create a nuisance in the neighborhood.
- C. It will not hinder the future development of the town.
- D. It will be in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance.

In granting a special use permit, the board may impose such additional safeguards and conditions on the proposed use as are deemed necessary in order to conform to these requirements. The disregarding of any such condition or safeguard shall be considered as a violation. Following its establishment, any use which is listed as a "Special Use" in the district in which it is located, shall be considered as a permitted use.

- (11) To authorize upon application in specific cases such variance to the application of the terms of this ordinance according to the provisions set forth as follows:

The applicant for a variance from the provisions of this ordinance shall show to the satisfaction of the board that such relief will not be contrary to the public interest and that owing to special or peculiar conditions[,] enforcement of the provisions of this ordinance would result in unnecessary hardship to the applicant.

The unnecessary hardship which an applicant seeks to avoid shall not have been imposed by any prior action of the applicant or his predecessors in title. Such hardships shall arise only from special or peculiar site conditions or features of the land or structure in question rather than from physical infirmities of the applicant or merely from the desire to realize greater monetary gain.

In granting relief from the provisions of this ordinance, the zoning board of review shall grant the least variance from the provisions needed to remove the unnecessary hardship and may impose any condition or safeguard as may be deemed in the public interest.

- (12) To authorize upon application in specific cases deviations (dimensional variances) from district dimensional regulations where a literal enforcement of the provisions of article III would result in an unnecessarily harsh restriction. The applicant must show that there would be adverse effect from literal enforcement amounting to more than mere inconvenience. The applicant for a deviation shall show to the satisfaction of the board that such relief will not be contrary to the public interest.
- (13) In granting a variance, the zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:

- (a) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant;
 - (b) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain;
 - (c) That the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based; and
 - (d) That the relief to be granted is the least relief necessary.
- (14) The zoning board of review shall, in addition to the above standards, require that evidence be entered into the record of the proceedings showing that:
- (a) In granting a use variance the subject land or structure cannot yield any beneficial use if it is required to conform to the provisions of the zoning ordinance. Nonconforming use of neighboring land or structures in the same district and permitted use of lands or structures in an adjacent district shall not be considered in granting a use variance; and
 - (b) In granting a dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience, which shall mean that there is not other reasonable alternative to enjoy a legally permitted beneficial use of one's property. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.
- (15) In granting a variance or in making any determination upon which it is required to pass after a public hearing under a zoning ordinance, the zoning board of review may apply such special conditions that may, in the opinion of the board, be required to promote the intent and purposes of the comprehensive plan and the zoning ordinance of the town. Failure to abide by any special conditions attached to a grant shall constitute a zoning violation. Those special conditions shall be based on competent credible evidence on the record, be incorporated into the decision, and may include, but are not limited to, provisions for:
- (1) Minimizing adverse impact of the development upon other land, including the type, intensity, design and performance of activities;
 - (2) Controlling the sequence of development, including when it must be commenced and completed;
 - (3) Controlling the duration of use or development and the time within which any temporary structure must be removed;

- (4) Assuring satisfactory installation and maintenance of required public improvements;
 - (5) Designating the exact location and nature of development; and
 - (6) Establishing detailed records by submission of drawings, maps, plats or specifications.
- (16) Expiration of a special exception or variance. Any authorized special exception or variance which is not implemented within a period of one (1) year from the date of action by the board shall be void unless, upon written request of the applicant or appellant, the board grants an extension, provided that not more than one (1) such extension for a period of six (6) months may be granted.

D. *Procedure for appeals, special use permits, variances or deviations.* Appeals to the board may be taken by any party aggrieved or by an officer, board or bureau affected by any order or decision of the zoning inspector or building inspector concerning the provisions of this ordinance. Such appeal shall be taken within thirty (30) days of such order or decision by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds for the appeal. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. An appeal shall stay all proceedings pursuant to section 45-24-70 of the General Laws.

An application for a special use permit, variance or deviation shall be filed directly with the board specifying the grounds for the application.

In filing for an appeal, variance, deviation or special use permit, the applicant, in addition to filing plans and specifications supporting the request, shall accompany the request with a list of property owners within three hundred (300) feet of the perimeter of the property in question and a[n] application filing fee of one hundred fifty dollars (\$150.00) payable to the Town of Scituate.

The board shall fix a reasonable time for the hearing of an appeal or an application for a special use permit, deviation or variance. It shall publish notice of the hearing at least fourteen (14) days prior to the date of such hearing in a newspaper of general circulation in the town; shall give notice (which such notice shall include the street address of the property) by regular mail at least fourteen (14) days prior to the date of such hearing to the applicant, owners of property within three hundred (300) feet of the perimeter of the property in question, and other parties in interest; and shall hear and decide the appeal within a reasonable time. Any party may appear at the hearing in person, by agent or by attorney.

Appeals from decisions of the zoning board of review shall be in the manner provided by statute.

E. *[Requirements of the board to vote].* The board shall be required to vote as follows:

- (1) Five (5) active members shall be necessary to conduct a hearing. As soon as a conflict occurs for a member, that member shall recuse himself or herself, shall not sit as an active member, and take no part in the conduct of the hearing. Only five (5) active members shall be entitled to

vote on any issue;

- (2) The concurring vote of three (3) of the five (5) members of the zoning board of review sitting at a hearing shall be necessary to reverse any order, requirement, decision or determination of any zoning administrative officer from whom an appeal was taken; and
- (3) The concurring vote of four (4) of the five (5) members of the zoning board of review sitting at a hearing shall be required to decide in favor of an applicant on any matter within the discretion of the board upon which it is required to pass under the ordinance, including variances and special use permits.

(Ord. of 4-10-97; Ord. of 4-9-98; Ord. of 1-8-04)

Section 7. Amendments.

Any person may apply for an amendment making a specific change in the zoning map by filing an application with the town clerk directed to the town council accompanied by a filing fee of one hundred fifty dollars (\$150.00) together with such fee as the town clerk may require to reimburse the town for the estimated expenses of advertising and registered or certified mail.

Immediately upon receipt of the proposal the town clerk shall refer it to the town council and to the plan commission for study and recommendation. The plan commission shall report to the town council within forty-five (45) days after receipt of the proposal, giving its findings and recommendations; including, as required by section 45-24-52 of the General Laws,

- (a) A statement of the general consistency of the proposal with the comprehensive plan, including the goals and policies statement, the implementation program and all other applicable elements of the comprehensive plan; and
- (b) A demonstration of recognition and consideration of each of the applicable purposes of zoning as presented in section 45-24-30 of the General Laws.

The town council shall hold a public hearing within sixty-five (65) days of receipt of a proposal after notice as required by section 45-24-53. The town council shall render a decision within forty-five (45) days after the date of completion of the public hearing. The provisions of this section pertaining to deadlines shall not be construed to apply to any extension consented to by an applicant.

- (A) No proposed amendment making a specific change in the zoning map shall be enacted until after a public hearing, at which, opportunity shall be given for all persons interested to be heard, has been held upon the question of the enactment, amendment or repeal of such ordinance, before the town council, who shall first give written notice of the time and place of such public hearing, and the nature and purpose thereof, to all owners of any real property within three hundred (300) feet of the perimeter of the real property which is the subject matter of the proposed amendments, enactment or repeal by registered or certified mail at least fourteen (14) days before the date of such hearing and by publication of

such notice in a newspaper of general circulation within such town at least once each week for three (3) successive weeks prior to the date of such hearing. Notice shall also be mailed to Associate Director of R.I. Division of Planning, Department of Administration at least fourteen (14) days prior to the hearing. The town council may in approving a zone change limit such change to one (1) of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations and conditions upon the use of the land as it deems necessary. The town clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for that purpose for a period of two (2) years, the town council may after a public hearing as hereinbefore set forth, change the land to its original zoning use before such petition was filed.

Such newspaper notices containing a statement of the proposed amendments to the ordinance shall be inserted once in its entirety and thereafter a weekly formal legal notice shall be inserted stating that a public hearing will be held specifying the time and place of such hearing. Such subsequent formal notices shall include reference to such original advertisement which gave full description. The newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles, and shall:

- (1) Specify the place of the hearing and the date and time of its commencement;
 - (2) Indicate that adoption, amendment or repeal of a zoning ordinance is under consideration;
 - (3) Contain a statement of the proposed amendments to the ordinance that may be printed once in its entirety, or summarize and describe the matter under consideration;
 - (4) Advise those interested where and when a copy of the matter under consideration may be obtained or examined and copied; and
 - (5) State that the proposals shown thereon may be altered or amended prior to the close of the public hearing without further advertising, as a result of further study or because of the views expressed at the public hearing. Any alteration or amendment must be presented for comment in the course of the hearing.
- (B) Where a proposed general amendment to an existing zoning ordinance includes changes in an existing zoning map, public notice shall be given as required by subsection (A) of this section.
- (C) Where a proposed amendment to an existing ordinance includes a specific change in a zoning district map, but does not affect districts generally, public notice shall be given as required by subsection (A) of this section, with the additional requirements that:
- (1) Notice shall include a map showing the existing and proposed

boundaries, zoning district boundaries, and existing streets and roads and their names, and town boundaries where appropriate; and

- (2) Written notice of the date, time and place of the public hearing and the nature and purpose thereof shall be sent to all owners of real property whose property is located in or within not less than three hundred (300) feet of the perimeter of the area proposed for change, whether within the town or within an adjacent city or town. The notice shall be sent by registered or certified mail to the last known address of the owners, as shown on the current real estate tax assessment records of the town in which the property is located.
- (D) Notice of a public hearing shall be sent by first class mail to the town council of any city or town to which one (1) or more of the following pertain:
- (1) Which is located in or within not less than three hundred (300) feet of the boundary of the area proposed for change; or
 - (2) Where there is a public or quasi-public water source, or private water source that is used or is suitable for use as a public water source, within two thousand (2,000) feet of any real property that is the subject of a proposed zoning change, regardless of municipal boundaries.
- (E) Notice of a public hearing shall be sent to the governing body of any state or municipal water department or agency, special water district or private water company that has riparian rights to a surface water resource and/or surface watershed that is used or is suitable for use as a public water source and that is within two thousand (2,000) feet of any real property which is the subject of a proposed zoning change, provided, however, that the governing body of any state or municipal water department or agency, special water district or private water company has filed with the building inspector in the town a map survey, which shall be kept as a public record, showing areas of surface water resources and/or watersheds and parcels of land within two thousand (2,000) feet thereof.
- (F) No defect in the form of any notice under this section shall render any ordinance or amendment invalid, unless the defect is found to be intentional or misleading.
- (G) Costs of any notice required under this section shall be borne by the applicant.
- (H) In granting a zoning ordinance amendment, notwithstanding the provisions of section 45-24-37 of the General Laws, the town council may limit the change to one of the permitted uses in the zone to which the subject land is rezoned, and impose such limitations, conditions and restrictions, including, without limitation:
- (1) Requiring the petitioner to obtain a permit or approval from any and all state or local governmental agencies or instrumentalities having jurisdiction over the land and use which are the subject of

the zoning change;

- (2) Those relating to the effectiveness or continued effectiveness of the zoning change; and/or
- (3) Those relating to the use of the land; as it deems necessary.

The town clerk shall cause the limitations and conditions so imposed to be clearly noted on the zoning map and recorded in the land evidence records, provided, however, in the case of a conditional zone change, the limitations, restrictions and conditions shall not be noted on the zoning map until the zone change has become effective. If the permitted use for which the land has been rezoned is abandoned or if the land is not used for the requested purpose for a period of two (2) years or more after the zone change becomes effective, the town council may, after a public hearing as hereinbefore set forth, change the land to its original zoning use before the petition was filed. If any limitation, condition or restriction in an ordinance is held to be invalid by a court in any action, that holding shall not cause the remainder of the ordinance to be invalid.

ARTICLE II. DISTRICT USE REGULATIONS

The following uses are permitted only in the districts marked with an "X". Uses permitted in the districts as special use permits under the provisions of article I, section 6C, of this ordinance are marked with an "S". The top horizontal row in each use is the town-wide zoning; the bottom row in each use is for village overlay districts only.

ARTICLE II
DISTRICT USE REGULATIONS

The following uses are permitted only in the districts marked with an "X."
Uses permitted in the districts as special use permits under the provisions of Article 1 section 6C of this ordinance are marked with an "S." The top horizontal row in each use is the Town-wide Zoning; the bottom shaded row in each use is for Village Overlay Districts only.

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|---|
| Section 1. Agricultural Uses. | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Keeping of animals and fowl for home Uses. | X | S | | X | X |
| | X | S | S | S | S |
| | | | | | |
| 2. Keeping of animals for sale. | X | | | | X |
| | X | | | | X |
| | | | | | |
| 3. Raising of crops and forest products | X | X | X | X | X |
| | X | X | X | X | X |
| 4. Commercial nursery | S | S | X | X | X |
| | S | S | X | X | X |
| 5. Sale of produce raised on the premises | X | S | X | X | X |
| | X | S | X | X | X |
| 6. Keeping of horses, ponies, donkeys & mules | X | S | | | |
| | X | S | S | S | S |
| 7. Kennel (includes kennel as defined in Section 4-13-10 of the General Laws; boarding kennel; or the keeping of more than three (3) dogs over the age of six (6) months. Note: to keep three (3) or more adult dogs town council approval is also required) | S | S | S | S | S |
| | S | S | S | S | S |
| | | | | | |
| 8. Poultry Farm | S | | | | |
| | S | | | | |

Minimum of sixty thousand (60,000) sq. ft. required for one (1) horse, pony, donkey or mule.
Minimum of one hundred twenty thousand (120,000) sq. ft. required for two (2) horses,
etc. More than five (5) acres required for more than two (2) horses, etc., but not more
than four (4) horses. More than ten (10) acres required for more than five (5) horses,
etc., but not more than ten (10) horses without a special use permit.

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 2. Residential Uses. | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Single-Family detached dwelling | X | X | X | | |
| | X | X | X | S | S |
| 2. Two-Family dwelling structures | S | S | X | | |
| | S | S | X | S | S |
| 3. Multifamily dwelling structures | | | S | | |
| | S | S | S | S | S |
| 4. Lodging or guest house, bed or breakfast (not to exceed three (3) units) | S | S | S | S | |
| | S | S | S | S | S |
| 5. Dormitory for a permitted use. | S | S | X | X | |
| | S | S | S | S | S |
| 6. Hotel | | | S | S | |
| | | S | S | S | S |
| 7. Motel | | | S | S | |
| | | | S | S | S |
| 8. Customary home occupation (performed by the occupant and using no more than six hundred (600) sq. ft. of the area of one (1) floor, provided such activity shall not be visible from a lot line and that there shall be no exterior advertising, except as permitted by article VII) | X | S | X | X | X |
| | X | X | X | X | X |
| 9. Rest home or convalescent home | | | X | X | |
| | S | S | S | S | S |
| (8.) 10. Accessory Family Dwelling Units | S | S | | | |
| | S | S | | | |

(Ord. Of 4-23-98 (1))

| | DISTRICT | | | | |
|---------------------------------------|-------------------------|-------------------------|----|----|---|
| Section 3 Open Recreation Uses. | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Public Playground | S | S | | | |
| | S | S | S | S | S |
| 2. Bathing Beach | S | S | X | X | X |
| | | S | S | S | S |
| 3. Golf Course | S | S | S | S | S |
| | S | S | S | S | S |
| 4. Other Commercial Recreation | | | S | S | |
| | | S | S | S | S |

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|---|
| Section 4 Public & Semi-Public Buildings | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. School or College | S | | X | X | |
| | S | S | X | X | S |
| 2. Religious Institution | S | | X | X | |
| | S | S | X | X | S |
| 3. Charitable institution (No commercial activity) | | | X | X | |
| | | S | X | X | S |
| 4. Library, Museum, etc. | X | X | X | X | |
| | X | X | X | X | X |
| 5. Hospital or clinic (not for mental or alcoholic treatment) | | | X | X | |
| | | | S | S | S |
| 6. Hospital (for mental or alcoholic treatment) | | | | S | |
| | | | S | | S |
| 7. Government building (except penal, garage or utility) | | | X | X | X |
| | X | X | X | X | X |
| 8. Penal, garage or utility government buildings | | | S | S | X |
| | S | S | S | S | S |
| 9. Fire or Police Station | X | X | X | X | X |
| | X | X | X | X | X |
| 10. Sewage plant or incinerator | | | | | S |
| | | | | | |
| 11. General purpose hall leased for recreation, social or other intermittent functions | | | S | S | S |
| | S | S | S | S | S |
| 12. Half-way houses | | | S | | |
| | S | S | | S | S |

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 5 Office Uses | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Professional office in the home (for use by a resident of the premises, no outside employee) | X | X | X | X | X |
| | X | X | X | X | X |
| | | | | | |
| 2. Professional office, real estate, insurance agency, etc. | S | | X | X | |
| | S | S | X | X | S |
| 3. Temporary real estate office (one (1) year only) | S | S | X | X | X |
| | S | S | X | X | X |
| 4. Bank or office building | S | | X | X | X |
| | S | S | X | X | X |
| 5. Office for wholesale or manufacturing USE | | | S | X | X |
| | | | S | X | X |

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 6 Restaurants & Entertainment | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Lunch room or restaurant (not including entertainment and liquor) | | | X | X | X |
| | | S | X | X | X |
| | | | | | |
| 2. Tavern or night club | | | S | S | |
| | | | S | S | S |
| 3. Theatre or night club | | | S | S | |
| | | | S | S | S |
| 4. Indoor commercial recreation | | | S | S | S |
| | | | S | S | S |
| 5. Lunch room or cafeteria (accessory to a permitted use and designed to serve the students, employees and patrons of the main use, located entirely within the main building and with no exterior advertising) | X | X | X | X | X |
| | X | X | X | X | X |
| | | | | | |

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|---|
| Section 7 Business | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Barber, beautician, shoe repair, laundry pickup and similar service shops | S | | X | X | X |
| | S | X | X | X | X |
| 2. Print shop, photo studio, taxidermist and similar specialty shops | | | X | X | |
| | S | S | X | X | S |
| 3. Mortuary or funeral home | S | | X | X | |
| | S | S | X | X | S |
| 4. Radio or television studio (or) transmission towers (broadcast) | S | | S | S | S |
| | | | | | |
| 5. Veterinary or pet shop | S | | S | X | |
| | | S | S | X | X |
| 6. Caterer | | | X | X | X |
| | S | S | X | X | X |
| 7. Gasoline filling station (no major repairing) | | | S | X | S |
| | | | S | S | S |
| 8. General automotive repair | | | | S | S |
| | | | | S | S |
| 9. Vehicle rental agency (no repairs) | | | S | X | S |
| | | | S | S | S |

| | | | | | |
|--|---|---|---|---|---|
| 10. Grocery, bakery, drug, hardware, variety and similar neighborhood stores | | | X | X | |
| | S | S | X | X | X |
| | | | | | |

| | | | | | |
|--|---|---|---|---|---|
| 11. Fruit or vegetable stand | S | | X | X | |
| | S | S | X | X | X |
| 12. Package store (alcoholic beverages) | | | S | X | |
| | | | S | X | X |
| 13. General merchandise, department store, supermarket, furniture and household goods (including storage up to thirty (30) percent of the gross floor area | | | S | X | |
| | | | S | S | S |
| 14. Auto and truck sales in a building (including repairs) | | | | S | S |
| | | | | | S |
| 15. Auto and truck sales in an open lot | | | | S | S |
| | | | | | |
| 16. Retail sales in an open lot | | | S | S | S |
| | | | | | |

| | | | | | |
|--|---|---|---|---|--|
| 17. Booth or stand for sale of goods, merchandise, food, refreshments, (non-alcoholic), arts and crafts during an arts and crafts festival of no more than three (3) days duration once per year, when such booth or stand has been licensed pursuant to the provisions of the Ord. of 8-14-00(2) (chapter 6, article IX of this Code) which provides for such licenses and defines the areas within the town within which such licenses may be granted. | X | X | X | X | |
| | X | X | X | X | |
| | | | | | |

(Amd. Of 7-13-00)

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|---|
| Section 8. Transportation Uses | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Airport | S | | | S | S |
| | | | | | |
| 2. Heliport | S | | | S | S |
| | | | | | S |
| 3. Offstreet parking facility (accessory to a use permitted in the district) | S | S | X | X | X |
| | S | S | X | X | X |
| | | | | | |
| 4. Commercial offstreet parking facility | | | X | X | X |
| | | | X | X | X |
| 5. Rail or motor freight terminal | | | | S | X |
| | | | | | S |
| 6. Rail or bus passenger station | | | | X | X |
| | | S | X | X | X |

| | DISTRICT | | | | |
|--|-------------------------|-------------------------|----|----|----|
| Section 9 Wholesale Business & Storage | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Wholesale business and storage of nonflammable and nonexplosive material in a building | | | | S | X |
| | | | | | X |
| | | | | | |
| 2. Open lot storage of building materials and machinery, motor vehicles, trailers, campers, truck trailers, motor vehicle parts | | | | | S* |
| | | | | | S* |
| | | | | | |
| 3. Open storage of solid fuel, sand and gravel | | | | | S* |
| | | | | | S* |

| | | | | | |
|--|--|--|---|---|---|
| 4. Storage of flammable or explosive materials above ground | | | | | S |
| 5. Storage of flammable or explosive materials under ground | | | S | S | S |
| *Must be screened by an opaque fence or hedge no less than seven (7) feet in height. | | | | | |

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 10 Service Industries | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Dry cleaning plant | | | | S | S |
| 2. Auto body or paint shop | | | | | S |
| 3. Blacksmith or welding shop | | | | | X |
| 4. Power generating station | | | S | S | X |
| 5. Electric substation | | | X | X | X |
| 6. Office or office building, service building storage or materials, uses incidental or related to operation of maintenance of all or any part of a public service system, or any structure or uses substantially similar to any of the structures or uses included in this subsection or otherwise permitted under other provisions of this ordinance. | S | | X | X | X |
| 7. Any other structure which is part of a public service system | S | S | S | S | S |
| 8. Telecommunications Towers and Antennas* | | | S | S | S |

*Telecommunications towers are prohibited in village overlay districts. An additional setback of 10 feet for each foot of tower height between a proposed tower or antenna and village overlay district limit shall be applied.

(Ord. Of 4-23-98 (1))

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 11 Industrial Uses Uses. | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. The manufacture, compounding processing or packaging of bakery goods, candy, cosmetics, drugs, food products (excluding meat, fish, yeast, vinegar and the rendering of fats and oils) and other similar operations | | | S | S | X |
| 2. The manufacture, compounding or assembly of articles using shell, cellophane, plastic, fur, glass, leather, precious metals or stones, wood, textiles or tobacco and other previously prepared products | | | | | X |
| 3. The manufacture and assembly from prepared materials of: musical instruments, clocks, toys, novelties, appliances, electronic devices, metal products, machine tools and machinery (not requiring the use of drop hammers and punch presses of over one hundred (100) tons) and other similar products | | | S | S | X |
| 4. Atomic energy processes | | | | | S |
| 5. Auto manufacture or assembly | | | | | S |
| 6. Boat manufacturing | | | | | X |
| 7. Boat storage and repair | | | | | X |
| 8. Boiler, locomotive or railcar manufacture | | | | | S |
| 9. Machinery or machine tool manufacture (requiring drop hammers or punch presses of over one hundred (100) tons). | | | | | S |
| 10. Mining, quarrying or loam stripping | | | | S | S |
| 11. Paint Manufacture | | | | | S |
| 12. Plastic and pyroxylin manufacture | | | | | S |

| | | | | | |
|--|--|--|---|---|---|
| 13. Retail outlet for industrial operation | | | S | X | X |
| | | | S | X | X |
| 14. Rubber manufacture or treatment | | | | | S |
| | | | | | S |

| | | | | | |
|----------------------------------|--|--|---|---|---|
| 15. Soap manufacture | | | | | S |
| | | | | | S |
| 16. Sodium compounds manufacture | | | | | S |
| | | | | | |
| 17. Stone cutting | | | | | X |
| | | | S | S | X |
| 18. Textile dyeing or finishing | | | | | S |
| | | | | | S |
| 19. Tile or brick manufacturing | | | | | S |
| | | | | | S |

All uses not specifically listed in this section or article X will require a ruling in writing as to general classification by the zoning inspector. If such a classification is listed as a special use permit, the provisions of article I, section 6C will apply.

| | DISTRICT | | | | |
|---|-------------------------|-------------------------|----|----|---|
| Section 12 Accessory uses | RR-120 RRW- 60/80 | RS-120 RSW- 60/80 | BL | BG | M |
| 1. Any accessory use customarily incident to a use permitted in the district and located on the same site | X | X | X | X | X |
| | X | X | X | X | X |
| 2. Any accessory uses customarily incident to a use permitted as a special exception in the district and located on the same site | S | S | S | S | S |
| | S | S | S | S | S |

(Ord. of 1-8-04)

Section 13. Mandatory permitted uses.

As required by section 45-24-37 of the General Laws, the following uses shall be permitted uses within all residential districts and all industrial and commercial districts, except where the zoning inspector determines that residential use would present a public health or safety hazard:

- (a) Households.
- (b) Community residences.
- (c) Family day-care homes.
- (d) Any time a building or other structure used for residential purposes, or a portion of a building containing residential units, is rendered uninhabitable by virtue of a casualty such as fire or flood, the owner of the property is

allowed to park, temporarily, mobile and manufactured home or homes, as the need may be, elsewhere upon the land, for use and occupancy of the former occupants for a period of up to twelve (12) months, or until the building or structure is rehabilitated and otherwise made fit for occupancy. The property owner, or a properly designated agent of the owner, is only allowed to cause the mobile and manufactured home or homes to remain temporarily upon the land by making timely application to the local building official for the purposes of obtaining the necessary permits to repair or rebuild the structure.

- (e) Notwithstanding any other provision of this chapter (ordinance), appropriate access for people with disabilities to residential structures is allowed as a reasonable accommodation for any person(s) residing, or intending to reside, in the residential structure.

(Ord. of 1-8-04)

Section 14. Town of Scituate exempt.

Any building or use employed by the Town of Scituate in the performance of its governmental functions shall be exempt from the operation of this ordinance.

Section 15. City of Providence.

Property owned by the City of Providence under the jurisdiction of the Providence Water Supply Board may be used for the collection, storage, processing and distribution of water and, as an incident thereto, the planting and harvesting of forest products and the production of electricity. Such property may also be used according to the district use regulations and district dimensional regulations for RR-120 district property.

ARTICLE III. DISTRICT DIMENSIONAL REGULATIONS

Section 1. Residential districts

| | Single Family Residence Structure | Other Permitted Use |
|---------------------------|-----------------------------------|--------------------------|
| 1. RR-120 District | | |
| Minimum Lot Size RR-120 | 120,000 sq. ft. | 120,000 sq. ft. |
| Minimum Lot Width | 300 ft. | 300 ft. |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

| | | |
|---------------------------|-----------------|-----------------|
| 2. RS-120 District | | |
| Minimum Lot Size RS-120 | 120,000 sq. ft. | 120,000 sq. ft. |
| Minimum Lot Width | 300 ft. | 300 ft. |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |

| | | |
|---------------------------|---------------|--------------------------|
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

| | | |
|---|----------------|--------------------------|
| 3. RRW-60/80 District | | |
| Minimum Lot Size RRW-60/80 (no public water) | 80,000 sq. ft. | 80,000 sq. ft. |
| Minimum Lot Size RRW-60/80 (public water) | 60,000 sq. ft. | 60,000 sq. ft. |
| Minimum Lot Width | 200 ft | 200 ft |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

| | | |
|---|----------------|--------------------------|
| 4. RSW-60/80 District | | |
| Minimum Lot Size RSW-60/80 (no public water) | 80,000 sq. ft. | 80,000 sq. ft. |
| Minimum Lot Size RSW-60/80 (public water) | 60,000 sq. ft. | 60,000 sq. ft. |
| Minimum Lot Width | 200 ft | 200 ft |
| Minimum Front Yard Depth | 50 ft. | 50 ft. |
| Minimum Side Yard Depth | 35 ft. | 15 ft. |
| Minimum Rear Yard Depth | 60 ft. | 60 ft. |
| Maximum Building Coverage | 15% | 15% |
| Maximum Building Height | 36 ft. | 30 ft. see note 4 |

NOTES:

1. Minimum lot width in RR-120, RS-120, RRW-60/80 and RSW-60/80 districts is the distance between the side lines of a lot, measured at the required front yard depth which is fifty (50) feet and which distance shall be maintained for at least one hundred (100) feet back from the point of required minimum lot width.
2. The maximum height dimension shall be measured from average ground level to the highest point on the roof of the structure. The maximum height limit shall not affect spires, water towers, chimneys, transmission towers or other similar structures.
3. Any use listed in article II, sections 1 and 2 which may be located in a BL, BG or M District shall conform to the dimensional regulations of the RS-120 district.
4. Accessory structure height may be increased to 36 feet if conforming to principal use structure setbacks.

Section 2 Business and manufacturing districts.

| | Any Permitted Use |
|--|-------------------|
| 1. BL District and BG District | |
| Minimum Front Yard Depth (unobstructed | 25 ft. |
| Minimum Side Yard Depth | -- |
| Minimum Rear Yard Depth | 40 ft. |
| Minimum Distance of Structure from | 30 ft. |
| Residence District Boundary | |
| Maximum Building Coverage | 25% |
| Maximum Building Height | 36 ft. |

| | |
|--------------------------------------|---------|
| 2. M District--General Manufacturing | |
| Minimum Front Yard Depth | 40 ft. |
| Minimum Side Yard Depth | 40 ft. |
| Minimum Rear Yard Depth | 40 ft. |
| Minimum Distance of Structure from | |
| Residential District | 100 ft. |
| Maximum Building Coverage | 25% |
| Maximum Building Height | ----- |

Section 3. Multifamily dwelling structures.

1. A multifamily dwelling structure means a residential building designed for three (3) or more separate dwelling units enclosed within a single structure. Each dwelling or living unit shall be designed and constructed with a maximum of two (2) bedrooms.
2. A dwelling unit means a portion of a structure designed for the use of (or occupied by) one (1) family for living, cooking and sleeping purposes.
3. Each multifamily structure shall be provided with the necessary water supply and separate sewerage for sanitary and laundry facilities, all contained on the lot. All such systems shall be in conformance with the Rhode Island Department of Environmental Management Regulations currently in effect and all town regulations and standards. Where town, state and/or other standards are in conflict, the more restrictive standards shall prevail.
4. A site plan for a multifamily dwelling or dwellings of three (3) or more units shall be prepared by a registered architect or engineer and shall show the following, together with appropriate dimensions:
 - a. Proposed name of the development, name of developer and owner;
 - b. Lot layout by legal descriptions;
 - c. Names and addresses of applicant and designer of the plan;
 - d. Scale of plan; overall site: 1" = 100'
Detailed plan of immediate area of development: 1" = 20';

- e. The topographic map shall show existing ground contours over the area proposed for development as follows: Minimum of 5' contour intervals and spot elevations at appropriate locations to substantiate design features;
 - f. Boundary line of development indicated by a solid line, and the total acreage encompassed thereby; names of abutting property owners indicated;
 - g. Existing sewers, wells, water mains, drainage culverts and other underground facilities within the tract, indicating pipe sizes, grades, manholes and location;
 - h. Location, arrangement and dimensions of automobile parking spaces, width of aisles, width of bays, angle of parking;
 - i. Location and dimensions of vehicular drives, entrances, exits, acceleration and deceleration lanes; location and dimensions of pedestrian entrances, exits, walks and walkways;
 - j. Storm drainage system and sanitary sewage disposal systems as approved;
 - k. Location, height and materials of walls, fences and screen planting;
 - l. Lighting (exterior);
 - m. Ground cover, finished grades, slopes, banks and ditches;
 - n. Location and general exterior dimensions of principal and accessory buildings and signs;
 - o. The stages, if any, to be followed in the construction of the development;
 - p. The developer shall submit architectural floor plans and elevations of the principal building(s) for review of their general design and selection of exterior materials for the intended use and compatibility with the site and surrounding established uses.
5. The following minimum lot sizes shall be required for multifamily dwelling structures, whether contained in one (1) building or more than one (1) building on a single parcel:

| | |
|------------------------|-----------------------|
| 3 dwelling units | 200,000 square feet |
| 4 -10 dwelling units | 400,000 square feet |
| 11 – 15 dwelling units | 600,000 square feet |
| 16 – 20 dwelling units | 800,000 square feet |
| 21-25 dwelling units | 1,000,000 square feet |
| 26-30 dwelling units | 1,200,000 square feet |
| 31-35 dwelling units | 1,400,000 square feet |

More than thirty-five (35) dwellings units, one million four hundred thousand (1,400,000) square feet plus forty thousand (40,000) square feet for each dwelling unit.

Minimum lot width shall be three hundred (300) feet plus an additional ten (10) feet for each dwelling unit in excess of three (3).

In all other respects the district dimensional requirements for RR-120 districts as set forth in article III, section 1 shall apply, except where stricter requirements are imposed by subsection 6 of this section.

6. In areas where there is no public water and/or no public sewage system or where the water supply of the City of Providence might be adversely affected, the zoning board of review may require larger lot sizes or fewer dwelling units.
7. The zoning board of review may in any development of more than twenty (20) dwelling units require dedication of a portion of the premises as a park for residents of the dwelling units, such area to be not less than one (1) acre nor more than five (5) acres.
8. Buffer strip. A strip 100 feet in width or depth along side and rear lot lines shall be maintained as a landscape buffer strip.
9. Rubbish disposal. Each building shall be provided with an enclosed fireproof waste pen of sufficient size to accommodate all trash and waste stored on the premises. Waste pen and utility area shall be properly screened and buffered from all buildings and property lines. No trash shall be disposed of on the premises.
10. Offstreet parking facilities. Minimum offstreet parking shall be provided and maintained as follows:
 - a. Two (2) car spaces per dwelling unit (three hundred (300) sq. ft. per space, including access, egress and general circulation).
 - b. No parking shall be permitted within one hundred (100) feet of any boundary line or within the required minimum front yard.
11. Prohibition for certain groundwater table areas. Multi-dwelling structures are prohibited in any area where the groundwater table is within four (4) feet of the original ground surface or where an impervious layer is within six (6) feet of the original ground surface.

ARTICLE IV. SPECIAL REGULATIONS

Section 1. Preexisting uses. (Nonconforming uses)

- A. *Definition.* A preexisting use is any use of land or of any structure which was in lawful use at the time of passage of this ordinance, but which is not in conformity with the provisions of this ordinance.
- B. *Continuance.* Any preexisting use shall be permitted to continue until such time as such use is discontinued, destroyed, demolished or changed to another use.
- C. *Discontinuance.* A preexisting use which has been abandoned shall not be allowed to be resumed and any future use of such building or land must conform to the provisions of this ordinance. If any nonconforming use is halted for a period of one (1) year, the owner of the property will be presumed to have abandoned the nonconforming use, unless that presumption is rebated by presentation of sufficient evidence of intent not to abandon the use.
- D. *Destruction.* If a preexisting use is destroyed by accident or by act of God or if it

is demolished at the direction of the owner, such use may be reestablished, provided the total floor space and location are not altered or increased. Nothing shall prevent the performance of normal maintenance work or work necessary to comply with safety codes on a legal preexisting use.

- E. *Change of use.* A preexisting use may be changed only to a conforming use. A change to a use not conforming to the requirements of the district may be granted only as a variance.
- F. *Enlargement.* A preexisting use may be enlarged only as a special use permit under article I, section 6C.
- G. *Exemption.* Any use which does not conform in dimension, but conforms in use shall be exempt from the provisions of this section, provided the dimensional nonconformity is not increased in any way.
- H. *Two (2) houses, on one (1) lot.* Where two (2) or more dwelling houses, which were in existence at the time of enactment of this ordinance, are located on one (1) lot, the zoning board of review may, by special use permit, permit the division of the lot into separate lots for each house even though the separate lots do not conform in size and/or dimensions to the minimum sizes and/or dimensions for residential use.

Section 2. Yard exceptions.

The space in a required front, side or rear yard shall be open and unobstructed with the following exceptions:

- A. An unenclosed porch may extend up to ten (10) feet into a side or rear yard.
- B. Ordinary projections of window sills, cornices and other ornamental features may extend up to one (1) foot into a yard.
- C. Landscape features such as trees, fences, shrubs and terraces may be placed in any yard area.
- D. In BL, BG and M districts an outdoor telephone booth may be located in a front yard area, provided it is adjacent to a permitted curb parking area or an offstreet parking facility, and one (1) permitted sign may be located in the front yard so long as it complies with the requirements of article VII (sign regulations).
- E. In RR and RS districts where property is used for single-family residential purposes, permitted detached structures, other than dwelling houses, may be located in the rear yard so long as they are at least fifteen (15) feet from the rear lot line and fifteen (15) feet from the side lot line and provided that such structures shall be limited to a maximum height or [of] 30 feet and a maximum floor space of eight hundred seventy-five (875) square feet.
- F. Barns for keeping livestock and/or farm machinery and other agricultural uses in RR districts may have a maximum floor space of three thousand (3,000) square feet and a greater area may be permitted by the zoning board of review as a special use permit.

- G. In BL, BG, and M zones (and for uses permitted in those zones which are located in RR and RS zones) propane tanks shall be placed in accordance with applicable federal, state and town fire safety regulations.

Section 3. Substandard lots of record.

Except for lots on recorded plats which have received final approval from the plan commission pursuant to the ordinance and rules and regulations governing and restricting the platting and other subdivision of land, no lot area shall be reduced below the dimensional requirements prescribed for the district in which the lot is located. No yard or open space provided around any building for the purpose of complying with the provisions of this ordinance shall again be used as a yard or open space for any other building.

Where no adjacent land is in the same ownership so as to form at least a lot of the minimum lot size and dimensions for the district which was of record on the effective date of this ordinance [December 30, 1965] may be used for a permitted use, or use permitted by special use permit if a special use permit is granted, provided that such lot shall have a minimum area of ten thousand (10,000) square feet and a minimum width of one hundred (100) feet. All yard dimensions of such lot shall conform to the provisions of the district, except that the side yard depth may be reduced to ten (10) feet for any lot less than twelve thousand five hundred (12,500) square feet in area.

In residence districts where a lot has a width of less than one hundred fifty (150) feet, the minimum side yard depth is fifteen (15) feet for a single-family residence and ten (10) feet for other permitted uses.

(Ord. of 1-8-04)

Section 4. Corner lots.

For the purpose of complying with the provisions of article III of this ordinance, the shorter of the two (2) street lot lines shall be interpreted as the front lot line of any corner lot. All dimensional regulations of article III shall apply, except that the side yard which is adjacent to a street shall have a depth equal to one-half (1/2) the sum of the required side yard and front yard depths for the district.

On any corner lot, no driveway or accessway shall be constructed within seventy-five (75) feet of the intersection of two (2) street lines.

Section 5. Vision clearance at corners.

At street line intersections, in all districts, no building or structure shall be erected between a height of three (3) feet and ten (10) feet above street level and no vegetation shall be planted or allowed to grow above a height of three (3) feet above the street level within the triangle formed by the two (2) intersecting street lines and a third line joining points on these street lines fifteen (15) feet from the intersection. Poles not exceeding six (6) inches in diameter are exempted from this regulation.

Section 6. Lots divided by a zoning district boundary.

Where a lot is divided by a zoning district boundary, the regulations for either zoning district shall apply, except that no district shall, in effect, be extended more than

thirty (30) feet into an adjoining district.

Section 7. Setback from water bodies.

Sewage disposal facilities designed to leach wastes into the soil shall be located no closer than one hundred fifty (150) feet from the edge of any pond or stream. No building or structure, except a dock shall be placed or erected within seventy-five (75) feet from the edge of any pond or stream, except as may be granted by the board as a special use permit.

Section 8. Number of residential structures per lot.

Not more than one (1) main residential structure shall be permitted on a lot, except that this regulation shall not be construed to limit the number of institutional dormitories permitted on one (1) lot.

Section 9. Floodplain district regulations.

- A. *Floodplain district.* The floodplain district is herein established as an overlay district. The underlying permitted uses are allowed, provided that they meet the following additional requirements as well as those of the Rhode Island State Building Code dealing with construction in floodplain. The floodplain district includes all special flood hazard areas designated as Zone A, A1-30 on the Town of Scituate Flood Insurance Rate Maps (FIRM), and the Flood Boundary and Floodway Maps, dated January 2, 1981 on file with the town clerk, planning board and building inspector. These maps as well as the accompanying Rhode Island Flood Insurance Study are incorporated herein by reference.
- B. *Development regulations.* The following requirements apply in the floodplain district:
 - 1. In the floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 - a. All encroachments, including fill, new construction, substantial improvements to existing structures and other development are prohibited, unless certification by a registered professional engineer is provided by the applicant, demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100-year flood.
 - b. Any encroachment meeting the above standard shall comply with the floodplain requirements of the state building code.
 - c. The placement of mobile homes, except in an existing mobile home park or mobile home subdivision, is prohibited.
 - 2. In A1-30 zones on the Flood Insurance Rate Map for new or substantially improved mobile home parks or subdivisions require:
 - a. That stands are elevated to or above base flood elevation;
 - b. That adequate access and drainage is provided;

- c. That, if pilings are issued for elevation, lots are large enough to permit steps, piling foundations are placed in stable soil no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.

Section 10. Telecommunications towers and antennas.

1. Purpose.

- A. The purpose of the ordinance is to establish general guidelines for the siting of towers and antennas. The goals of this ordinance are to:
 1. Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;
 2. Encourage the joint use of tower sites;
 3. Encourage the users of towers and antennas to locate them, to the maximum extent possible, in areas where the adverse impact on the community is minimal;
 4. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas, and encourage creative design measures to camouflage facilities;
 5. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently;
 6. Protect historical and residential areas from potential adverse impacts.

2. Definitions. As used in this ordinance, the following terms shall have the meanings indicated:

- A. "Alternative tower structure" shall mean clock towers, bell steeples, light poles and similar alternative design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. "Antenna" shall mean any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves.
- C. "FAA" shall mean the Federal Aviation Administration.
- D. "FCC" shall mean the Federal Communications Commission.
- E. "Pre-existing towers and antennas" shall have the meaning set forth in section 1(A) of this ordinance.
- F. "Height" shall mean, when referring to a tower or other structure, the distance measured from the ground level to the highest point on the tower or other structure, even if the said highest point is an antenna.
- G. "Tower" shall mean any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas,

including self supporting lattice towers, guy towers or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like.

3. *Development standards for telecommunications towers and antennas.*

1. Town owned sites or facilities that are located in the prospective development area which could potentially accommodate the proposed antennae and communications tower shall be given priority consideration.
2. In the event that no town facility is available, a reasonable effort shall be made to utilize existing structures for telecommunications antennae. Should an existing structure not be utilized, evidence as to why shall be submitted.
3. A bond shall be posted in perpetuity to cover the cost of removal of the tower. The bond shall be reviewed by the director of public works every five (5) years and adjusted accordingly. The bond amount set shall be sufficient to cover the cost of the tower or antenna removal.
4. Setback requirements for towers from all property lines shall be one and one-half (1.5) feet for each foot of tower height. Guy wires shall be adequately protected and shall be setback from all property lines the minimum of the zoning district in which they are proposed, but no less than [than] twenty-five (25) feet.
5. Communication equipment buildings are considered as accessory buildings and shall comply with the applicable setbacks of underlying zoning district.
6. Communications towers shall be constructed and situated in such a manner as to fit in with the topography and features of the surrounding environment. Tower buildings, ground structures and appurtenances shall be completely screened from all adjacent properties and streets. Plantings shall be of such a height and density to ensure complete screening. Screening may be waived by the board on those sides or sections that are adjacent to undevelopable lands not in public view. Existing vegetation shall be preserved to the maximum extent possible and may be used as a supplement for or a supplement towards meeting the screening goal.
7. Communications towers shall be enclosed by a maintenance free fence no less than six (6) feet in height or more than eight (8) feet in height from finished grade. Access shall be through a locked gate.
8. Communications towers shall no [not] be artificially lighted except as required for public safety reasons, by the Federal Aviation Administration (FAA), or by the town.
9. No signs shall be allowed on any communications tower except as required for public safety reasons, by the Federal Aviation Administration (FAA), or by the town.
10. Communications antennae not attached to a communication tower shall

be permitted as an accessory use to any commercial, industrial, office, institutional, multifamily or public utility structure provided that:

- A. The antennae are not higher than twenty (20) feet above the highest point of the structure.
 - B. The antennae comply with applicable FCC and FAA regulations; and
 - C. The antennae comply with all applicable zoning requirements and building codes.
11. Communications towers shall comply with the following standards for the minimum separation distance from existing communication towers and/or communication towers that have received a valid special use permit, use permit or building permit.

MINIMUM SEPARATION BETWEEN TOWERS (BY TYPE)

| Proposed tower types | Self supporting | Guyed | Monopole – 75 feet in Height or Greater | Monopole – less than 75 feet in Height |
|---|-----------------|------------|---|--|
| Self supporting | 5,000 feet | 5,000 feet | 1,500 feet | 750 feet |
| Guyed | 5,000 feet | 5,000 feet | 1,500 feet | 750 feet |
| Monopole – 75 feet in height or greater | 1,500 feet | 1,500 feet | 1,500 feet | 750 feet |
| Monopole – less than 75 feet in height | 750 feet | 750 feet | 750 feet | 750 feet |

- a. Separation distances shall be calculated and applied irrespective of jurisdictional boundaries.
12. No proposed telecommunications site, structure or appurtenance shall be designed, located or operated so as to interfere with existing or proposed public safety communications.
13. The following standards shall be used in the approval of the siting of new towers.

Evidence that the applicant has investigated the possibility for locating the proposed facilities on an existing tower, the use of stealth technology or an alternative location where the tower would provide less of an impact on the surrounding area;

Such evidence shall consist of:

1. Copies of letters sent to owners of all existing towers within a one (1) mile radius of the proposed site, requesting the following information:
 - A. Tower height;
 - B. Existing and planned tower users;
 - C. Whether the existing tower could accommodate the proposed antenna without causing instability or radio frequency interference; and
 - D. If the proposed antenna cannot be accommodated on the existing tower, an assessment of whether the existing tower could be structurally strengthened or whether the antenna's transmitters and related equipment could be protected from electromagnetic interference, and a general description of the means and projected cost of shared use of the existing tower.
2. A copy of all responses within thirty (30) days from the mailing date of the letter required by subsection (1); and
3. A summary explanation of why the applicant believes the proposed facility cannot be located on an existing tower.
4. A summary explanation of why the applicant believes that the use of an alternative tower structure is not possible.
5. Provision of sound engineering evidence demonstrating the location of the tower as proposed is necessary in the interest of public safety or is a practical necessity.

(Ord. of 4-23-98(2))

Section 11. Setback from cemeteries.

No building or other structure shall be located closer than thirty-five (35) feet from any cemetery (including historical cemeteries) or gravesite, and except for the access road or way to the cemetery or gravesite, no road, street or driveway shall be located within fifteen (15) feet of any cemetery (including historical cemetery) or gravesite.

Section 12. Land Development--Preservation and protection of cultural environmental and scenic resources.

In an effort to preserve and protect unique features within proposed land development projects the plan commission may authorize lot width and yard dimensions other than those listed in article III of this ordinance. Lots may contain less than minimum frontage and setbacks than otherwise required under article III for the purposes of preserving and protecting documented features considered to be unique, historic, scenic or environmentally sensitive. Areas within the town requiring such design flexibility include but are not limited to the following: areas listed by the state

historical preservation and heritage commission: areas listed as unique natural areas by the state department of environmental management: areas of prime agricultural soils and viable farmland as listed and mapped by the USDA Soil Conservation Service: the Scituate Reservoir: scenic areas as listed and mapped by the town and the state. In addition land developments of a scale and complexity which due to their size have the potential to have a negative impact upon the rural character of the town and the implementation of the town comprehensive plan may be considered under this section.

- A. In no case shall the density of any proposed development project be greater than the density which a conventional subdivision would yield. The density of a proposal shall be established by the number of units that a prudent and responsible configuration, conforming to the standard dimensional criteria, would yield.
- B. Proposals that entail random or extensive alteration of wetlands for building envelopments or roads and access will not be considered.
- C. The plan commission may recommend building envelopes for the location of new residential constructions and to protect the aforementioned cultural, environmental and scenic resources through the use of conservation easements, where appropriate.
- D. It shall be the responsibility of the applicant/owner to provide the plan commission with surveyed plans and engineering data which adequately depict and define any and all features that may be considered unique or sensitive in accordance with the standards and application procedures promulgated by the plan commission.
- E. All proposals which are intended to utilize the provisions of this section shall be in accordance with the Rural Design Manual, as adopted by the plan commission.
- F. Any land within a land development project undertaken under this section not designated a building lot shall be designated as permanent open space. Such land shall either be conveyed to the town and be accepted by the town for park land open space agricultural or other specified use or uses or be conveyed to a nonprofit organization the principal purpose of which is the conservation of open space or be conveyed to a corporation or trust or to be owned by owners of a lot or units within the development or owners of shares of a cooperation development. If such a corporation or trust is used ownership shall pass with conveyances of the lots or units. In any case where the land is not conveyed to the town a restriction enforceable by the town shall be recorded providing that the land shall be kept in the authorized condition(s) and not be built upon or developed for accessory uses such as parking or a roadway.

(Ord. of 8-8-96(3))

Section 13. Multifamily/commercial site plan review and approval.

- A. *Applicability.* No application for permit to build, alter or expand any multifamily/commercial building, structure or use of land where such construction shall exceed a total gross floor area of five hundred (500) square feet or require

changes or alterations to a parking area, shall be submitted to the building inspector, until he or she shall have received from the plan commission a written statement of site plan approval by the plan commission in accordance with provisions of this section. The building inspector shall enforce the fulfillment of any conditions which the plan commission may impose.

- B. *Town council or zoning board of review referrals.* When in accordance with article II, the zoning board of review shall refer an application for a special use permit to the plan commission for review and comment, the plan commission's written report to the zoning board shall include, but not be limited to, all of the findings and determinations the plan commission would make in reviewing a site plan under this section the extent they are applicable to the information contained in the application for special use permit. The site plan review undertaken as an advisory opinion on referral from the town council or zoning board of review shall constitute the site plan review for such project under this section.
- C. *Grounds for site plan application approval or denial.* The plan commission may reject an application for site plan approval for the following reasons:
 - 1. Noncompliance with zoning ordinance.
 - 2. Incomplete application, including the application form, the accompanying site plan maps and supporting documentation, or the application fee as requested by the plan commission.
 - 3. Inability to impose reasonable conditions to mitigate adverse impacts in those areas in which standards for review have been established.
 - 4. Inability to meet the standards of review.
- D. *Standards for review.* Site plan approval is designed to provide a balance between landowner's rights to use his land with the corresponding rights of abutters and neighboring landowners to live or operate businesses without undue disturbance (e.g. noise, congestion, smoke, dust, odor, glare, storm water runoff, etc.).

Additional objectives include the preservation of the natural resources of the town; the creation of a better and safer living environment; and the enhancement of man-made resources including the town's architectural and historic heritage; protection of the Scituate Watershed and Reservoir.

The plan commission shall review site plans and shall issue site plan approval, including appropriate revisions and mitigating conditions, if the plan commission determines, and makes a written finding, that the following standards can be achieved:

- 1. The town's natural resources shall be preserved to the maximum extend possible.
- 2. Erosion and sedimentation shall be controlled during and after construction and shall not adversely effect adjacent or neighboring property or public facilities or services. All erosion control shall meet the standards of the town's erosion and sedimentation ordinance and the Rhode Island Erosion and Sedimentation Control Manual.
- 3. Increased runoff due to the development on the site shall not be injurious to any downstream property owner or cause hazardous conditions on

adjoining streets.

4. Direct discharge of untreated storm water run-off to a wetland or watercourse from impervious surfaces, including, but not limited to, roadways, parking lots, driveways, basements, and roofs shall not be allowed.
5. The proposed development shall not result in pollution of ground or surface waters, other than that anticipated under normal development practices with adequate mitigating measures to prevent significant impacts. All development storm water control shall meet the standards of the Rhode Island Storm water Management Manual and be of nonstructural character to the extent possible.
6. The movement of vehicular and pedestrian traffic within the site in relation to access streets shall be safe and convenient and adequate provision shall be made for snow removal.
7. Vehicular entrances and exits shall not be located within seventy-five (75) feet of any street intersection, where possible.
8. Traffic generated by the development shall not create significant congestion on the adjoining and nearby street system.
9. Adequate off-street parking and loading shall be provided to prevent on-street traffic congestion; all parking spaces, maneuvering areas, entrances and exits shall be suitably identified; the interior circulation system shall be designed to provide safe and convenient access to all structures, uses and/or parking spaces; parking areas shall be protected with suitable bumper guards, guard rails, islands, crosswalks, speed bumps, guard rails and similar devices when deemed necessary by the plan commission to protect life and property; and provisions shall be made for safe pedestrian movement within and adjacent to the property.
10. Parking lots containing twenty (20) or more spaces shall be planted with at least one tree per eight (8) spaces, no smaller than two-inch caliper, each tree being surrounded by no less than forty (40) square feet of permeable unpaved area. Trees required by the provisions of this section shall be at least five (5) feet in height at the time of planting and shall be of a species characterized by rapid growth and by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy the provisions of this section.
11. Within village areas parking areas shall be located only at the side or rear of buildings unless sufficient evidence is presented to justify parking within the front yard setback area.
12. No development shall be allowed where there is unrestricted access to the public streets or where the public street must be utilized to maneuver in and out of a parking space.
13. Buildings and the grounds adjoining them shall permit easy access and operation of fire, police, and other emergency vehicles.
14. Sensitive environmental land features such as steep slopes, wetlands

and large outcroppings shall be preserved and protected.

15. Existing trees and vegetation shall be preserved to the maximum extent possible.
 16. Buffering elements in the form of architectural design and landscape design that provide a logical transition to adjoining existing or permitted uses shall be provided.
 17. Scenic views and historically significant features shall be preserved.
 18. Glare from the installation of outdoor lights and signs and from the movement of vehicles on the site shall be shielded from the view of adjacent properties in a residential zone.
 19. Abutting properties and town amenities shall not be degraded by undue disturbances caused by excess or unreasonable noise, smoke, vapors, fumes, dust, and odors.
 20. The design of the project, including buildings and landscape shall be visually compatible with the character of the surrounding area, including building materials, massing, scale, and building roof form.
 21. The design of the project and the site plan shall conform to the town's comprehensive plan.
- E. *Environmental assessment.* The plan commission may require an applicant for commercial site plan review for a project of significant size or impact to submit an environmental assessment discussing the impacts of the project to the community and alternative actions which may be taken and their affect. The need for such environmental assessment shall be determined by the plan commission in consultation with any agencies or commissions of the town it deems appropriate.
- F. *Site plan approval application filing.* An applicant for commercial site plan approval shall file with the plan commission copies of an application and a site plan (four (4) sets), a filing fee as required by the plan commission. Concurrently, the applicant shall file a copy of the application and site plan with the town clerk. Such application and site plan shall include the elements on which the plan commission is to make findings and determinations as provided in this section, and shall also include information as to the nature and extent of the proposed use of buildings, and such further information as the plan commission shall reasonably require by rule or regulation. Applications for a building permit shall not be filed prior to having received site plan approval under the provisions of this by-law. In subsequent applications concerning the same subject matter, the plan commission may waive the filing of plans and documents to the extent they duplicate those previously filed.
- G. *Relationship to subdivision regulations.* Site plan approval issued hereunder by the plan commission shall not be a substitute for compliance with the subdivision and land development of the town as they may apply to an application submitted hereunder. The plan commission, by granting site plan approval, is not obligated to approve any plan nor reduce any time periods for the plan commission's consideration under the Land Development and Subdivision Review Enabling Act. In order to facilitate processing the plan commission may accept a combined

plan and application which shall satisfy this section, the subdivision land development regulations and the Land Development and Subdivision Review Enabling Act.

- H. *Referrals to town boards/commissions.* The plan commission shall, within a reasonable time of receipt of the site plan application, transmit copies of the application and site plan to the following town committees, departments, commissions, and boards for review and comment: conservation commissions; public works department; fire chiefs and police chiefs. Other committees, department and commissions may be requested to review site plan applications and site plans if the plan commission feels such review will help in their deliberations.

If the plan commission determines that the site plan application is not complete, it may so advise the applicant to avoid delays to the applicant due to the anticipated disapproval of an incomplete submission.

The conservation commission and other agencies designated by the plan commission shall consider the same and submit a final report thereon with recommendations to the plan commission. The conservation commission shall review the application with particular reference to the Scituate Reservoir Watershed and shall recommend as to the advisability of granting the site plan approval and as to the restrictions which should be imposed upon the development as a condition of such permit.

The plan commission shall not make a finding and determination upon an application until it has received the final report of the conservation commission and/or other agencies designated by the plan commission thereon, or until forty-five (45) days shall have elapsed since the transmittal of said copies of the application and site plan to the conservation commission and other agencies designated by the plan commission without such report being submitted. Failure of a commission or agency to report within the allotted time shall be interpreted as a recommendation for approval of the submitted site plan.

- I. *Public hearing/final action/appeals.* The plan commission may hold a public hearing within a reasonable time after the filing of an application and site plan and, except as hereinafter provided, shall take final action within forty (40) days from the date of the public hearing. If the plan commission determines that the project is of a minor nature that a public hearings is not necessary to be held on the project, the plan commission shall take final action on the application within forty (40) days from the date of the filing of a complete site plan review application. Such final action shall consist of either:
1. A finding that the development will be consistent with the standards for review established in this section.
 2. A written denial of the application stating the reasons for such denial, and which shall include a statement of the respect in which any elements in the particular features of the proposal are deemed to be inconsistent with the standards for review established in this section.
 3. A finding and determination, subject to such reasonable mitigating conditions, modifications and restrictions set forth therein as the plan commission may deem necessary to ensure that the proposed development achieves consistency with the standards for review

established in this section.

In the event the plan commission approves a site plan application under these provisions, any construction, reconstruction, substantial exterior alteration, or addition shall be carried out in conformity with any mitigating conditions, modifications and restrictions, subject to which the board shall have made its findings and determination and only in conformity with the application and site plan on the basis of which the findings and determinations are made.

Minor changes to the approved site plan may be submitted to the building inspector for approval, and if deemed insignificant or minor in nature or effect, may be approved by him.

Any changes deemed to be significant or major by the building inspector shall be resubmitted to the plan commission in the form of a new site plan. Any building, reconstruction or expansion not approved by the building inspector or the plan commission shall be ordered halted and fully removed.

The approval of a site plan application, or a modification or amendment thereof, shall remain effective for a period of one (1) year only from the date of such approval (either directly or by inaction) unless prior to the expiration of such one-year period, the applicant makes substantial efforts to build in accordance with the approved site plan, or unless, upon a written request from the applicant, the plan commission votes to extend the time period for a period not to exceed one (1) additional year.

No permit, or any extension, modification, or renewal thereof issued pursuant to this sections shall take effect until the town clerk certifies that twenty (20) days have elapsed and no appeal has been filed, or that such appeal has been dismissed or denied.

J. *Site plan.* Each application for site plan approval shall be accompanied by a site plan in ten (10) copies, or such number as the plan commission may specify, of the entire tract under consideration for development. The following information shall be submitted on one (1) or more site maps and in writing where appropriate.

K. *General requirements.* Date of site plan. All revisions shall be noted and dated.

Title of development, north arrow, scale, plat and lot number, name and address of record owner, and name and address, license number and seal of person preparing the site plan. If the owner of record is a corporation, the name and address of the president and secretary shall be submitted with the application.

A scale of one" = 20', 1" = 40', or 1" = 80', whichever is appropriate to the size of the proposal. All distances shall be in feet and decimals of a foot and all bearings shall be given to nearest ten (10) seconds. The error of closure shall not exceed one (1) in ten thousand (10,000).

The names of all owners of record of all abutting property and those within two hundred (200) feet of the property line.

Zone boundaries shall be shown on the site plan as they affect the parcel. Adjacent zone districts within three hundred (300) feet also shall be indicated. Such features shall be shown on a separate map or as a keep map on the detail map itself.

Boundaries of the property lines and lines of streets, lot reservation, easement and areas dedicated to public use, including grants, restrictions and rights-of-way.

Key map showing the location of the tract with reference to surrounding areas and existing street intersections.

All distances as measured along the right-of-way lines of existing streets abutting the property to the nearest intersection with any other public street.

Existing contours with interval of two (2) feet where slopes are more than (3).

Where any changes in the contours are proposed, finished grades should be shown as solid lines.

If any areas fall within the 100 year flood plain or a velocity (VE or V) zone as delineated on the Flood Insurance Rate Maps, the area will be shown and base elevations shown.

Location of existing rock outcrops, general soil types, high points, vistas, watercourses, depressions, ponds, marshes, wetlands, wooded areas and stands of major trees (twelve-inch caliper or over), flood plain designations as shown on the Flood Insurance Rate Maps for the town, and other significant existing features including previous flood elevations of watercourses, pond, and marsh areas as determined by survey.

Location of existing buildings which shall remain and all other existing structures such as walls, fences, culverts, bridges, roadways, etc., with spot elevations of such structures. Structures to be removed shall be indicated in dashed lines.

All structures or significant changes in topography abutting property lines.

All calculations necessary to determine conformance to zoning regulations.

Acreage of tract to nearest tenth of an acre.

Place for signature of the chairman of the plan commission on all plans and/or documents to be approved by the plan commission.

Such other information as may be required to show that the details of the site plan are in accordance with applicable standards and the zoning ordinance.

L. *Building design and locations(s).* The proposed uses of land and buildings and proposed locations of buildings including proposed grades. Such features shall be shown on a separate drawing where deemed appropriate by the building inspector.

The location, housing type and density of land use to be allocated to parts of the site to be developed.

The design of the proposed buildings or structures, including elevations, plans and measurements as appropriate for easy interpretation.

The location, type, and screening details for all waste disposal containers shall be shown.

Sketches as appropriate to indicate the visual impact on the surrounding area and the general character of the community.

Location and design of all signs.

Height of buildings, including relationship to existing and proposed grades.

M. *Landscaping.* A landscape plan showing all existing natural features, trees, forest and water resources and proposed changes to these features, including size and

type of plant material. Water resources will include ponds, lakes, brooks, streams, wetlands, floodplains, and drainage retention areas.

- N. *Utilities and drainage.* Location of all existing storm drainage structures and utility lines, whether publicly or privately owned, with pipe sizes, grades and direction of flow, and if any existing utility lines are underground, the estimated location of any said underground utility lines shall be shown. The location of all proposed water lines, valves, or hydrants and means of water supply and wastewater disposal and treatment in conformance with the applicable standards for the appropriate utility.

The location of the ground water table in the vicinity of any proposed septic field.

Plans to prevent: the pollution of surface or groundwater, erosion of soil during and after construction; excessive runoff; excessive rising and lowering of the water table; and the flooding of other properties, as applicable.

The proposed location, height, direction of illumination, bulb type, power and time of proposed outdoor lighting and methods to eliminate sky glare and glare onto adjoining properties must be shown.

- O. *Traffic and parking.* All means of vehicular access for ingress and egress to and from the site onto the public street showing the size and locations of driveways and curb cuts, including the possible organization of traffic channels, acceleration and deceleration lanes, additional width and any other device necessary to prevent a difficult traffic situation.

The location and design of any off-street parking areas or loading areas showing the size and location of bays, aisles, barriers and proposed plantings.

The total ground coverage by structures and impervious surfaces shall be identified and measured.

All proposed streets and profiles indicating grading and cross sections showing width of roadway and location and width of sidewalk according to the standards of the town.

- P. *Preparation of site plan.* A site plan shall be prepared by a licensed engineer, landscape architect or architect for general locations except where waived by the plan commission because of unusually simple circumstances.

Boundary survey information shall be signed and sealed by a licensed land surveyor.

For all elements of design, which shall include drainage, pavements, curbing, walkways, embankments, horizontal and vertical geometrics, utilities and all pertinent structures, drawings shall be signed by a licensed professional engineer.

- Q. *Endorsement of site plan.* After approval by the plan commission and subject to the satisfaction of any conditions of approval, a mylar or line print of all approved site plan maps shall be submitted for signature and filing; all information appearing thereon shall be in black india ink.

- R. *Application fee.* As part of any application for site plan review, a fee of fifty dollars (\$50.00) each one-half (1/2) acre shall be required. This fee is structured to offset directly any expenses the town or plan commission incurs in the review of the application.

(Ord. of 8-8-96(4))

Section 14. Village overlay districts.

The two Village Overlay Districts are designated North Scituate Village Overlay District and Hope Village Overlay District.

The purpose of the village overlay district ("district") is to encourage, guide and direct development in the village to ensure that village character is maintained, that new development is compatible with the existing scale and building fabric, that historic structures are preserved, that architectural quality is maintained and that mixed village uses continue to provide for health and growth of the district. The design and renovation of buildings shall be reviewed and approved in accordance with the provisions of this section.

14.1. *Village review committee:* A village review committee (VRC) is established to carry out the purpose of each district. All development in a district shall be reviewed and approved by its VRC in conformance with this section. The VRC may provide assistance to property owners and the Town of Scituate on historic preservation issues within the village, compatible village design and site planning, and on related issues as it deems appropriate; this includes the design of public improvements such as street rehabilitation, paving, lighting, sidewalks, curbing and drainage.

A. *Powers and duties of the VRC.* The VRC shall have the following powers and duties:

1. Review development in the village overlay district. The VRC shall be authorized to review all building and appurtenant improvements on public and private land in the district including the construction, reconstruction, alteration, repair, demolition, removal, rehabilitation of the exterior of new and existing buildings and appurtenances within the District which require building permits or other approvals from the town. The plan commission shall include the VRC in the site review process of any application the commission receives under article IV, section 13 (Multifamily/commercial site plan review and approval), of this ordinance. Village overlay districts shall be mapped on the official town zoning map.
2. Grant waivers. After public hearing, the VRC may grant waivers of design regulations promulgated pursuant to this ordinance if such waivers carry out the purpose of the district. Waivers may be permitted of regulations governing design standards for projects including but not limited to signs, new construction and reconstruction. Waivers shall be recorded in the land evidence records.
3. Adoption of rules. The VRC shall adopt and publish all rules necessary to carry out its functions.
4. Advise the town council, zoning board, and plan commission. The VRC may advise the zoning board of review on all requests for variances and special exceptions, as provided in this ordinance. The VRC will

also provide comments to the plan commission and the town council on all proposed amendments to the comprehensive plan and all subdivision or land development reviews regarding each village overlay district.

5. Zoning enforcement. The VRC may assist the town in an advisory capacity on zoning enforcement including recommendations on zoning enforcement issues.

- B. *Membership.* A VRC shall consist of five (5) members and two (2) alternates. Vacancies shall be posted and advertised. Members shall be appointed by the town council as follows:

No fewer than three (3) members shall be Village residents in their respective district. The remaining members may be either town residents or property owners in the respective district.

The town council shall appoint one ex-officio nonvoting member who may be a resident of the Town of Scituate and either a registered Rhode Island architect or an individual with professional training and expertise in architectural design, historic preservation, or landscape design.

In appointing members to the committee, priority will be given to district residents. The town council shall endeavor to maintain a cross-section of the community, including homeowners, business people, renters of property and citizens interested in maintaining the character of the village and village life.

Appointees shall serve staggered two-year terms. Officers of the Committee shall be elected at the first regular meeting each year.

- C. *Conduct of business.*

1. Public hearing: The VRC shall hold a public hearing on any request for a waiver, in accordance with article I of this ordinance.
2. Record: The VRC shall keep a record of all proceedings, findings, decisions and actions and such record shall be open to the public. Applicants who receive waivers shall record them in the land evidence records.

- D. *Procedures for design approval.*

1. *Application.*

VRC application forms are submitted to the town engineer, prior to the filing of an application for a building permit, and prior to the commencement of any building improvements on public or private land, including the construction, reconstruction, alteration, repair, demolition, removal and rehabilitation of the front facade, exterior of new and existing buildings, front yard appurtenances requiring a building permit, or town engineering approvals (paving,

curb cuts, parking areas, drainage) within the district. Where appropriate, development plans shall also be submitted to the town engineer.

The town engineer shall forward applications and plans, if required, to the VRC and/or plan commission.

No building permit shall be issued before a project receives a VRC design review. For projects that do not require a building permit, such as construction of a parking area, paving, curb cuts and drainage, the town engineer shall refer the project to the plan commission if required by the rules and regulations governing subdivision, land development, and zoning.

2. *VRC approval is not required for the following:*

- a. Work to remedy damage or deterioration of a structure or its appurtenances which involves no change in the type of materials, dimensions, design, configuration, texture or visual appearance.
- b. Exterior painting or staining of previously painted or stained surfaces.
- c. The installation of public traffic signage.
- d. Public street improvements such as plant material, street paving, curbing, drainage (North Scituate Village only).
- e. Alterations to side or rear elevations of structures, and facades not visible from a public way, except commercial parking areas located in the side or rear of any lot (North Scituate Village only).
- f. Home landscaping and gardens, business enhancement plantings, production gardens and plantings, nursery plantings.

3. *Review.*

The VRC shall review all applications for new construction, major additions, moving of structures and demolition as described herein. Such review shall be held during a regular meeting of the VRC open to the public.

A determination shall be made within thirty (30) business days of receipt of a complete application. These time periods may be extended by mutual agreement between the applicant and the VRC. In the event that the VRC shall make a written determination within the thirty (30) day period that a particular application requires further time for additional study and information, then the VRC shall have a period of up to sixty (60) business days from the date of acceptance of a complete application within which to act

on such application. Nothing in this section shall be construed to prevent the applicant and the VRC from mutually agreeing on an extension beyond sixty (60) days.

4. *Failure to act.* The failure of the VRC to act within thirty (30) business days from the date of filing a complete application shall be deemed to constitute approval, unless the applicant and the VRC mutually agree to an extension.
5. *Determination.* The VRC shall be authorized to approve, approve with conditions, or reject an application. The VRC shall make a record of reasons and/or conditions for approval or rejection. All determinations shall be made in writing. A copy of a VRC determination shall be filed with the applicable building permit.
6. *Advice from other agencies.* The VRC may request the assistance of other agencies to review and comment on proposals.
7. *Appeals.*

A person or persons jointly or severally aggrieved by a VRC determination shall have the right of appeal to the Zoning Board of Review ("Board") within twenty (20) days of the filing of the determination. Aggrieved parties have a further right of appeal from the Zoning Board to the Rhode Island Superior Court.

In hearing appeals from VRC decisions, the Board shall not reverse a VRC decision except on a finding of prejudicial procedural error or a lack of support by the weight of the evidence on the record. The Board may, in its sole discretion, request that an applicant provide additional information. The Board shall file a written decision explaining the basis of its decision on appeal, with the applicant and the VRC. The filing fee and the filing procedure for an appeal of a VRC determination shall be the same as that for an appeal from the Plan Commission.

8. *Enforcement.* This section shall be enforced in accordance with article [I] of this ordinance.

14.2. *General regulations:*

- A. *Use.* Village Overlay District uses are set forth in Section II. of this ordinance. Section II is a generalized listing of use categories permitted in the Districts.
- B. *Dimensional requirements.* The dimensional requirements set forth in article III shall govern all uses within the village district, provided, however, that the minimum front yard and side yard setbacks shall be no greater than the established historic building line within the Village.

C. *Existing signs.* All signs which do not conform to this ordinance shall be brought into conformance no later than seven (7) years from date of passage of this section, not later than December 31, 2003.

14.3. *Design regulations for existing buildings.* All exterior work as described herein on existing buildings in the district is subject to approval by the VRC and shall be regulated by these standards and the guidelines of the VRC. The purpose of these regulations is to establish design standards to preserve the village character of the district.

A. These standards are intended to preserve the architectural integrity and historic character of buildings in the district. The existing scale and proportions of buildings and streetscapes shall be preserved. The VRC shall review:

1. The preservation, repair or replacement of building features using the Secretary of Interior Standards for Rehabilitation (36 CFR 671) as general guidelines.

These standards and guidelines help define the important character and features of the village and provide common sense guidance on the best means of preserving and enhancing the integrity of these features in rehabilitation and new construction projects.

These standards and guidelines are not hard and fast regulations. They are to be used as flexible criteria. Their purpose is to provide assurance to property owners and the residents and citizens of each Village District that reviews will be based upon clear design standards widely accepted by federal, state, and local planning agencies rather than the taste or preference of individual commission members.

The following standards and guidelines will be interpreted with flexibility depending upon the historical character and architectural merit and integrity of the building, structure, or appurtenances under review, or the setting within the village.

- a. The distinguishing original qualities or character of a building, structure, appurtenance, or site and its environment or setting shall not be destroyed. The removal or alteration of any historic material or distinctive, character-defining, architectural features should be avoided when possible.
- b. All buildings, structures, appurtenances,

and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance than that of the building, structure, appurtenance or site and setting shall be discouraged.

- c. Changes which may have taken place over the course of time are evidence of the history and development of the village, its buildings, structures, appurtenances, sites and environmental setting. These changes may have acquired significance in their own right and may be character-defining. This significance shall be recognized and respected.
- d. Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, appurtenance, site, or setting shall be treated with sensitivity.
- e. Deteriorated architectural features shall be identified and repaired rather than replaced, wherever possible. In the event replacement is necessary due to deterioration which cannot be stabilized or reversed, the new replacement material should match the material being replaced in composition, design, texture, and other physical and visual qualities.
- f. Repair and replacement of missing architectural features should be based upon accurate duplications of features, substantiated by documentation or physical evidence rather than upon conjectural designs or the availability of differently designed architectural elements from other buildings or structures, architectural parts warehouses, or reproduction catalogues.
- g. The surface cleaning of the wood and brick structures within the village shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the building materials shall not be undertaken.
- h. Every reasonable effort shall be made to protect and preserve archaeological resources affected by or adjacent to any project. If a significant archaeological

resource must be disturbed, mitigation measures shall be undertaken.

- i. Contemporary design for alterations and additions to existing buildings shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material and such design is compatible with the size, scale, massing, rhythm, proportion, material, and character-defining features of the building, structure, appurtenance, site, and environmental setting of the property and the village. New additions or related new construction shall provide a subtle visual distinction between old and new so that the original historic features of the property may be distinguished from the new construction. This distinction may be the result of simplified detailing, wall set backs, roof step downs, or other subtle visual changes.
 - j. Wherever possible, additions or alterations to buildings, structures, or appurtenances shall be designed and executed in such a manner that if such additions or alterations were to be removed in the future, the essential form and the integrity of the historic features of the property, its setting, and environment would not be impaired.
2. Storefronts. Existing structures which have been designed for retail use on the first floor shall retain this design. Existing structures which have been designed for residential or institutional uses shall retain their residential or institutional character although they may be allowed under the zoning to have another use. Where such design no longer exists but would be compatible with the character of the building, rehabilitation shall be designed to permit such character to be recaptured.
3. The restoration or reconstruction of a building, which has been altered through the years. The VRC should consider pictorial, documentary or physical evidence of the original configuration when reviewing applications.
4. New additions, exterior alterations, or related new construction using the Secretary of Interior Standards as general guidelines.
5. The design of all awnings to insure that the design is in character with the building.

6. The lighting of building facades to insure that the fixtures are small, shielded, and directed toward the building. Electrical conduit and junction boxes shall be located so as to minimize, or if possible, eliminate their visibility from the public way.
 7. The installation of security devices to insure that they are designed so as not to impact the historic quality of the building.
- 14.4. *Design regulations for new construction.* All new construction requiring a building permit or any form of town approval in the district shall be reviewed by the VRC and shall be regulated by these standards and the guidelines of the VRC. The purpose of these standards is to establish design regulations to preserve the village fabric of the District and to insure that new construction complements the historic character and the architectural integrity of existing structures.
- A. *Minimum standards.* The following are minimum standards for all new construction.
1. *Visual relationship of buildings and their design.* Proposed structures shall be related harmoniously to the streetscape, terrain and to the existing buildings in the vicinity which have a visual relationship to the proposed buildings. Special attention shall be paid to the bulk, location and height of building(s) and such natural features such as slope, soil type and drainage ways.
 - a. The design of the project, buildings, structures and site layout, shall be visually compatible with the character of each Village and the surrounding area, including building materials, massing, scale, and building roof line.
 - b. A diversity of roof heights, gable orientations and volumes in new buildings should be considered. Flat and shallow-pitched roofs are not recommended. Instead new buildings should be designed with traditional roof forms that are compatible with the character of the town, including gambrel, gable and mansard hipped roofs commonly found in established villages.
 - c. Architectural elements such as dormers should be in proportion with the overall building and should also be in keeping with the surrounding building context. Exaggerated or excessively large (or tiny) architectural elements should be avoided. If used properly, traditional and contemporary architectural detailing can create variety, interest and texture on new buildings and additions which is compatible with the character of the area.

- d. Traditional building materials such as shingles and clapboards are preferred for the exterior skin of additions and new construction. These materials can be used to sheath fireproof construction materials.
- e. Development projects should reuse existing buildings of character whenever possible. Reuse may take the form of additions to older buildings rather than demolition. Demolition of listed historic buildings (i.e., RIHPHC survey) shall be discouraged.
- f. Large scale development should take the form of village-like groupings of small scale buildings, rather than a large individual structure or box set back on a large expanse of asphalt parking. New buildings should not be large, bulky masses, but should be scaled down into groupings of smaller attached or detached structures. New buildings should not exceed 2,000 square feet in footprint between facade breaks or building lines. The use of building hyphens or other architectural features should be employed to scale-down building mass.

Adequate off-street parking and loading shall be provided to prevent on-street traffic congestion. All parking spaces, maneuvering areas, entrances and exits shall be identified on the site plan. The interior circulation system shall be designed to provide safe and convenient access to all structures, uses and/or parking spaces. Parking areas shall be protected with suitable guards, rails, islands, crosswalks, speed bumps, and similar devices as deemed necessary by the VRC.

- 2. *Parking lots.* Parking lots shall be located to one side or behind commercial buildings, particularly along Main Street, North Road, Danielson Pike, Hartford Pike and Rt. 116 or other heavily traveled roads within the villages.
 - a. Whenever possible, parking lots on adjoining commercial lots shall be connected internally to each other to allow for through traffic between and reducing the need for multiple curb cuts.
 - b. Parking lots containing ten (10) or more spaces shall be planted with at least one tree per three (3) spaces, no smaller than two (2) inches caliper, each tree being surrounded by no less than forty (40) square feet of permeable unpaved area. Trees required by these provisions shall be at least five (5) feet in height at the time of planting and shall be

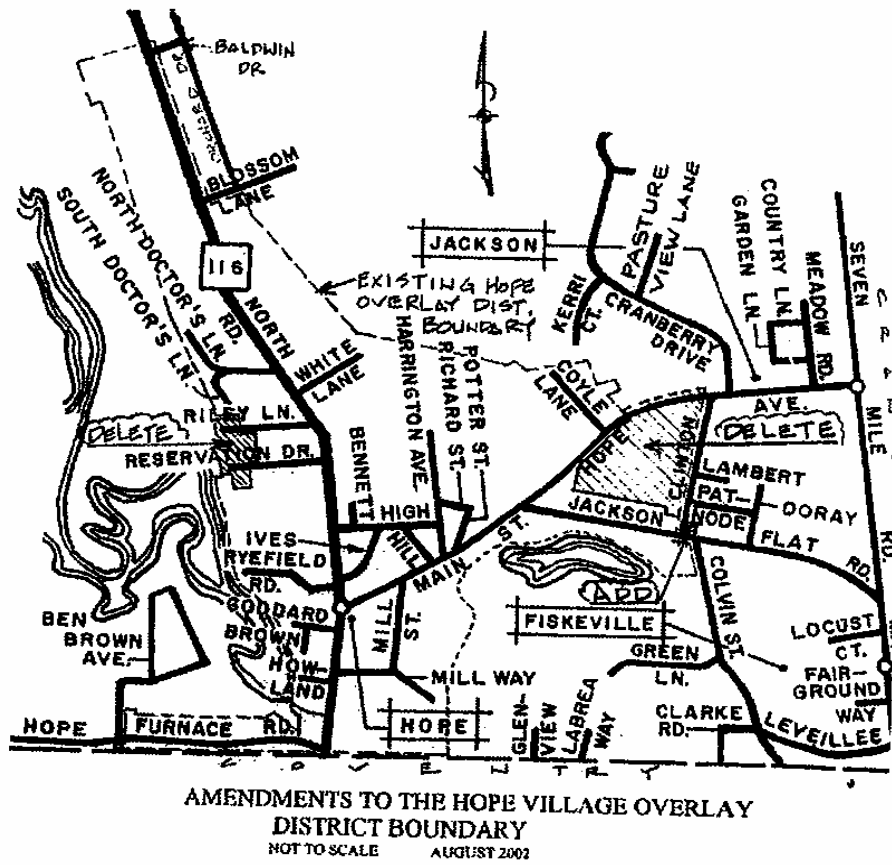
of a species characterized by hardiness within the area.

- c. Small-scaled interior streets, alleyways, pedestrian paths, pocket public spaces and bikeways shall be encouraged within the village for additional circulation which is not auto-dependent. Such interior circulation shall link to an overall system envisioned in the adopted village plan.
 - d. The design of the project's circulation systems shall relate to planned improvements in the area, including future street widening, realignments, or paving programs which have been planned or scheduled for construction.
 - e. The design should be congruent with any proposed area master plan, commercial master plan, village plan or mixed-use area plan adopted by the town for the village.
3. *Landscape.* The landscape shall be preserved in its natural state insofar as practicable by minimizing tree removal, disturbance of the soil and retaining existing vegetation during and after construction. After construction is completed, landscaping shall be installed according to the landscaping design shown on the site plan that will define, soften or screen the appearance of the off-road parking areas from the public right-of-way and abutting properties and/or structures in order to enhance the design or building(s) or site, and to minimize the encroachment of the proposed use on neighboring land uses.
- a. Existing trees and vegetation shall be preserved to the maximum extent possible.
 - b. Buffering elements in the form of architectural design and landscape design that provide a logical transition to adjoining existing or permitted uses shall be provided.
 - c. Scenic views and historically significant landscape features, such as stone walls, picket fences and metal fences, shall be preserved whenever possible.
 - d. The planting of large deciduous "street trees" along the roadside to help shade and enclosed the highway shall be encouraged.
 - e. New landscaping shall use plant material of species hardy to the area.
4. *Special features of the development.* Exposed storage areas, exposed machinery installation, service areas, truck

loading areas, utility buildings and similar structures shall have sufficient setbacks and screening to provide an audio-visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties.

5. *Exterior lighting.* All exterior lighting shall be designed to minimize impact on neighboring properties. Night sky pollution shall be minimized by down-shaded lighting or shielded lighting. All lighting shall be based upon a pedestrian scale appropriate for a village setting.
 6. *Unique village areas and features.* There must not be any undue adverse affect on the scenic or natural beauty of the village, inherent small-scale village aesthetics and features such as village laneways, the mill dam, historic raceway, stone walls, picket fences, historic metal fences, front yards, alleyways, historic sites, or rare and irreplaceable natural features, including significant trees, street tree canopy, pocket gardens and village cemeteries.
 7. *Capacity.* In the case of significant projects having a substantial impact upon the village, the VRC may require an improvement guarantee be provided by the applicant ensuring that the project will be completed in accordance with the approved plans and any conditions imposed by the VRC.
- 14.5. *Demolition.* In order to preserve the village fabric of the district, no building shall be demolished until the VRC has reviewed the application to demolish the building.
- A. *Review of application.* In reviewing an application for demolition, the VRC shall consider the architectural quality of the existing building, regardless of condition; the historic value of the building; the feasibility of renovating and reusing the existing building; and the quality of the demolition site re-landscaping or replacement building to be constructed if demolition is approved.
 - B. *Demolition permit.* To obtain a demolition permit, an applicant must demonstrate to the satisfaction of the VRC that the applicant has adequate financial ability to demolish the existing structure and re-landscape the demolition site or construct a new approved building on the demolition site. The Building Official shall require a performance guarantee to ensure that all work approved in the grant of demolition is satisfactorily completed. Any change in plans will require a new application to the VRC.

(Ord. of 1-8-04)



Section 15. Accessory family dwelling units.

- A. Purpose: To provide for orderly land use and to maintain the character within the town, the zoning board of review may grant special use permits for accessory family dwelling units (so-called in-law apartments) as defined in article IX, that comply with the stipulations and requirements herein.
- B. No alteration, remodeling, construction, etc. for provisions of an accessory family dwelling unit (A.F.D.U.) shall commence and no building permit shall be applied for or issued for an A.F.D.U. prior to the zoning board of review granting a special use permit for said unit.
- C. The primary structure containing an accessory family dwelling unit shall retain the appearance of a single-family dwelling with no major structural alterations to the exterior. The A.F.D.U. shall have no additional external entrance that faces a street. For A.F.D.U.s that are granted permission in new construction, the entire structure must contain a common foundation and common roof; the apartment unit shall be connected to the principal use area by enclosed living space.
 - C.1. A "Common foundation" shall mean the walls serving as structural support for the building, extending a minimum of three (3) feet [inches]--four (4) inches below grade.
 - C.2. A "Common roof" shall mean the flat slab or sloped deck of a structure for covering the building, including the supporting members, but excluding the vertical (wall) supports, except for the following. Where adjacent roof sections do not have common peaks or ridges, the maximum vertical separation shall not exceed twelve (12) feet.
- D. The maximum total floor space of A.F.D.U. shall be six hundred (600) square feet gross floor area. The A.F.D.U. shall have no more than one (1) bedroom. There shall be no more than one (1) accessory family dwelling unit permitted in a single-family structure.
- E. Approved ISDS (septic system), common utilities, including water service, and electric service (one (1) meter) shall be provided, with the exception of telephones and television hook-ups.
- F. Applicants shall submit plans of the A.F.D.U. to the zoning board of review, which the board shall date and keep on file.
- G. The sale of the principal dwelling which contains an A.F.D.U. shall automatically cause the special use permit to become void, absent of a new special use permit from the zoning board of review. Transfer by inheritance, surviving joint tenancy or gift to a member of the immediate family (i.e., issue of the occupant of the A.F.D.U.) shall not void the special use permit unless the zoning board of review shall have so stipulated in its decision granting the permit. Nothing in this section shall limit the powers of the zoning board of review to impose additional conditions, including more restrictive conditions, concerning the effect of transfer of ownership.

(Ord. of 4-23-98(4); Ord. of 9-9-99(2))

ARTICLE V. OFFSTREET PARKING REQUIREMENTS

Any structure or use, erected or developed after the date of passage of this ordinance, must provide offstreet parking facilities in accordance with the following regulations:

Dwellings and motels--One (1) car space for each unit or suite

Hotels and lodging houses--One (1) car space for every two (2) suites or rooms

Office uses--One (1) car space for every two hundred fifty (250) square feet of floor area

Retail and service business--One (1) car space for every ninety (90) sq. ft. of floor space devoted to sales plus one (1) car space for every two (2) employees

Restaurants, theatres, churches and other places of public assembly--One (1) car space for every five (5) seats or for every five (5) persons of capacity

Industrial and wholesale uses--Two (2) car spaces for every three (3) employees

All other uses--One (1) car space for every two hundred fifty (250) sq. ft. of floor area

Plans and specifications for the required parking facility and its access drives shall be submitted at the time of application for the zoning certificate for the main use. In allocating space for offstreet parking facilities, each car space shall have a minimum width of eight and one-half (8 1/2) feet and minimum length of eighteen (18) feet and shall be served by suitable aisles to permit access to all car spaces. In no case shall the gross area of the facility be less than two hundred seventy (270) square feet per car space.

All parking facilities, provided under this section must be constructed on or adjacent to the side of the main use. Offstreet parking lots of more than two (2) motor vehicle capacity shall conform to the following standards of construction:

- (1) The area shall have a dust free hard surface and shall be provided with bumper guards where needed.
- (2) Where such area adjoins or lies within a residential district, an opaque fence not less than four (4) feet nor more than six (6) feet in height or a compact evergreen screen not less than four (4) feet in height shall be erected and maintained between such area and the adjoining residential district.
- (3) Lighting fixtures used to illuminate the parking area shall reflect away from adjoining property and away from adjacent traffic arteries.

In any residence district, the parking or storage of commercial vehicles of over one and five tenths (1.5) tons capacity and of commercial or house trailers shall not be permitted, except where such parking or storage is directly related to and is accessory to a permitted use or legal nonconforming use.

ARTICLE VI. OFFSTREET LOADING REQUIREMENTS

All commercial and industrial structures erected subsequent to the adoption of this ordinance shall provide offstreet loading facilities. Plans and specifications for such loading facilities shall be submitted to the zoning inspector at the time of application for the zoning certificate for the main use. Where a loading facility is to be located in or abutting a residential district, the restrictions contained in article V concerning surfacing, screening and lighting shall apply. Such a loading facility shall be sufficient in size to eliminate the projection of vehicles into a street right-of-way.

ARTICLE VII. SIGN REGULATIONS

Before any sign is put in place a certificate must be obtained from the building inspector's office of the town under article I, section 5B. A scale drawing of a sign and its fixtures shall be submitted to the building inspector before a certificate is issued. Signs proposed within a village overlay district first must be submitted to the village overlay district review committee.

PROHIBITIONS AND RESTRICTIONS

These regulations apply to all zoning districts.

- A. No sign shall be placed or located upon any sidewalk nor shall any sign project over the sidewalk or over any right of way.
- B. No colored lighted, no neon lighted, or no flashing lighted sign shall be permitted.
- C. No animated sign illuminated by flashing or intermittent lighting shall be permitted.
- D. All signs shall be fixed. No rotating or otherwise moving signs shall be permitted.
- E. No off-site signs or directional signs shall be permitted except signs erected by the town, the state or the United States government indicating the route to major public facilities, shopping areas and the like. Off-site sign shall mean a sign located on property other than where goods and services are sold.
- F. Billboards are not permitted.
- G. Any sign is subject to review by the traffic safety commission.

Section 1. Residence districts (RR-120, RRW-60/80, RS-120, RSW-60/80).

Permitted signs:

- A. One (1) sign, no greater than five (5) square feet in area, displaying the name and address of the occupant or identifying a permitted use or accessory use.
- B. An announcement board no greater than twelve (12) square feet in area for a church, school or other public use by special use permits only.

- C. One (1) sign no greater than twenty (20) square feet in area identifying a lawfully maintained nonconforming or special use.
- D. One (1) temporary sign (six (6) months renewable) no greater than twelve (12) square feet in area advertising the sale or lease of the premises.

Location of signs: A sign shall be placed within the lot and no closer than five (5) feet to any lot line and may be subject to the approval of the traffic safety commission.

Lighting of signs: Signs may be lighted only by an external, continuous incandescent white light, downward shielded and of no more than a maximum of twenty (20) footcandles at surface.

(Ord. of 4-23-98(5))

Section 2. Business and manufacturing districts (BL, BG, M).

Permitted signs:

- A. Those permitted in residence zones.
- B. Business signs for permitted uses. In no case shall more than one (1) freestanding sign or one (1) roof sign be used, or one (1) mounted (to the building) sign for each building regardless of the number of businesses at the location and no sign shall exceed forty (40) square feet in area. In addition, each business may have a sign attached to the building, not greater than six (6) square feet, displaying the name of the business and, where there are multiple businesses, all of these signs shall be uniform in size, shape and lettering. Any change from the above may be granted as a special use permit, if such approval is secured from the zoning board of review under article I, section 6C.
- C. Where a building has multiple street frontages, they are allowed one (1) wall sign for each wall frontage on a street or a parking area. No sign shall exceed forty (40) square feet.

Location of signs:

- A. No sign shall project more than fifteen (15) feet above average grade level or no higher than the roofline (ridge) of a building whichever is less.
- B. Freestanding signs shall either provide an open and unobstructed space of at least six (6) feet from the grade to the bottom of the sign or be no greater than five (5) feet in height from grade and no larger than fifteen (15) square feet in size.
- C. No sign shall be located within five (5) feet of a residence district boundary.
- D. A sign shall be placed within the boundaries of a lot and no closer than one (1) foot to any lot line and may be subject to approval of the traffic safety commission.
- E. Any freestanding sign less than twenty (20) feet from the pavement and within fifty (50) feet of a street intersection shall be reviewed from the traffic safety commission.

Lighting of signs:

- A. Signs may be lighted by:
 - 1. External continuous incandescent or fluorescent white light downward shielded no more than twenty (20) footcandles at surface.
 - 2. Internal continuous incandescent or fluorescent white light have no more than fifteen (15) footcandles at surface.
- B. All lighting shall be oriented that the light is directed away from all adjacent properties and traffic arteries.
- C. Lighting for all signs is subject to review and revision by the traffic safety commission to prevent the lighting from causing a traffic safety hazard.

(Ord. of 4-23-98(5))

Section 3. Portable signs.

These regulations apply to all zoning districts.

- A. Portable signs are defined as signs, which are not either permanently, affixed to the roof of a building or permanently affixed to a signpost or standard, which is permanently fixed in the ground.
- B. In order to protect and preserve the aesthetic environment of the town, the only portable sign that is permitted shall be a sandwich board (two-sided, triangular shape) unlighted sign that stands no more than twenty-four (24) inches wide and forty-eight (48) inches maximum height, and no more than sixteen (16) square feet total (both sides).
- C. Sandwich board signs shall be displayed only during the hours of business operation.

(Ord. of 4-23-98(5))

Section 4. Changeable copy signs limited.

These regulations apply to all zoning districts.

Changeable copy signs may only be permitted as a special use permit by the zoning board of review.

(Ord. of 4-23-98(5))

Section 5. Traffic control signs permitted.

These regulations apply to all zoning districts.

All signs specified in the "Manual on Uniform Traffic Control Devices for Streets and Highways" by the U.S. Department of Transportation, Federal Highway Administration, as amended are permitted.

(Ord. of 4-23-98(5))

Section 6. Village overlay districts (RR-120, RRW-60/80, RS-120, RSW-60/80,BL,BG,M).

Sign regulations:

Purpose: Sign regulations are to preserve and enhance the visual, traditional and historic character of the village overlay districts.

Since the village overlay districts are of mixed use, signs of similar design are appropriate to maintain harmony and aesthetic character in the district.

Excessive signage is discouraged on all properties.

General provisions: Application and plans for any sign proposed for the village overlay districts shall be first submitted to the town engineer and then forwarded to the village review committee for processing.

Any sign erected without a certificate will be ordered to be removed at the owner's expense within seventy-two (72) hours of written notification by the zoning inspector.

Permitted sign: Only the following signs will be permitted within the district:

1. For cottage industry or residential use, one (1) sign no greater than (5) five square feet in area.
2. For church, school or other public use, an announcement board no greater than twelve (12) square feet by special use permit only.
3. For advertising the sale or lease of premise one (1) temporary sign (six (6) months renewable) no greater than six (6) square feet.
4. For business, limited business, manufacturing, lawfully maintained nonconforming use and special use will be limited:
 - A. Thirty-two (32) square feet aggregate per property, regardless of the number of business. This includes one (1) freestanding sign, not to exceed (6) six square feet, which identifies a village business property.
 - B. Where there are multiple businesses on one (1) location, all of these signs shall be uniform in size, shape and lettering.

Guidelines are available for design suggestions.

Location of signs:

- A. A sign shall be placed within the lot and no closer than (5) five feet to any side lot line.
- B. Any freestanding sign less than (5) five feet from the pavement and within (50) fifty feet of a street intersection shall be subject to approval of the traffic safety commission.
- C. No sign shall project more than fifteen (15) feet above average grade level or no higher than the roofline (ridge) of a building whichever is less.
- D. For all freestanding signs there shall be an open and unobstructed space of at least six (6) feet from the grade to the bottom of the sign, or no

higher than five (5) feet from the grade to the top of sign and no larger than six (6) square feet in size.

Lighting of signs:

- A. Signs shall be lighted only by an external, continuous white light, downward shielded and of no more than a maximum of (5) five footcandles at the surface.
- B. All lighting shall be oriented that the light is directed away from all adjacent properties and traffic arteries.
- C. Lighting for all signs may be subject to review and revision by the traffic safety commission to prevent the lighting from causing a traffic safety hazard.

(Ord. of 4-23-98(5))

ARTICLE VIII. RESIDENTIAL COMPOUND DEVELOPMENT

Section 1. Purpose.

In order to provide for the private conservation of underdeveloped or fragile natural resource areas and to provide open space preservation by permitting limited residential building on such tracts of land, the zoning board of review may grant a special exception for a residential compound development.

Section 2. Eligibility.

Only property which has been continuously in the same ownership for a period of at least five (5) years shall be eligible for residential compound development. For purposes of this article, continuous ownership shall include the period during which parties own property as joint tenants or as tenants-by-the-entirety and the period during which the surviving joint tenant or tenant-by-the-entirety continues to own the property either in his or her own name as a joint tenant or tenant-by-the-entirety with another; the period during which a decedent has owned the property together with the time when his or her devisees or heirs-at-law shall own the property after the death of the decedent.

Also, only property which is an existing, conforming lot or a preexisting, nonconforming lot of record shall be eligible for development under the section.

(Ord. of 8-8-96(5))

Section 3. General.

- A. Residential compound development shall be a two-step process:

Step 1 shall be to obtain a special exception from the zoning board of review. The decision of the zoning board of review shall specify the number of houses to be permitted in the development.

Step 2 shall be, if a special exception has been granted, to obtain approval by the plan commission, in accordance with its rules and regulations, of the plan, including location of house lots; location of open space areas;

location and standards for the common right-of-way; ownership and use limitations on open space areas; protection of natural resources and natural features.

Section 4. Use limitations and dimensional requirements.

- A. A compound shall include not more than three (3) single-family dwelling units having frontage in common on a public road and sharing a private access road held in common.
- B. Restrictive covenants shall prohibit further division of land within the compound.
- C. The only permitted use shall be single-family residential and uses customarily accessory to residences, except that no apartments or so-called in-law apartments shall be permitted.
- D. The number of dwelling houses (not to exceed three (3) in any event) which can be placed on a tract in a compound development shall be determined by taking the total area of the tract, subtracting the area of any wetlands and/or water bodies and dividing the result by two hundred fifty thousand (250,000) and rounding off to the lowest whole number.

| | | | |
|----------|--------------------|----------------|----|
| Example: | area | 900,000 sq.ft. | |
| | LESS wetlands | <u>100,000</u> | |
| | | 800,000 | |
| | DIVIDED BY 250,000 | | =3 |

| | | | |
|----------|-----------------------------------|-----------------|----|
| Example: | area | 600,000 sq. ft. | |
| Example: | area | 900,000 sq. ft. | |
| | LESS pond | <u>20,000</u> | |
| | | 580,000 | |
| | DIVIDED BY 250,000 (rounded down) | | =2 |

| | | | |
|----------|-----------------------------------|-------------------|----|
| Example: | area | 1,200,000 sq. ft. | |
| | LESS wetlands | <u>40,000</u> | |
| | | 1,160,000 | |
| | DIVIDED BY 250,000 (rounded down) | | =4 |
| | Maximum | | =3 |

- E. The minimum dimensions for lots within the compound shall be:

| | |
|-------------------------|----------------------------|
| <i>Minimum lot size</i> | <i>120,000 sq. ft. (1)</i> |
|-------------------------|----------------------------|

| | |
|---|---------|
| Minimum lot width (on right of way) (2) | 300 ft. |
| Minimum front yard depth | 50 ft. |
| Minimum side yard depth | 35 ft. |
| Minimum rear yard depth | 60 ft. |
| Maximum building coverage | 15% |
| Maximum building height | 30 ft. |

- (1) Note: The difference between the square feet (two hundred fifty thousand (250,000)) used in the formula for figuring maximum number of dwellings, as set forth in section D, and the minimum lot size (one hundred twenty thousand (120,000) sq. ft.) set forth in this article is intentional.
 - (2) The minimum frontage of the entire compound on a public highway shall be at least fifty (50) feet in order to allow a common right-of-way. The plan commission shall specify the construction requirements for the common right-of-way and they shall be such as to permit access by public safety vehicles and equipment (police, fire, rescue, ambulance, etc.).
- F. Land in excess of that required to meet minimum lot size requirements and for the common right-of-way shall subject to the approval of the plan commission and the rules and regulations of the plan commission, either:
- (1) Be allocated to the lots within the compound, in which case there shall be no commonly owned land other than the common right-of-way, [or]
 - (2) Be devoted to common open space, or
 - (3) Be allocated in part to lots within the compound and in part to common open space, or
 - (4) Be allocated in whole or in part to public use.
- G. In allocating excess land to specific lots, lot sizes need not be equal so long as each lot complies with the minimum dimensions set forth in section E.
- H. No town services shall be provided in maintenance or plowing of the common right-of-way; nor shall any school buses be required or permitted to travel on the common right-of-way; nor shall rubbish or garbage pick up be made on the common right-of-way; nor shall any street lighting be provided on the common right-of-way.
- I. Driveways for access to the proposed houses shall conform to the following:
1. A minimum length of fifty (50) feet, from the existing town road, shall be constructed with bituminous pavement, in accordance with the rules and regulations adopted by the plan commission.

(Ord. of 8-8-96(5); Ord. of 4-23-98(5))

Section 5. Lapse of special exception for non-use.

Within six (6) months after the granting of a special exception for a residential compound development the applicant shall file an application for approval with the plan commission in accordance with its rules and regulations.

ARTICLE IX. DEFINITIONS

Where words or terms used in this ordinance are defined in section 45-22.2-4 [of the General Laws], (the definitions sections of the "Rhode Island Comprehensive Planning and Land Use Regulation Act") they shall have the meanings stated therein. In addition, the following words shall have the following meanings:

- (1) *Abutter*. One whose property abuts, that is, adjoins at a border, boundary or point with no intervening land.
- (2) *Accessory family dwelling unit*. An accessory dwelling unit for the sole use of one (1) or more members of the family of the occupant or occupants of the principal residence, but not needing to have a separate means of ingress and egress.
- (3) *Accessory use*. A use of land or of a building, or portion thereof, customarily incidental and subordinate to the principal use of the land or building. An accessory use may be restricted to the same lot as the principal use. An accessory use shall not be permitted without the principal use to which it is related.
- (4) *Aggrieved party*. An aggrieved party, for purposes of this chapter, shall be:
 - (a) Any person or persons or entity or entities who can demonstrate that their property will be injured by a decision of any officer or agency responsible for administering the zoning ordinance of the town; or
 - (b) Anyone requiring notice pursuant to this chapter.
- (5) *Agricultural land*. "Agricultural land," as defined in section 45-22.2-4 of the General Laws.
- (6) *Airport hazard area*. "Airport hazard area," as defined in section 1-3-2 of the General Laws.
- (7) *Applicant*. An owner or authorized agent of the owner submitting an application or appealing an action of any official, board or agency.
- (8) *Application*. The completed form or forms and all accompanying documents, exhibits and fees required of an applicant by an approving authority for development review, approval or permitting purposes.
- (9) *Buffer*. Land which is maintained in either a natural or landscaped state, and is used to screen and/or mitigate the impacts of development on surrounding areas, properties or rights-of-way.
- (10) *Building*. Any structure used or intended for supporting or sheltering any use or occupancy.
- (11) *Building envelope*. The three-dimensional space within which a structure is permitted to be built on a lot and which is defined by regulations governing building setbacks, maximum height and bulk; by other regulations; and/or any combination thereof.
- (12) *Building height*. The vertical distance from grade, as determined by the municipality, to the top of the highest point of the roof or structure. The distance may exclude spires, chimneys, flag poles and the like.
- (13) *Cluster*. A site planning technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and/or preservation of environmentally, historically, culturally or other sensitive features and/or structures. The techniques

used to concentrate buildings shall be specified in the ordinance and may include, but are not limited to, reduction in lot areas, setback requirements, and/or bulk requirements, with the resultant open land being devoted by deed restrictions for one (1) or more uses. Under cluster development there is no increase in the number of lots that would be permitted under conventional development, except where ordinance provisions include incentive bonuses for certain types or conditions of development.

- (14) *Common ownership.* Either:
 - (1) Ownership by one (1) or more individuals or entities in any form of ownership of two (2) or more contiguous lots; or
 - (2) Ownership by any association (such ownership may also include a municipality) of one (1) or more lots under specific development techniques.
- (15) *Community residence.* A home or residential facility where children and/or adults reside in a family setting and may or may not receive supervised care. This shall not include halfway houses or substance abuse treatment facilities. This shall include, but not be limited to, the following:
 - (a) Whenever six (6) or fewer retarded children or adults reside in any type of residence in the community, as licensed by the state pursuant to chapter 24 of title 40.1 of the General Laws. All requirements pertaining to local zoning are waived for these community residences;
 - (b) A group home providing care or supervision, or both, to not more than eight (8) mentally disabled or mentally handicapped or physically handicapped person, and licensed by the state pursuant to chapter 24 of title 40.1 of the General Laws.
 - (c) A residence for children providing care or supervision, or both, to not more than eight (8) children, including those of the caregiver and licensed by the state pursuant to chapter 72.1 of title 42 of the General Laws.
 - (d) A community transitional residence providing care or assistance, or both, to no more than six (6) unrelated persons or no more than three (3) families, not to exceed a total of eight (8) persons, requiring temporary financial assistance, and/or to persons who are victims of crimes, abuse or neglect, and who are expected to reside in that residence not less than sixty (60) days nor more than two (2) years. Residents will have access to and use of all common areas, including eating areas and living rooms, and will receive appropriate social services for the purpose of fostering independence, self-sufficiency, and eventual transition to a permanent living situation.
- (16) *Comprehensive plan.* The comprehensive plan adopted and approved pursuant to [title 45], chapter 22.2 of the General Laws and to which any zoning adopted pursuant to such chapter shall be in compliance.

- (17) *Day care-Day care center.* Any other day care center which is not a family day care home.
- (18) *Day care-Family day care home.* Any home other than the individual's home in which day care in lieu of parental care or supervision is offered at the same time to six (6) or less individuals who are not relatives of the caregiver, but may not contain more than a total of eight (8) individuals receiving day care.
- (19) *Density, residential.* The number of dwelling units per unit of land.
- (20) *Development.* The construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure; any mining, excavation, landfill or land disturbance; any change in use, or alteration or extension of the use, of land.
- (21) *Development plan review.* The process whereby authorized local officials review the site plans, maps and other documentation of a development to determine the compliance with the stated purposes and standards of the ordinance.
- (22) *District.* See "zoning use district."
- (23) *Drainage system.* A system for the removal of water from land by drains, grading or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface and groundwaters, and the prevention and/or alleviation of flooding.
- (24) *Dwelling unit.* A structure or portion thereof providing complete, independent living facilities for one (1) or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, and containing a separate means of ingress and egress.
- (25) *Extractive industry.* The extraction of minerals, including: solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term also includes quarrying; well operation; milling, such as crushing, screening, washing and flotation; and other preparation customarily done at the extraction site or as a part of the extractive activity.
- (26) *Family.* A person or persons related by blood, marriage or other legal means. See also "Household."
- (27) *Floating zone.* An unmapped zoning district adopted within the ordinance which is established on the zoning map only when an application for development, meeting the zone requirements, is approved.
- (28) *Floodplains, or flood hazard area.* As defined in section 45-22.2-4 of the General Laws.
- (29) *Groundwater.* "Groundwater" and associated terms, as defined in section 46-13.1-3 of the General Laws.
- (30) *halfway houses.* A residential facility for adults or children who have been institutionalized for criminal conduct and who require a group setting to

facilitate the transition to a functional member of society.

- (31) *Hardship*. See section 45-24-41 of the General Laws.
- (32) *Historic district, or historic site*. As defined in section 45-22.2-4 of the General Laws.
- (33) *Home occupation*. Any activity customarily carried out for gain by a resident, conducted as an accessory use in the resident's dwelling unit.
- (34) *Household*. One (1) or more persons living together in a single dwelling unit, with common access to, and common use of, all living and eating areas and all areas and facilities for the preparation and storage of food within the dwelling unit. The term "household unit" shall be synonymous with the term "dwelling unit" for determining the number of such units allowed within any structure on any lot in a zoning district. An individual household shall consist of any one of the following:
 - (a) A family, which may also include servants and employees living with the family; or
 - (b) A person or group of unrelated persons living together. The maximum number may be set by local ordinance, but this maximum shall not be less than three (3).
- (35) *Incentive zoning*. The process whereby the local authority may grant additional development capacity in exchange for the developer's provision of a public benefit or amenity as specified in local ordinances.
- (36) *Infrastructure*. Facilities and services needed to sustain residential, commercial, industrial, institutional and other activities.
- (37) *Land development project*. A project in which one (1) or more lots, tracts or parcels of land are to be developed or redeveloped as a coordinated site for a complex of uses, units or structures, including, but not limited to, planned development and/or cluster development for residential, commercial, institutional, recreational, open space and/or mixed uses as may be provided for in the zoning ordinance.
- (38) *Lot*. Either:
 - (1) The basic development unit for determination of lot area, depth and other dimensional regulations; or
 - (2) A parcel of land whose boundaries have been established by some legal instrument such as a recorded deed or recorded map and which is recognized as a separate legal entity for purposes of transfer of title.
- (39) *Lot area*. The total area within the boundaries of a lot, excluding any street right-of-way, usually reported in acres or square feet.
- (40) *Lot building coverage*. That portion of the lot that is or may be covered by buildings and accessory buildings.
- (41) *Lot depth*. The distance measured from the front lot line to the rear lot line. For lots where the front and rear lot lines are not parallel, the lot

depth is an average of the depth.

- (42) *Lot frontage.* That portion of a lot abutting a street. Frontage must be contiguous to be considered with regard to minimum frontage requirements.
- (43) *Lot line.* A line of record, bounding a lot, which divides one (1) lot from another lot or from a public or private street or any other public or private space and shall include:
 - (a) *Front:* The lot line separating a lot from a street right-of-way. A zoning ordinance shall specify the method to be used to determine the front lot line on lots fronting on more than one (1) street, for example, corner and through lots;
 - (b) *Rear:* The lot line opposite and most distant from the front lot line, or in the case of triangular or otherwise irregularly shaped lots, an assumed line at least ten (10) feet in length entirely within the lot, parallel to and at a maximum distance from the front lot line; and
 - (c) *Side:* Any lot line other than a front or rear lot line. On a corner lot, a side lot line may be a street lot line, depending on requirements of the local zoning ordinance.
- (44) *Lot, through.* A lot which fronts upon two (2) parallel streets, or which fronts upon two (2) streets which do not intersect at the boundaries of the lot.
- (45) *Lot width.* The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front lot line at the minimum front setback line.
- (46) *Mere inconvenience.* See section 45-24-41 of the General Laws.
- (47) *Mixed use.* A mixture of land uses within a single development, building or tract.
- (48) *Modification.* Permission granted and administered by the zoning enforcement officer of the town, and pursuant to the provisions of the General Laws contained herein to grant a dimensional variance other than lot area requirements from the zoning ordinance to a limited degree as determined by the zoning ordinance of the town, but not to exceed twenty-five (25) percent of each of the applicable dimensional requirements.
- (49) *Nonconformance.* A building, structure or parcel of land, or use thereof, lawfully existing at the time of the adoption or amendment of a zoning ordinance and not in conformity with the provisions of such ordinance or amendment. Nonconformance shall be of only two (2) types:
 - (a) *Nonconforming by use:* A lawfully established use of land, building or structure which is not a permitted use in that zoning district. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance shall be nonconforming by use; or

- (b) *Nonconforming by dimension.* A building, structure or parcel of land not in compliance with the dimensional regulations of the zoning ordinance. Dimensional regulations include all regulations of the zoning ordinance, other than those pertaining to the permitted uses. A building or structure containing more dwelling units than are permitted by the use regulations of a zoning ordinance shall be nonconforming by use; a building or structure containing a permitted number of dwelling units by the use regulations of the zoning ordinance, but not meeting the lot area per dwelling unit regulations, shall be nonconforming by dimension.
- (50) *Overlay district.* A district established in the zoning ordinance that is superimposed on one (1) or more districts or parts of districts and that imposes specified requirements in addition to, but not less, than those otherwise applicable for the underlying zone.
- (51) *Performance standards.* A set of criteria or limits relating to elements which a particular use or process either must meet or may not exceed.
- (52) *Permitted use.* A use by right which is specifically authorized in a particular zoning district.
- (53) *Planned development.* A "land development project," as defined herein, and developed according to plan as a single entity and containing one (1) or more structures and/or uses with appurtenant common areas.
- (54) *Preapplication conference.* A review meeting of a proposed development held between applicants and reviewing agencies as permitted by law and municipal ordinance, before formal submission of an application for a permit or for development approval.
- (55) *Setback line or lines.* A line or lines parallel to a lot line at the minimum distance of the required setback for the zoning district in which the lot is located that establishes the area within which the principal structure must be erected or placed.
- (55A) *Sign.* Any display of letters, numbers and/or visual display which directs attention to a residence, permitted business, commodity or service which is conducted, sold or offered.
- (56) *Site plan.* The development plan for one (1) or more lots on which is shown the existing and/or the proposed conditions of the lot.
- (57) *Special use.* A regulated use which is permitted pursuant to the special use permit issued by the authorized governmental entity, pursuant to section 45-24-42 of the General Laws. Formerly referred to as a special exception.
- (58) *Structure.* A combination of materials to form a construction for use, occupancy or ornamentation, whether installed on, above or below the surface of land or water.
- (59) *Substandard lot of record.* Any lot lawfully existing at the time of adoption or amendment of a zoning ordinance and not in conformance with the

dimensional and/or area provisions of that ordinance.

- (60) *Use*. The purpose of activity for which land or buildings are designed, arranged or intended or for which land or buildings are occupied or maintained.
- (61) *Variance*. Permission to depart from the literal requirements of a zoning ordinance. An authorization for the construction or maintenance of a building or structure, or for the establishment or maintenance of a use of land, which is prohibited by a zoning ordinance. There shall be only two (2) categories of variance, a use variance or dimensional variance.
 - (a) *Use variance*. Permission to depart from the use requirements of a zoning ordinance where the applicant for the requested variance has shown by evidence upon the record that the subject land or structure cannot yield any beneficial use if it is to conform to the provisions of the zoning ordinance.
 - (b) *Dimensional variance (also known as a deviation)*. Permission to depart from the dimensional requirements of a zoning ordinance, where the applicant for the requested relief has shown, by evidence upon the record, that there is no other reasonable alternative way to enjoy a legally permitted beneficial use of the subject property, unless granted the requested relief from the dimensional regulations. However, the fact that a use may be more profitable or that a structure may be more valuable after the relief is granted shall not be grounds for relief.
- (62) *Waters*. As defined in section 46-12-1(b) of the General Laws.
- (63) *Wetland, coastal*. As defined in section 2-1-14 of the General Laws.
- (64) *Wetland, freshwater*. As defined in section 2-1-20 of the General Laws.
- (65) *Zoning certificate*. A document signed by the zoning enforcement officer, as required in the zoning ordinance which acknowledges that a use, structure, building or lot either complies with or is legally nonconforming to the provisions of the municipal zoning ordinance or is an authorized variance or modification there from.
- (66) *Zoning map*. The map or maps which are a part of the zoning ordinance and which delineate the boundaries of all mapped zoning districts within the physical boundary of the town.
- (67) *Zoning ordinance*. An ordinance enacted by the town council of the town pursuant to the General Laws which sets forth regulations and standards relating to the nature and extent of uses of land and structures, which is consistent with the comprehensive plan of the town as defined in chapter 22.2 of title 45 of the General Laws, which includes a zoning map, and which complies with the provisions of title 45 chapter 22.2.
- (68) *Zoning use districts*. The basic unit in zoning, either mapped or unmapped, to which a uniform set of regulations applies, or a uniform set of regulations for a specified use. The districts include, but are not limited to: agricultural, commercial, industrial, institutional, open space and

residential. Each district may include subdistricts. Districts may be combined.

(Ord. of 4-23-98(5))

ARTICLE X. PROHIBITED USES

The following uses shall not be permitted within the Town of Scituate:

Acid manufacture

Asphalt manufacture or refining

Brewery or distillery

Chlorine manufacture

Coal distillation and derivation of coal products

Creosote manufacture or treatment

Distillation of bones, fats, chicken feathers

Fertilizer manufacture

Gas manufacture (acetylene)

Glue manufacture

House trailer park or colony

House trailers or mobile homes so-called, whether on wheels, temporary foundations or permanent foundations (but not including so-called camping trailers)

Offal or dead animal manufacture or treatment

Petroleum refining

Racetracks of any description

Rendering or refining of fats, oils and bones

Slaughterhouse

Iron or steel foundry

Smelters

Tanning of hides and curing of same

Automobile and truck junkyards

Piggeries

Laundry

Laundromats (except where public sewage facilities are available)

Vehicle washing shop (except where public sewerage facilities are available)

Ammonia or bleach manufacture

Carbon black manufacture
Cement, lime, gypsum or plaster manufacture
Chemical manufacture
Explosives manufacture
Oilcloth or linoleum manufacture
Potash manufacture
Wool pulling or scouring
Processing of vinegar or yeast

Any industry, trade or use which could cause contamination of the water, watershed or flowage rights of the water system of the City of Providence or which would otherwise adversely affect or threaten the quality of the water of said City of Providence.

Commercial camping ground
Private dumps or landfills
Underground home heating oil tanks

Any use which is obnoxious by reason of the emission of gases, odors, noise, dust or vibrations or by reason of fire or explosion.

Any hazard waste management facility located within the boundaries of, or within five (5) miles from the perimeter of, the watershed of a public water supply system.

ARTICLE XI. MISCELLANEOUS

Section 1. Recording of decisions.

As required by section 45-24-62 of the General laws, copies of decisions of the zoning board shall be mailed to the Associate Director of the Division of Planning of the Rhode Island Department of Administration and any decision evidencing the granting of a variance, modification or special use shall be recorded in the land evidence records of the town.

Section 2. Assistance of plan commission.

Upon receipt of an application for a variance the zoning board may request that the plan commission report its findings or recommendations, including a statement on the general consistency with the goals and purposes of the comprehensive plan, such report to be made in writing within thirty (30) days of receipt from the board. Where the application for a variance involves the subdivision of land, the report of the plan commission shall be mandatory.

Section 3. Successive applications.

Consistent with the doctrine of administrative finality as enunciated by the Supreme Court of Rhode Island after a final decision by the zoning board a successive similar application may not be entertained, unless the applicant can show a substantial

and material change in circumstances since the date of the next prior application.

Section 4. Maintenance of zoning ordinance.

The town clerk shall be responsible for the maintenance and update of the text and zoning map comprising the zoning ordinance. Changes which impact the zoning map shall be depicted on the map within ninety (90) days of the authorized change(s); and

The town council or a special committee appointed by the town council shall be responsible for review of the zoning ordinance at reasonable intervals; and whenever changes are made to the comprehensive plan of the town, for the identification of any changes necessary and for the forwarding of these changes to the town council.

Section 5. Publication and availability.

Printed copies of the zoning ordinance and map(s) of the town shall be available to the general public and shall be revised to include all amendments. A reasonable charge may be made for copies to reflect printing and distribution costs.

Upon publication of a zoning ordinance and map, and any amendments thereto, the town clerk shall send a copy, without charge, to the Associate Director of the Division of Planning of the Department of Administration of the State of Rhode Island, and the State Law Library.

Section 6. Designation of town clerk.

The town clerk is designated as the officer to receive a proposal for adoption, amendment or repeal of a zoning ordinance or zoning map.

Section 7. Form of newspaper notice of hearing for adoption or amendment.

As required by section 45-24-53 of the General Laws, the newspaper notice shall be published as a display advertisement, using a type size at least as large as the normal type size used by the newspaper in its news articles.

Section 8. Nonconforming development.

A project in process at the time of enactment shall be allowed to continue according to the ordinance and regulations in effect immediately prior to the adoption of this ordinance [December 19, 1994]. A nonconforming development is defined as a project for which a building permit has been issued prior to the date of enactment of this ordinance [December 19, 1994] or for which a variance or special exception has been granted under the prior ordinance or a subdivision which has received preliminary approval from the plan commission.

ARTICLE XII. VALIDITY

If any section, paragraph, clause, phrase or provision of this ordinance shall be ruled invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole or any part thereof other than the part so judged to be invalid or unconstitutional.