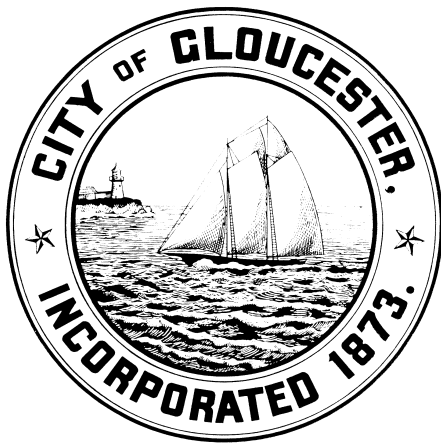


The City of Gloucester
Massachusetts

ZONING ORDINANCE



Issued June 2005
With Amendments to Date Incorporated

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CITY OF GLOUCESTER

In the Year 1969

BE IT ORDAINED by the City Council of the City of Gloucester as follows: An Ordinance ordained September 27, 1950 relative to Zoning, as most recently amended, is hereby further amended by striking out Sections 1-29 thereof and inserting in their places the following Sections.

SECTION I ADMINISTRATION AND PROCEDURE

1.1 TITLE

This Ordinance shall be known as the Zoning Ordinance of the City of Gloucester.

1.2 PURPOSE, INTERPRETATION, CONFLICT

- 1.2.1 This ordinance is for the purpose of promoting the health, safety, convenience, morals and welfare of the inhabitants of Gloucester, and to lessen congestion in the street; conserve health; secure safety from fire, flood, panic, and other dangers; provide adequate light and air; prevent overcrowding of the land; avoid concentration of population; encourage housing for persons of all income levels; facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; encourage the most appropriate use of land through the City, including consideration of the recommendations of the comprehensive plan adopted by the Planning Board and City Council, and the comprehensive plan, if any, of the Regional Planning Agency; and preserve and increase amenities by the promulgation of regulations to fulfill such objectives.
- 1.2.2 In interpreting and applying the provisions of this ordinance, the requirements contained herein are declared to be the minimum requirements for the purpose set forth.
- 1.2.3 Where the application of this Ordinance imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants or agreements, the provisions of this Ordinance shall control.

1.3 ADMINISTRATION

1.3.1 Building Inspector to Enforce Zoning Ordinances

(a) The Building Inspector shall administer and enforce the provisions of this Ordinance. No permit shall be issued by him for the construction, alteration, enlargement, or for the change of use of any land or premises unless the required submitted plans and specifications and intended use indicate that the building, structure, land or premises will conform in all respects to the provisions of this ordinance, as well as to the applicable building, electrical and plumbing codes, and the regulations of the Board of Health.

(b) To aid the Building Inspector in his work, it shall be the duty of every police officer to know that all work on buildings on his beat is being done under a proper permit and to notify his superior office for referral to the Building Inspector if it is not being so done.

(c) If the Building Inspector is requested in writing to enforce this ordinance against any person allegedly in violation of the same and the Building Inspector acts or declines to act, he shall notify, in writing, the party requesting such enforcement of any action or refusal to act, and the reasons therefore, within fourteen (14) days of receipt of such request.

(d) No action, suit, or proceeding to enforce this ordinance against the owners of real property which has been improved and used in accordance with the terms of the original building permit or occupancy permit, issued by a person duly authorized to issue such permits, shall be maintained unless such action, suit, or proceeding is commenced and notice thereof recorded in the Registry of Deeds of Essex County within six (6) years next after the commencement of the alleged violation.

1.3.2 Building and Occupancy Permits Required

(a) No structure shall be erected, altered, enlarged or moved, and no use of land or a structure shall be begun or changed, until a permit has been issued by the Building Inspector. All applicants for permits shall be in accordance with the provisions of this Ordinance and, unless on written order of the Board of Appeals, no such permit shall be issued for any buildings where construction, alteration, addition or use thereof would be in violation of any of the provisions of this Ordinance and the State Building Code.

(b) Applications and forms of permits shall be approved by the Building Inspector.

(c) Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Ordinance, unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the permit, and on cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

1.3.3 Procedures to Obtain Permits

(a) Applicants for building permits on an unsewered lot must first have a septic system design approved by the Board of Health. (Amended 8/29/00)

(b) Application to build shall be accompanied with a form from the Assessor's Office stating the map and lot number of land to be built upon as recorded by the Assessors.

(c) Applications to build shall be accompanied with a copy of a site plan as approved and signed by the City Engineer's Office. Said site plan shall be drawn to scale showing the exact dimensions of the lot to be built upon, all buildings, yards and required off-street parking, off-street loading spaces and screening, existing or proposed.

(d) All applications for building or occupancy permits shall be accompanied by a fee for the said permit as designated by the fee schedule prepared and amended from time to time by the City Council.

(e) All applications for a permit shall be approved, disapproved or referred to the Board of Appeals by the Building Inspector within twenty days of application.

(f) All applications for special permits shall comply with either the requirements of Section 1.4.1.2 for "SPS" uses, which may be authorized under special permit by the Board of Appeals, or the requirements of Section 1.4.2.2, for "CC or "CCS", City Council procedure for Special Permits so required by this ordinance.

(g) Drainage and Grading Requirements (Adopted 8/29/00) No Building permit for new building construction, including grading for all septic system installations, but excluding additions of 500 square feet or less to existing structures, accessory building of 500 square feet or less, and additions of any size which do not increase the building's footprint size, shall be issued until a drainage/grading plan prepared by a registered professional civil engineer has been submitted to the Director of Public Works as part of the application for said building permit, approved in writing by the Director of Public Works or his/her designees, and the Building Inspector notified. The requirement for said drainage/grading plan may be waived by the Director of Public Works or his/her designee with written notice to the Building Inspector as to why no such plan was required, based upon their professional judgment that no drainage or grading problem exists.

The applicant shall be required to submit the following for pre-construction plan approval:

1. Proposed plot plan showing existing lot with bearings and distances, bench mark location, foundation location including (T.C.) top of concrete elevation and (B.F.) Bottom of footing elevation, and sanitary/septic sewer outlet upgrade.
2. Existing topographical survey on proposed plot plan, including all necessary features; i.e. ledge outcroppings, substantial woodlands and trees, wetlands, and proposed topographical survey showing final grades, driveway grades, street grades, and proposed drainage features including but not limited to infiltration basins, trenches, swales and dry wells.
3. The proposed plan shall include drainage calculations of all impervious areas to assure that drainage structures can handle 25-year storm events as well as meet to the extent possible, the Performance and Design Standards of the Gloucester Subdivision Stormwater Management Regulations. Calculations will be submitted, stamped and signed by a registered professional civil engineer.

Application will be required prior to any structure being attached to the foundation to submit the following:

1. As-built foundation plan stamped and approved by a registered land surveyor or professional registered civil engineer, including top of concrete grade, bottom of footing grade, grade of sanitary/septic sewer outlet, and also including lot line offsets to all property lines to conform to zoning.
2. Final grading including all drainage structures, driveway grades, and edge of street grades conforming to the proposed plan stamped by a registered professional civil engineer responsible for the drainage design.

Lots shall be prepared and graded in such a manner that development of one or more shall not cause detrimental drainage on another. The property shall be graded as to prevent flooding, erosion and low spots that will not drain and create a public nuisance. Where low spots can not be avoided, they shall be drained by drain pipes approved by the Director of Public Works or his/her designees, catch basins or other approved inlet structure, to the nearest street drains or other approved drainage facility. Drainage and groundwater recharge may be attained through site design that incorporates natural drainage patterns and vegetation. To the extent possible, storm water runoff from rooftops, driveways, roadways and other impervious surfaces shall be routed through areas of natural vegetation and/or devices such as infiltration basins, infiltration trenches, grass swales or similar systems.

Drainage and infiltration practices shall be utilized to meet, to the extent possible, the Performance and Design Standards of the Gloucester Subdivision Stormwater Management Regulations. A combination of successive practices may be used to achieve the desired control requirements.

Any and all stormwater systems, excepting those accepted by the City, shall be permanently maintained in full working order by the lot (or lots) owners on which the system is located. Provisions for maintenance shall be described on the grading/drainage plan.

Prior to the issuance of occupancy permits for any building lots requiring an approved grading / drainage plan as described above, the Director of Public Works or his/her designees shall inspect the lot(s) and shall certify to the Building Inspector in writing that said lot(s) comply with the approved plan requirements.

1.3.4 Refusal of Permit

Whenever such application for a permit is refused because of the violation of some provision of the Building Code or of this Ordinance, the reasons for such refusal shall be clearly stated in writing by the Building Inspector.

1.3.5 Violations

The Building Inspector shall institute any appropriate action or proceedings, in the name of the City of Gloucester, necessary to prevent, correct, restrain or abate violations of this Zoning Ordinance.

1.3.6 Penalties

Any person, firm or corporation who violates or refuses to comply with any of the provisions of this Ordinance may, upon conviction, be fined not more than three hundred dollars (\$300) for each offense. Each day that such violation continues shall constitute a separate offense.

1.3.7 Records and Reports

The Building Inspector shall maintain a record of all permits issued by him and shall make a yearly report to the City Council and a monthly report to the Board of Assessors.

1.4 APPEALS AND SPECIAL PERMITS

1.4.1 Board of Zoning Appeals

There shall be a Board of Zoning Appeals established in accordance with Chapter 40A of the General Laws and all amendments thereto, which shall consist of five members and two alternate members who shall be appointed by the Chief Executive Officer of the City. Each member and alternate member shall have been a resident of the City of Gloucester for at least three years prior to becoming a member of the Board. Expiration dates of the terms of members and alternate members of the present Board, who shall continue to serve, shall remain unchanged. Members shall be appointed for a term of three (3) years, except that the term of one of the two appointments which will increase the Board from three to five members shall be for a shorter initial term to expire on February 14, 1993. Alternate members shall be appointed for a two (2) year term. Any member or alternate member may be appointed to succeed himself. Any member or alternate member appointed to fill the unexpired term of a member retiring before the expiration of his term shall serve only for the duration of that term.

The Chairman of the Board shall name one of the associate members to act on said Board in place of any member in case of absence, inability to act, or interest on the part of a member thereof, or in the event of a vacancy on said Board, until said vacancy is filled. No member or associate member of the Board of Appeals shall represent before such Board any party of interest in any matter pending before it.

The members of the Board shall annually elect a Chairman from its membership to preside at all meetings. The Board shall appoint a secretary and prescribe rules for the conduct of its affairs. A member of the Board can only be removed for cause by the Chief Executive Officer of the City, and only after written charges have been made and a public hearing has been held. Vacancies shall be filled in the same manner as appointments.

The Board shall keep minutes of its meetings, which shall show the vote of each member upon each question. All minutes of the Board shall be public records.

1.4.1.1 Powers and Duties of the Board of Appeals

(a) The Board of Zoning Appeals shall have all the powers and duties set forth in General Laws, Section 14 of Chapter 40A, as amended. These powers comprise the following:

Appeals: To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative official under the provision of Chapter 40A, General Laws, or by any officer or Board of the City, or by the Regional Planning Agency, or any person, including an officer or Board of the City, aggrieved by any order or decision of the Building Inspector or other administrative official in violation of any provision of Chapter 40A, General Laws, or by this ordinance. To hear and decide appeals from the decision of the Building Inspector, by any person, municipal officer or board, whether or not previously a party to the proceeding that is aggrieved by such decision.

Special Permits: To hear and decide applications for certain Special Permits for exceptions as provided in this Ordinance, subject to any general or specific rules therein contained, and subject to appropriate conditions or safeguards imposed by the Board.

Variances: The Board of Appeals shall hear and decide appeals or petitions for variances from the terms of this ordinance, including variances for use, with respect to particular land or structures. Such variances shall be granted only in cases where the Board of Appeals finds the following:

1. A literal enforcement of the provisions of this Ordinance would involve a substantial hardship, financial or otherwise, to petitioner or appellant.
2. The hardship is owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.
3. Desirable relief may be granted:
 - (a) without substantial detriment to the public good (Chapter 40A, Section 10 first paragraph), and
 - (b) without nullifying or substantially derogating from the intent or purpose of this Ordinance (Chapter 40A, Section 10 second paragraph).
 - (c) The Board of Appeals may impose conditions, safeguards and limitations, both of time and of use, including the continued existence of any particular structures, but excluding conditions based upon continued ownership by the applicant or any other owner.
 - (d) Repetitive petitions for exceptions, appeals and petitions for variances, and applications to the Board of Appeals shall be limited as provided in Section 16 of Chapter 40A, General Laws.
 - (e) Variances from the provisions of section 5.13 et seq., of this ordinance (Personal Wireless Services Facilities) shall not be allowed.

1.4.1.2 Board of Appeals Procedure

(a) Within thirty (30) days after an applicant is notified in writing of a refusal to grant a permit by the Building Inspector, or within thirty (30) days after a decision or order is made, any person aggrieved by such an order or decision by the Building Inspector shall file with the City Clerk a notice of appeal, specifying the grounds thereof.

All appeals and applications to the Board of Appeals require a fee to be submitted with the application. Petitioners or applicants shall pay a fee of two hundred fifty dollars (\$250) per application for variances, special permits, use variances and appeals of decision of the Inspector of Buildings to cover the cost of public hearings. At the time of submittal of an application, this fee of \$250 shall be made payable to the City of Gloucester.

(b) All appeals and applications made to the Board of Appeals shall be in writing on forms prescribed by the Board. Every appeal or application shall refer to the specific provisions of the Ordinance or statute involved if any, and in the case of appeals, shall set forth the grounds for the appeal. Where so indicated by "SPS" for certain Special Permits in Section 2.3, the application shall be accompanied by three copies of a site plan showing the boundaries of the

lot, use and zoning of adjacent parcels, existing and proposed topography, proposed structures, drives, parking, required landscaping and screening, park or recreation areas, water service, sanitary sewers and storm drainage, and by three copies of ground floor plans and architectural elevations of all proposed buildings at a scale of 1/8" equals one foot or larger, indicating major building materials and at least one section through the building and site.

(c) Owners of property. For the purpose of this section, the owners of property shall be considered to be the persons listed by the Board of Assessors as those against whom taxes are assessed. However, a non-resident property owner may annually request that notice of hearings under chapter 40A M.G.L., shall be sent by mail, postage prepaid, to the non-resident property owner; such request shall be made to the City Clerk before January first of each year together with a payment fee of \$10.00. Failure of any property owner to receive a notice of the public hearing shall not invalidate any action taken by the Board of Appeals and shall not require another hearing.

(d) The Board of Appeals shall take no action on any case until after proper notice has been given and a public hearing held. "Proper Notice" shall consist of a legal notice published by the Board once in each of two successive weeks in a newspaper of general circulation in the City of Gloucester, the first publication to be not less than fourteen (14) days before the day of the hearing. The Board shall also send notice by mail, postage prepaid, to the petitioner or applicant, abutters, owners of land directly opposite on any public or private street or way, and abutters to the abutters within 300 feet of the property line of the petitioner, and owners of other property deemed by the Board to be affected, and to the Planning Board. Special Permits shall only be issued following a Public Hearing held within sixty-five (65) days after filing of an application.

(e) The Board of Appeals may request the Planning Board, the Board of Health, the City Engineer, the Conservation Commission, or any other City agency or board to review an application. The Board of Appeals shall require that any response to such request be made within 35 days or at the public hearing, whatever is less. Such reviews may be made jointly by one or more agencies or boards.

(f) In the case of an appeal or variance, the decision of the Board shall be made within seventy-five (75) days after the date of filing. Failure to act within said period shall be deemed a grant of the appeal or variance requested.

(g) The Board of Appeals shall render a decision in writing on any application for a Special Permit within ninety (90) days after the close of the hearing. Failure to act within said ninety (90) day period shall be deemed to be a grant of the permit applied for. The Planning Board, City Building Inspector, and the applicant shall be sent a copy of the decision, with the original to be filed with the City Clerk. Special Permits shall be granted by the Board of Appeals only if such Board makes a determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the City, in view of the particular characteristics of the site and the proposal in relation to the site. The determination shall cite considerations of each of the following:

1. social, economic, or community needs served by the proposal;
2. traffic flow and safety;
3. adequacy of utilities and other public services;

4. neighborhood character and social structure;
5. qualities of the natural environment;
6. potential fiscal impact.

The permit may be granted with reasonable conditions, regulations or limitations such as the Board may deem necessary to protect the community and the City. Any condition, regulations, or limitations may be changed by the Board of Appeals from time to time in the interests of the community and of the City, but only after notice and hearing, and only for good reason.

(h) Failure to comply with any conditions, regulations, or limitations imposed by the Board of Appeals on any permit issued by it shall be deemed sufficient grounds for revoking the permit or operating and maintaining the activity permitted.

(i) Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Ordinance unless the use or construction is commenced within a period of not more than six (6) months after the issuance of the Permit or Special Permit. Said construction or operations must commence within six (6) months of issuance of said permit, unless otherwise stated in the conditions, regulations, or limitations imposed by the Board of Appeals. If construction is not begun within said period, or if construction is discontinued for a period of six (6) months or more, said permit will be considered void and no further construction shall be allowed without the issuance of a new Special Permit.

1.4.1.3 Appeal from the Board of Appeals

(a) Any person aggrieved by a decision of the Board of Appeals, whether or not previously a party to the proceedings, or any municipal officer or Board, may appeal to the Superior Court or land court for the county in which the land is situated, by bringing an action within twenty (20) days after the decision has been filed in the office of the City Clerk.

1.4.2 City Council

1.4.2.1 Special Permits from City Council

(a) In certain cases, as indicated in Section 2.3, Special Permits are to be acted upon by the City Council.

1.4.2.2 City Council Procedure for Special Permits

(a) Application for Special Permit may be made at any time. Petitioners and applicants shall pay a fee of two hundred fifty dollars (\$250) for a City Council Permit (including "CC" and "CCS", but excluding Major Projects and Personal Wireless Service Facilities). The application fee for a Major Project and Personal Wireless Service Facilities shall be one percent (1%) of the construction costs, with a minimum fee of \$1,000 but not to exceed \$5,000. This payment shall be made to the City Clerk, payable to the City of Gloucester.

(b) Applications shall be made in writing on forms prescribed by the City Council and issued through the Building Inspector's Office. The Building Inspector will advise the applicant of the necessary information and documentation required to submit a complete application to the

City Clerk as required by City Council Rules for Special Permits. Every application shall refer to the specific provisions of the ordinance or statute involved, if any. On all applications for a Special Permit, the name and documentation of the recorded owner of the property shall be provided. The recorded owner(s) of the property will provide documentation of the ownership through deed, tax bill or other means. In addition, if the applicant is not the owner(s), the applicant will present authorization from the owner(s) to represent him/her in the Special Permit process. (Amended 10/9/01)

1. Where indicated "CC" use, which may be authorized/permitted under Special Permit in Section 2.3 of this ordinance, the application shall be accompanied by an accurate plot plan or site plan, drawn to scale, showing existing and/or proposed buildings, structures, and/or uses, and such additional information necessary to comply with the informational requirements of Section 1.4.2.2(e).
2. Where so indicated "CCS" use, which may be authorized/permitted under Special Permits in Section 2.3, the application shall be accompanied by three copies of a site plan, prepared by a registered and qualified engineer, showing the boundaries of the lot, the use and zoning of adjacent parcels, existing and proposed topography, proposed buildings, structures, and/or uses, drives, parking, required landscaping, and screening, park or recreation areas, open space, water service, sanitary sewer service and storm drainage; and by three copies of ground floor plans and architectural elevations of all proposed buildings and/or structures prepared and sealed by a registered architect or a registered and qualified professional engineer, drawn at a scale of 1/8" equals one foot or larger, indicating major building materials and at least one section through the building(s) and site.
3. Major Project applications shall be submitted in conformance with the requirements for a "CCS" application above and with the additional requirements of Section 5.7.2.
4. Personal Wireless Service Facilities applications shall be submitted in conformance with 5.13.5.
5. Prior to making application to the City Council for a Special Permit for a Protein Recovery Plant or equivalent thereof within the City limits, City of Gloucester, a full and complete environmental impact study shall be performed at the applicant's expense with review by the Board of Health and agent for the Conservation Commission with report submitted to the Planning and Development Committee and the City Council prior to Public Hearing. (Amended 9/1/98)

(c) Owners of Property. For the purpose of this section, the owners of property shall be considered to be the persons listed by the Board of Assessors as those against whom taxes are assessed. However, a non-resident property owner may annually request that notice of hearings under MGL Chapter 40A shall be sent by mail, postage prepaid, to the non-resident property owner. Such request shall be made to the City Clerk before January first of each year together

with payment of a \$10.00 fee. Failure of any property owner to receive a notice of public hearing shall not invalidate any action taken by the City Council and shall not require another hearing.

(d) The City Council shall take no action on any application until after public notice has been given and a public hearing held. The Council shall fix a time for the hearing within sixty five (65) days after the filing of a complete application with the City Council; the date of filing shall be considered the date a complete application is received by the City Clerk's Office, and shall cause the notice of time and place of such hearing thereof and of the subject matter, sufficient for identification, to be published in a newspaper of general circulation in the City of Gloucester once in each of two successive weeks, the first publication to be not less than fourteen days before the day of such hearing and also send notice by mail, postage prepaid, to the petitioner and to the owners of all property deemed by the Board to be affected; therefore, including the abutters and the owners of land next adjoining the land of the abutters, notwithstanding that the abutting land or the next adjoining land is located in another City or Town.

(e) The City Council shall render a decision in writing on any application for a Special Permit within ninety (90) days after the close of the hearing. The Planning Board, City Building Inspector, and the applicant shall be sent a copy of the decision, with the original to be filed with the City Clerk. Special Permits shall be granted by the City Council only if such (Council) makes determination that the proposed use will not have adverse effects which overbalance its beneficial effects on either the neighborhood or the City, in view of the particular characteristics of the site and the proposal in relation to the site. The determination shall cite considerations of each of the following:

1. Social, economic, or community needs served by the proposal;
2. Traffic flow and safety;
3. Adequacy of utilities and other public services;
4. Neighborhood character and social structure;
5. Qualities of the natural environment;
6. Potential fiscal impact.

The permit may be granted with reasonable conditions, regulations, or limitations such as the Council may deem necessary to protect the community and the City. Any condition, regulations, or limitations may be changed by the City Council from time to time in the interests of the community and the City, but only after notice and hearing, and only for good reason.

(f) Failure to comply with any conditions, regulations or limitations imposed by the City Council on any permit issued by it shall be deemed sufficient grounds for revoking the permit after notice and hearing being given to the person holding the permit or operating and maintaining the activity permitted.

(g) Repetitive application to the Council shall be limited as provided in Section 16, Chapter 40A, General Laws.

1.4.3 Whenever a Special Permit or Variance is approved by the City Council, Planning Board, or Board of Appeals, the plans, sketches and written documents upon which the decision was made shall be permanently embossed and endorsed by the presiding officer of the Body after the vote.

1.5 AMENDMENTS TO THE ZONING ORDINANCE

1.5.1 Authorization

The Zoning Ordinance may be amended by vote of the City Council, following hearings and other procedures as prescribed by MGL Chapter 40A, Section 5.

1.5.2 Initiation

Municipal action on proposed amendments may be initiated in any of the following ways:

- (a) By submission of a proposed amendment to the City Council by the Planning Board, Board of Appeals or the Regional Planning Agency;
- (b) By submission of a proposed amendment by an individual owning land to be affected by the proposed change;
- (c) By petition of ten registered voters, such petition to be certified by the City Clerk as provided by MGL Chapter 43, Section 38;
- (d) By other methods as cited in the Municipal Charter;
- (e) By motion of the Council on matters it deems appropriate, including, but not limited to, matters petitioned for other than as provided above. In determining whether or not to initiate, or continue, formal action, the Council may request an informal review of the matter and recommendation from the Planning Board, which informal review and recommendation, even if involving a hearing, shall not be construed as satisfying the Planning Board hearing requirements of MGL Chapter 40A, Section 5 or invoking the limitations of MGL Chapter 40A, Section 11.

1.5.3 Hearings and Notices

- (a) The City Council shall, within fourteen (14) days of receipt of a proposed amendment, submit it to the Planning Board for review.
- (b) The Planning Board and the City Council or a committee designated or appointed for the purpose by the City Council shall each hold a public hearing on the proposed amendment, together or separately. Such hearing(s) shall be held within sixty-five (65) days after the proposed amendment is submitted to the Planning Board by the City Council. Notice of the time and place of the public hearing shall be given as provided in MGL Chapter 40A, Section 5. In addition, the Council shall give notice by mail to the owners of all land included in and abutting land to be affected by such amendments, as they appear in the most recent Assessor's list, which notice shall state the general nature of the proposed amendment as well as the text and shall quote in full Section 1.5.4 of the Zoning Ordinance pertaining to the vote required for amendment; except that this notice may be waived by vote of the City Council at the time of fixing time and place for the public hearing, upon Council's determination that the proposed amendment affects so many parcels as to make such notice impractical.

1.5.4 Council Vote

(a) No City Council vote to adopt a proposed amendment to the Zoning Ordinance shall be taken until a report with recommendations has been submitted by the Planning Board to the City Council, or twenty-one (21) days has elapsed after the Planning Board's hearing without submission of such a report.

(b) After notice has been given, a public hearing held and a report submitted by the Planning Board to the City Council, or after twenty-one (21) days has elapsed after such hearing without submission of such report, the City Council may adopt, reject, or amend and adopt any such proposed amendment.

(c) If the City Council fails to vote to adopt any proposed amendment within ninety (90) days of the close of its public hearing it shall not act thereon until after it holds a subsequent public hearing with notice as provided in section 1.5.3(b) above.

(d) No proposed amendment shall be adopted except by a two-thirds vote of all members of the City Council. However, no amendment shall be adopted except by a three-fourths vote of all the members of the City Council if a written protest is filed with the City Clerk prior to final action of the City Council which:

(1) states the reasons for the protest; and,

(2) is signed by the owners of twenty percent (20%) or more of the area of the land proposed to be included in such change of the area of the land immediately adjacent extending three hundred (300) feet therefrom.

1.5.5 Repetitive Petitions

No proposed Zoning Ordinance or Amendment which has been unfavorably acted upon by the City Council shall be considered by the City Council within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or amendment is recommended by the final report of the Planning Board.

1.5.6 Incorporation of Map Amendments

Whenever an amendment of the Zoning Ordinance duly adopted and recorded requires a revision of the Zoning Map, a notation shall be made on the appropriate page or pages of the drafting master giving the date of the amendment and the grid location of the change(s). This notation shall be signed by the City Clerk. Copies shall be filed as provided in Section 2.1.2.

1.5.7 Effective Date

The effective date of any amendment to the Zoning Ordinance shall be the date on which such amendment was voted upon by the City Council.

1.6 SEPARABILITY

(a) The invalidity of any section or provisions of this Ordinance shall not be held to invalidate any other section or provisions of this Ordinance.

(b) No claim of invalidity of any amendment or section of this Zoning Ordinance, arising out of any possible defect in the procedure of adoption or amendment, shall be made in any legal proceeding, and no State, Regional, County, or Municipal Officer shall refuse, deny, or revoke any permit, approval or certificate because of any such claim of invalidity, unless within one hundred and twenty (120) days after adoption of an Ordinance or Amendment, legal action is commenced and notice specifying the court, parties, invalidity claimed, and the date of filing is filed together with a copy of the petition, with the City Clerk within seven (7) days after the commencement of the actions.

1.7 ALL OTHER ORDINANCES REPEALED

This Ordinance shall take effect on the date of its final passage; thereupon all prior Zoning Ordinances or any parts thereof, and the April 12, 1962 Earth Removal Ordinance, are hereby repealed.

SECTION II USE REGULATIONS

2.1 DISTRICTS

2.1.1 In order to carry out the provisions of this Ordinance, the City of Gloucester is hereby divided into the following zoning districts:

R-1 Coastal Residential

To be established only where the district borders coastal or tidal waters; where absence of services and access or present development patterns suggest low-intensity development; and where existing development suggests exclusively residential use.

R-RA Rural Residential

R-RB Rural Residential

To be established where the absence of services and access suggests low-intensity use; and where present and anticipated future development can compatibly accommodate those select non-residential uses commonly found in residential areas.

R-2A Low Density Residential (Adopted 10/12/99)

R-2 Low/Medium Density Residential (Amended 10/12/99)

R-3 Medium/High Density Residential (Amended 10/12/99)

R-4 High Density Residential

S Service District

To be established only on arterial streets as defined herein; and only where either contiguous with an existing non-residential zone, or in part within 1000 feet of, or containing at the time of establishment, one or more non-residential buildings.

CCD Civic Center District

CB Central Business

The CB Central Business District is a district established to accommodate a composite of business and retail uses, residential uses, office uses, and institutional uses, all of which comprise the City's central core. (Amended 5/11/93, formerly B-1.)

NB Neighborhood Business

The NB Neighborhood Business District is a district established to accommodate a variety of retail business uses primarily offering convenience shopping for nearby residential areas. (Amended 5/11/93, formerly B-2.)

EB Extensive Business

The EB Extensive Business District is a district established to accommodate business, retail and service uses serving a city-wide clientele. The EB District is characterized by good highway accessibility and exposure afforded by location on collector streets. (Amended 5/11/93, formerly B-3)

VB Village Business

The VB Village Business District is a district established to accommodate a composite of business and retail uses, residential uses, office uses, and institutional uses, to serve primarily the residents of the village in which it is located. (Adopted 5/11/93)

MI Marine Industrial

The MI Marine Industrial District is established only where the district borders coastal and tidal waters; and where the utilities and the access roads can support high-intensity industrial and commercial development that is primarily marine-related.

GI General Industrial

The GI General Industrial District is a district established primarily on arterial or collector streets as defined herein. It is intended primarily for manufacturing, assembling, processing, and other industrial uses, but it accommodates certain business establishments. It is to be located primarily in those areas that are not residential in nature. (Adopted 5/11/93 to combine Light Industrial (L-I) and Heavy Industrial (H-I) into one district.)

BP Business Park

The BP Business Park District is a district established to accommodate offices, warehousing, limited service uses, and compatible light industrial uses in a well-designed and attractive business park setting. The BP District should be located on lands with good highway accessibility and sufficient utility capacity to accommodate the demands of business park development. (Adopted 5/11/93)

- 2.1.2 The Districts listed above are shown on the "Zoning Map of the City of Gloucester" adopted by the City Council December 6, 1973, and dated July 24, 1975. Permanent tracings of the original and of each subsequent amended map shall be filed in the City Clerk's Office and shall be signed by the City Clerk; these shall be the official copies.

An updated copy of the Zoning Map shall also be filed with the Planning Board. The drafting masters of these maps shall be filed in the City Engineer's Office. Said map and all explanatory matter thereon are hereby incorporated in and made part of this Ordinance.

Each page of the zoning map book shall be identified by an index map showing the districts and each page of the book shall include a distinctive number in the lower right hand corner of the page. In addition, a grid system shall be included for each page and shall consist of horizontal numbered divisions, (1) through (6), and vertical lettered divisions, (A) through (D).

- 2.1.3 Where uncertainty may exist with regard to the boundaries at the various zoning districts, the following rules shall apply:

- (a) Unless otherwise indicated, district boundaries are the center lines of streets, ways, alleys, parkways, waterways, or rights of way of public utilities and railroads, or perpendicular or radial thereto.
- (b) Other district boundary lines not listed in the preceding section shall be considered as lines paralleling a street and at distances from the side lines of such street which are stated on the Zoning Map.
- (c) Other district lines not listed above shall be considered as lot lines.
- (d) Lot in more than one district: when the boundary lines of a zoning district divide a lot having frontage on a street in a less restricted district, the provisions of this Ordinance covering the less restricted portion of the lot may extend not more than twenty-five (25) feet from the district boundary. Where the boundary line of a district divides a lot having frontage only on a street in a more restricted district, the provisions of this Ordinance covering the more restricted portion of the lot shall extend to the entire lot.

2.2 USE REGULATIONS

2.2.1 No building or structure shall be erected or used and no premises shall be used except as set forth in the "Use Regulations Schedule," or as exempted by Section 2.4 or by statute. Symbols employed shall mean the following:

Yes- A permitted use

No - An excluded or prohibited use

SP - Use which may be authorized under Special Permit by the Board of Appeals as provided for in Section 1.4.1 herein.

SPS - Use which may be authorized under Special Permit by the Board of Appeals. Application must be accompanied by plans as required in Section 1.4.1.2(b), second paragraph.

CC - Use which may be authorized under Special Permit by the City Council as provided for Section 1.4.2 herein.

CCS - Use which may be authorized under Special Permit by the City Council. Application must be accompanied by plans as required in Section 1.4.2.2(b), second paragraph. Applications for Major Projects must be submitted in accordance with Section 5.7.2.

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

2.2.3 Where a structure or premises is proposed to be used for more than one principal use, all of which are permitted in the district in question and none of which is accessory to another, such mixed or multiple uses shall be permitted unless some regulation applying to one of such uses is inconsistent with regulations applying to another; in such a case the more restrictive regulation shall apply. An applicant aggrieved by the Building Inspector's interpretation of this paragraph may appeal to the Board of Appeals for determination.

2.2.4 For all uses requiring a special permit in the MI zone, and located within two hundred (200) feet of the water's edge, in addition to the requirements for the issuance of special permits contained in Sections 1.4.1.2, 1.4.2.2, and 5.7 herein, the special permit granting authority shall consider the following factors:

- (1) Will the proposed use displace existing water-related uses;
- (2) Will the proposed use pre-empt the use of the surrounding property for future development of water-related uses;
- (3) Will the proposed use be compatible with the working waterfront character of the zone;
- (4) To the extent that the proposed project will displace existing commercial fishing vessel berthing in Gloucester Harbor, will the applicant provide equivalent space at a suitable alternative site;
- (5) The extent to which the proposed use will beneficially affect the preservation of water-related uses on surrounding properties.

In exercising its power under this section, the special permit granting authority may impose reasonable conditions, regulations or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not adversely affect the primary character of the area as a working waterfront.

2.3 USE REGULATIONS SCHEDULE

R-RB = Rural Residential; R-1 = Coastal Residential; R-RA = Rural Residential; R-2A = Low Density Residential; R-2 = Low/Medium Residential; R-3 = Medium/High Density Residential; R-4 = High Density Residential; S = Service District; CCD = Civic Center District; CB = Central Business; NB = Neighborhood Business; EB = Extensive Business; VB = Village Business; MI = Marine Industrial; GI = General Industrial; BP = Business Park.

Y = Permitted; N = Excluded or Prohibited; SP = Board of Appeals Special Permit; SPS = Board of Appeals with additional filing requirements; CC = City Council Special Permit; CCS = City Council Permit with additional filing requirements; PB = Planning Board Special Permit

2.3.1 RESIDENTIAL USES

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
1. One-family detached (1)	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	N	N	N
2. Conversion of one-family dwelling to two family dwelling (1) (Amended 12/8/1998)	N	***	Y	***	***	***	Y	Y	SP	SP	N	SP	N	N	N
3. New two-family dwelling (1)	N	Y	Y	Y	Y	Y	Y	Y	SP	SP	N	SP	N	N	N
4. Multi-family or apartment dwelling (see section 5.7):															
a. Up to six dwelling units	N	N	N	CC	CC	CC	CC	CC	CC	CC	N	CC	N	N	N
b. Seven or more dwelling units	N	N	N	CCS	CCS	CCS	CCS	CCS	CCS	CCS	N	CCS	N	N	N
5. Cluster Development (2) (see section 5.9)	PB	PB	PB	PB	PB	PB	N	N	N	N	N	N	N	N	N

(1) Not more than one principal building per lot.

(2) Subject to approval by the Planning Board (PB) for the Cluster Development in accordance with the requirements of Section 5.9.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

*** Yes, except SP with issuing authority by the Zoning Board of Appeals required whenever the conversion requires alterations to the exterior dimensions of the existing dwelling. (Amended 12/8/98)

2.3.1 RESIDENTIAL USES (CONT.)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
6. Boarding, lodging, or rooming house licensed by the Licensing Board (1)	N	N	N	SPS	SPS	SPS	SPS	SPS	SPS	SPS	N	SPS	SPS	N	N
7. Hotel, motel, motor inn (see Section 5.7)	N	N	N	CCS	CCS	CCS	CCS	CCS	Y(3)	N	Y(3)	Y(3)	N	N	N
8. Mobile home park (2)	N	CCS	CCS	CCS	CCS	CCS	N	N	N	N	N	N	N	N	N
9. Campground (2)	N	CCS	CCS	CCS	CCS	CCS	N	N	N	N	N	N	N	N	N
10. Mobile home, except home park or campground (2)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
11. Camping or tenting, except within a campground or by children in their own yard (2)	N	N	N	N	N	N	N	N	N	N	N	N	N	N	N
11A. Assisted Living Facilities, three (3) or more units (Adopted 6/20/00)	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	N	N	CCS	N
11B. Open Space Residential Development - See Section 5.15	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	N	N	N

(1) Not more than one principal building per lot.

(2) See Section 5.1.5 allowing temporary placement during reconstruction after a fire, subject to yard and setback requirements from the Board of Appeals.

(3) But CCS for Major Projects, see Section 5.7.1

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.2 COMMUNITY SERVICE USES

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
12. Public, religious, or other non-profit schools, building or uses	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
13. Municipal use not elsewhere more specifically covered	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
14. Public utility facility*** a. servicing exclusively the immediate neighborhood (5 square miles or less)	Y	Y	Y	Y	Y	Y	Y	N	Y	N	Y	N	CCS	Y	Y
b. Servicing a broader area	N	N	N	N	N	N	N	N	SPS	N	Y	N	Y	Y	Y
15. Nursing home, convalescence or rest home, hospital	N	N	N	CCS	CCS	CCS	CCS	N	N	CCS	N	N	N	N	N
16. Cemetery	CC	CC	CC	CC	CC	CC	CC	N	CC	CC	CC	CC	N	N	N
17. Club or lodge, except one whose chief activity is customarily carried on as a business	N	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CC	CC	CC	CC	CC	N	N

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI district unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

*** Except for Personal Wireless Service Facilities.

2.3.2 COMMUNITY SERVICE USES (CONT.)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
18. Animal hospital, dog kennel (1)	N	CC	CC	CC	CC	CC	N	N	N	N	N	N	N	CC	SP
19. Nursery school - Day Care Centers	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
20. Business or commercial school (other than uses 12, 19 or 25)	N	N	N	N	N	N(2)	N	Y	Y	Y	Y	Y	N	N	N
a. Trade school, industrial training center	N	N	N	N	N	N(2)	N	Y	Y	Y	Y	Y	Y	Y	Y
21. Philanthropic institutions	N	CCS	CCS	CCS	CCS	CCS	CCS	Y	Y	CCS	Y	CCS	CCS	N	CCS
22. Airport, heliport	N	N	N	N	N	N	N	N	N	N	CCS	N	CCS	CCS	CCS

(1) Provided that lot area is of sufficient size to permit a structure or pen to be placed no closer than 100 feet from a lot line and no closer than 200 feet from a dwelling on another lot.

(2) Except CCS in S District only.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.3 OPEN USES

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
23. Agriculture, horticulture, floriculture, including farms, greenhouses and gardens (1)	Y	Y	Y	Y	Y	Y	Y	N(3)	N(3)	Y	Y	Y	N(3)	N(3)	N(3)
24. Wildlife area, reservation or similar use	Y	Y	Y	Y	Y	Y	Y	N	N	N	Y	N	N	N	Y
25. Riding school, stable (2)	CC	CC	CC	CC	CC	CC	N	N	N	N	N	N	N	N	N
26. Golf driving range, drive-in theater, amusement park, race track or similar commercial outdoor recreation	N	N	N	N	N	N	N	N	N	N	Y	N	N	N	N
a. Miniature golf and baseball or softball batting cages	N	N	N	N	N	N	SP	SP	N	N	N	N	N	N	N
27. Golf course, standard or par-three	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	N	N	N
28. Commercial picnic or outing area	N	SP	SP	SP	SP	SP	N	N	N	N	N	N	N	N	N

(1) Providing there is no sale of products, which are not produced on the premises.

(2) Provided that no structure is placed closer than 100 feet from a lot line and no closer than 200 feet from a dwelling on another lot.

(3) Except not prohibited on lots larger than five acres.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.3 OPEN USES (CONT.)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
29. Boat launching, docking or docking structures, limited in MI Districts to primarily commercial fishing vessels (2)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
30. Supervised camping	N	SPS	SPS	SPS	SPS	SPS	N	N	N	N	N	N	N	N	N
31. Outdoor recreation other than the above (1)															
a. Recreation operated by a governmental agency or Authority	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N
b. Other outdoor recreation	CC	CC	CC	CC	CC	CC	CC	CC	Y	Y	Y	Y	Y	N	N
32. Seasonal sale of Christmas trees, wreaths	N	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y

(1) No active use area may be located within required yards, or within 10 feet of a lot line other than the water's edge.

(2) Permitted Use Area for Operation and Docking of Casino Boats: On the City Assessor's Map in the north channel of the Harbor moving easterly, Map 10, Lot 5; Map 11, Lots 6, 5, 4, 1; Map 53, Lots 3, 4. A Casino ship does not include a "Cruise Ship". (Adopted 7/6/99)

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.4 BUSINESS USES

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
34. Conversion of dwelling for up to four offices (1)	N	N	N	N	N	N(2)	SPS	Y	Y	Y	Y	Y	N	Y	N
35. Banks, automatic teller machines	N	N	N	N	N	N	SPS	Y	Y	Y	Y	Y	CC	Y	Y
36. Other offices containing less than 6,000 s.f. of floor area	N	N	N	N	N	N(2,3)	SPS	SPS(3)	Y	Y	Y	Y	Y	Y	Y
37. Office other than the above	N	N	N	N	N	N	N	SPS	Y	N	Y	N	Y	Y	Y
38. Funeral home	N	N	N	N	N	N	SPS	Y	SPS	SPS	SPS	SPS	N	N	N
39. Restaurant (4)	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	CCS	Y	Y
40. Motor vehicle sales, rental (1)	N	N	N	N	N	N	N	N	Y	N	Y	N	CCS	Y	Y

(1) See Section 3.3

(2) Except CCS in S District only.

(3) Special Permit to expire on change of use or ownership.

(4) Except SPS where otherwise Y, if food is to be consumed on the premises outside of a building, or is to be sold packaged for take-out except where this take-out is incidental to service for on-premises consumption.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.4 BUSINESS USES (CONT.)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
41. Marine related sales, rental, limited primarily in MI Districts to commercial vessels	N	N	N	N	N	N	N	N	Y	N	Y	N	Y	Y	Y
41A. Protein Recovery Plant	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS	CCS
42. Motor vehicle service storage or repair (1)	N	N	N	N	N	N	N	N	CC	CC	CC	CC	CC	SP	N
43. Marine related service storage, or repair, limited in MI Districts primarily to commercial fishing vessels	N	N	N	N	N	N	N	N	CC	CC	CC	CC	CC	SP	N
44. Building tradesman or contractor, without outdoor storage of materials or heavy equipment	N	N	N	N	N	N	N	N	Y	Y	Y	CC	CC	Y	Y
45. Fuel, ice establishments	N	N	N	N	N	N	N	N	N	N	CC	N	CC	Y	N
46. Feed, building materials establishments	N	N	N	N	N	N	N	N	Y	Y	Y	CC	Y	Y	Y

(1) See Section 3.3

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.4 BUSINESS USES (CONT.)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
47. Laundry, laundromat or dry cleaning establishment under 4,000 sq ft	N	N	N	N	N	N	N	N	CC	Y	Y	Y	N	N	N
48. Stone mason's yard	N	N	N	N	N	N	N	N	N	N	CC	N	CC	Y	N
49. Shopping Center (See Sections 3.2.2 and 5.7)	N	N	N	N	N	N	N	N	CCS	N	CCS	N	CCS	N	N
50. Retail, consumer service, or other business non-industrial use other than above (1)	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y	Y(2)	Y(3)
51. Automatic amusement devices	N	N	N	N	N	N	N	N	Y	N	N	CC	N	N	N
51A. Drive-Through Facilities	N	N	N	N	N	N	N	N	CCS	CCS	CCS	CCS	CCS	CCS	CCS

(1) If a business use contains both a retail and a consumer service operation, the use shall be classified, for the purpose of this Ordinance, as a consumer service establishment.

(2) In the GI District, retail uses are allowed only by Special Permit (SP) from the Board of Appeals, except that they are allowed as-of-right if they are: (Amended 6/1/93)

- (a) related to an industrial, manufacturing, or wholesaling use located on the same lot or on a contiguous lot; or
- (b) located on lots that have frontage on an arterial street.

(3) In the BP District, retail uses are prohibited, except when they are incidental to an industrial, manufacturing, or wholesaling use.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.5 INDUSTRIAL USES

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
52. Junk yard	N	N	N	N	N	N	N	N	N	N	CC	N	N	CC	N
53. Earth products and stone removal (1)	N	N	N	CC	CC	CC	N	N	N	N	CC	N	N	CC	N
54. Manufacturing, processing or research, conducted so that the performance criteria of Section 4.4 are conformed to	N	N	N	N	N	N	N	N	N	N	N	N	Y	Y	Y
55. Trailer truck park, freight or transportation terminal facilities (see Section 5.8)	N	N	N	N	N	N	N	N	N	N	N	N	CCS	CCS	CCS
56. Processing and cooling, not conforming with the criteria of Section 4.4	N	N	N	N	N	N	N	N	N	N	N	N	Y	CCS	N
57. Bulk storage, warehousing	N	N	N	N	N	N	N	N	N	N	Y(2)	N	Y(2)	Y(2)	Y(2)
58. Laundry or dry cleaning plant over 4,000 square feet	N	N	N	N	N	N	N	N	N	N	CC	N	N	Y	N
59. Commercial radio transmission	N	N	N	N	N	N	N	N	N	N	SP	N	SP	SP	SP
60. Contractor's yard	N	N	N	N	N	N	N	N	N	N	CC	N	Y	Y	N

(1) See Section 5.2

(2) Storage of toxic or hazardous materials shall be permitted only by CCS.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance

2.3.6 OTHER PRINCIPAL USES

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
61. Parking of motor vehicles to service a use permitted in the same district	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC	CC
62. Temporary structures and temporary uses not conforming to this Ordinance	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
63. Arts, crafts and sale of products of arts or crafts if made on the premises	N	CC	CC	CC	CC	CC	CC	CC	Y	Y	Y	Y	Y	Y	Y
64. Radio transmission, non-commercial	N	N	N	N	N	N	N	N	N	N	N	N	SP	SP	SP

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.7 ACCESSORY USES (1)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
65. Garage, parking, for permitted use	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
66. Parking to service a use located and permitted in the NB (B-2) District	N	N	N	CCS	CCS	CCS	CCS	CCS	Y	Y	Y	N	Y	N	N
67. Parking, storage of agriculture machinery used on the premises	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
68. Signs, subject to Section 4.3	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y
69. Manufacturing accessory to retailing, employing not more than ten persons, with major portion of products sold on premises	N	N	N	N	N	N	N	N	Y	Y	Y	Y	Y(2)	Y(2)	Y(2)
70. Employee dwelling accessory to industry	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y	Y	Y

(1) Principal uses allowed, or permitted by Special Permit, are similarly permitted as accessory uses, subject to the same restrictions. Customary accessory uses other than those listed in this Section 2.3.7 shall be allowed only by Special Permit from the Board of Appeals.

(2) In the BP, MI and GI Districts, the number of persons that may be employed by a manufacturing operation accessory to retailing is not limited. (Amended 6/1/93)

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.7 ACCESSORY USES (CONT.) (1)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
71. Offices for one professional in his/her residence, subject to Section 5.3	SP	SP	SP	N	N	SP	SP	Y	Y	Y	Y	Y	Y	N	N
72. Home occupation, subject to Section 5.3	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Y	SP	N	N
73. Boarders, roomers or lodgers (2)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N
74. Dining halls, shops, wholly within a motel or hotel	N	N	N	CCS	CCS	CCS	CCS	CCS	Y	Y	Y	Y	N	N	N
75. Automatic amusement device, limited to four or fewer	N	N	N	N	N	N	N	N	SP	N	N	SP	N	N	N

(1) Principal uses allowed, or permitted by Special Permit, are similarly permitted as accessory uses, subject to the same restrictions. Customary accessory uses other than those listed in Section 2.3.7 shall be allowed only by Special Permit from the Board of Appeals.

(2) Within a dwelling unit in R-4 and non-residential districts, and in dwelling units of more than 2,000 square feet of gross floor area in other R Districts, the renting of not more than three rooms as a lodging without separate cooking facilities to not more than three lodgers, boarders or roomers; in the case of a dwelling unit occupied by unrelated persons, the sum of lodgers and other unrelated persons shall not exceed the limits defined for a "Family" in Section VI.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.7 ACCESSORY USES (CONT.) (1)

	R-1	R-RA	R-RB	R-2A	R-2	R-3, S	R-4	CCD	CB	NB	EB	VB	MI*	GI	BP**
76. Recreational use accessory to a dwelling for use of residents and nonpaying guests	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N	N
77. Wind energy conversion devices (2)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	N	SP	SP	SP
78. Yard sales (3)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	N

(1) Principal uses allowed, or permitted by Special Permit, are similarly permitted as accessory uses, subject to the same restrictions. Customary accessory uses other than those listed in Section 2.3.7 shall be allowed only by Special Permit from the Board of Appeals.

(2) Wind energy conversion devices shall be set back from every property line by a distance equal to its height as measured to the highest tip of the blades, except when a "fall area" easement has been obtained from the appropriate abutters, not including any private or public ways or other areas open to public use; the device shall be protected by appropriate fencing to a height of six feet; and anti-climbing devices shall be located on the tower as may be approved by the Building Inspector.

(3) No yard sale shall last more than two days, including set-up and take-down time. No premises shall be used for a yard sale more than two times in any calendar year.

* No use of the water's edge and of an area at ground level 20 feet back from the water's edge shall be permitted on property in a MI District unless it requires access to water-borne vessels.

** All uses permitted in the BP District shall conform to the standards described in Section 5.12 of this Ordinance.

2.3.8 USES PROHIBITED IN ALL DISTRICTS

79. Any building or use not expressly permitted by this Ordinance.

80. A building or use, whether or not otherwise permitted, which in the opinion of the Building Inspector may create a hazard to safety or health.

81. Billboards.

2.4 NON-CONFORMING USES, STRUCTURES AND LOTS

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

2.4.2 A lawful non-conforming use which has been abandoned or discontinued for a period of two years, shall not be re-established, and any future use shall conform with this Ordinance, except in the case of land used for agriculture, horticulture, or floriculture, where such non-conforming use shall have existed for a period of five consecutive years.

2.4.3 This Ordinance shall not prohibit the extension within applicable setback requirements, alteration, reconstruction or structural change of a pre-existing nonconforming use or structure so long as a Special Permit is issued by the Board of Appeals, after finding that such extension, alteration, reconstruction or structural change is not substantially more detrimental than the existing nonconforming use or structure to the neighborhood. The above requirement does not apply to such an extension, alteration, reconstruction or structural change to a single or two-family residential structure which does not increase the nonconforming nature of that structure. This section shall apply to billboards, signs and other advertising devices covered under Section 4.3 of this Ordinance.

(a) The following is an amendment to Section 2.4.3(a), adopted by City Council June 22, 1999, and is intended to identify the areas that were affected by the rezoning on March 9, April 27 and October 12, 1999, and were incorporated on the Official City of Gloucester Zoning Maps. To aid in identification of the rezoned areas, refer to zoning maps prior to March 1999, as well as the 1998 Metropolitan Area Planning Council's (MAPC) Buildout Analysis Map of Gloucester. For any single or two-family dwelling in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999 located in:

- 1) R-RA zoning district Northwest of the Goose Cove Watershed (enacted March 9, 1999);
- 2) R-RA zoning district South and West of Concord Street as referenced in Special Study District #6 (enacted March 9, 1999);
- 3) R-2A zoning district with boundaries as shown on the 1998 MAPC Buildout Analysis Map of Gloucester (enacted October 12, 1999);

any alteration, reconstruction, extension or structural changes thereto shall comply with the following setbacks: 30 foot front yard setback, 20 foot side yard setback, and 30 foot rear yard setback; also, for any building accessory thereto the minimum distance from the street shall be 30 feet and from the side and rear lot lines shall be 15 feet. (Amended 1/22/02)

(b) The following is an additional amendment to Section 2.4.3(a), adopted by City Council June 22, 1999, and is intended to identify the areas that were affected by the rezoning on March 9, April 27 and October 12, 1999, and were incorporated on the Official City of Gloucester Zoning

Maps. To aid in identification of the rezoned areas, refer to zoning maps prior to March 1999, as well as the 1998 Metropolitan Area Planning Council's (MAPC) Buildout Analysis Map of

Gloucester. For any single or two-family dwelling in existence on or before March 9, 1999 or for which a building permit was issued on or before March 9, 1999 located in:

- 1) R-2 zoning district along the corridor of Washington Street between Goose Cove and Folly Cove (enacted March 9, 1999);
- 2) R-2 zoning district along Concord and Atlantic Streets as referenced in Special Study District #5 (enacted March 9, 1999);
- 3) R-2 zoning district of Magnolia which is not within the Watershed (excluding Village, Neighborhood and Extensive Businesses) as referenced in Special Study District #8 (enacted March 9, 1999);
- 4) R-2 zoning district on either side of Little River (excluding Extensive Business zoning and Biskie Head Point) as referenced in Special Study Districts # 3 & 4 (enacted April 27, 1999);
- 5) R-2A zoning district extending from the 1998 MAPC Buildout Analysis Map with its southerly boundary to Englewood Road, east to Magnolia Woods Park, and north along the northerly side of Western Avenue to near its intersection with Bond Street (enacted October 12, 1999);

any alteration, reconstruction, extension or structural changes thereto shall comply with the following setbacks: 20 foot front yard setback, 10 foot side yard setback, and 20 foot rear yard setback; also, for any building accessory thereto the minimum distance from the street shall be 20 feet and from the side and rear lot lines shall be 10 feet. (Adopted 1/22/02)

- 2.4.4 Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this Ordinance, unless the use or construction is commenced within six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.
- 2.4.5 In the case of destruction or damage by fire or other catastrophe, a building or structure existing at the time of the adoption of this Ordinance may be rebuilt in substantially the form as it was at the time of the destruction or damage, or in any form if within applicable setback requirements and not larger than previously.
- 2.4.6 A mobile home legally located in any district, whether on temporary or permanent permit, but not in conformance with the requirements of this Ordinance, may be retained or replaced on the same site with a different mobile home, but may not be relocated to another lot except in conformity with the Ordinance.
- 2.4.7 The expansion or reconstruction of uses and structures related to agriculture, horticulture, floriculture and viticulture within applicable setback requirements shall not be prohibited nor shall a Special Permit be required, however, in districts not currently zoned for these uses, such expansion or reconstruction shall only take place on parcels which are more than five(5) acres in size.
- 2.4.8 Any increases in dimensional requirements contained in Section III, Dimensional Regulations, of this Ordinance shall be regulated in conformance with Section 6, Chapter 40A, M.G.L. and

shall not apply to a lot for single or two-family residential use, which, at the time of recording or endorsement, was not held in common ownership with any adjoining land, conformed to the then existing dimensional requirements and has less than the present dimensional requirements, but at least five thousand (5,000) square feet in area and fifty (50) feet of frontage. Lots held in common ownership are regulated in conformance with Section 6, Chapter 40A, M.G.L.

- 2.4.9 If a definitive plan, or preliminary plan followed within seven (7) months by a definitive plan, is submitted to the Planning Board for approval under Subdivision Control Law, and written notice of such submission has been given to the City Clerk before the effective date of this Ordinance or amendment thereto, the land shown on such plan shall be governed by the applicable provisions of the Zoning Ordinance in effect at the time of such submission. If such plan, or amendment thereof, is finally approved and endorsed by the Planning Board, the provisions of this Ordinance shall not apply for a period of eight (8) years from the date of such endorsement of approval.

A plan submitted to the Planning Board for endorsement of approval not required under Subdivision control law (Form A), shall be governed as above, except that the provisions of this Ordinance shall not apply for a period of three (3) years from said endorsement.

If either a definitive plan or a Form A plan as described above, is disapproved and an appeal is taken under applicable provisions of the Subdivision Control Law, the period of applicability of this section shall be as required by Section 6, Chapter 40A, M.G.L.

SECTION III DIMENSIONAL REGULATIONS

3.1 INTENSITY OF USE REGULATIONS

- 3.1.1 All buildings hereafter erected in any district shall be located in a lot as defined in Section VI, such that all of the minimum requirements set forth in the following Intensity of Use Schedule are conformed with, except where specifically exempted by this Ordinance or by General Law.
- 3.1.2 Certain lots are exempt from the intensity and dimensional regulations contained in this section of this ordinance. These lots and their exemptions are defined in Section 6, Chapter 40A, M.G.L. (See Sections 2.4.8 and 2.4.9 of this Ordinance.)
- 3.1.3 No existing lot shall be changed in size or shape, nor shall any new lot be created, except through a public taking or as may be allowed for in Section 3.1.8 of this ordinance, so as to result in a violation of the requirements set forth in this section, unless granted a variance by the Board of Appeals.
- 3.1.4 No obstruction higher than 2 1/2 feet above the lowest elevation at the curb line shall be permitted on a corner lot within the area of a triangle formed by a line intersecting the street lines of intersecting streets 25 feet from the corner. For the purpose of this section, the work "obstruction" shall mean any shrub, tree, wall, fence, sign, temporary buildings, pile of material, terrace, or retaining wall, but shall not include permanent buildings or structures where permitted elsewhere in this Ordinance.
- 3.1.5 Except as provided in Section 3.4, the lot frontage requirements set forth in section 3.2 shall apply to that portion of each lot between the frontage street and the principal building, and shall be measured at the shortest distance between the side property lines of the lot. (Amended 4/20/93)
- 3.1.6 In addition to the dimensional requirements herein, structures must conform to the requirements regarding height, yards, and courts, as well as other requirements contained in the State Building Code, as most recently adopted and amended by the City of Gloucester. (B.O.C.A. Building Code, as adopted by the City of Gloucester.)
- 3.1.7 Projections of not more than three feet are permitted in required yard for architectural features of a building, such as unenclosed porches, stairs, chimneys, cornices, eaves or canopies, but not for bay windows.
- 3.1.8 A lot on which more than one building existed at the time of the adoption of Subdivision Regulations by the City of Gloucester (December 8, 1960) may be divided into parcels on each of which one such building remains. However, if one or more of such parcels does not comply with the requirements of this Ordinance such division shall require a Special Exception issued by the Board of Appeals. Said Special Exception, which shall not be unreasonably withheld, shall be granted upon a finding that such proposed division does not endanger public health and safety. For purposes of this section, the term "building" shall have the same meaning as the term has for purposes of MGL Chapter 41, Section 81L. (Amended 11/27/01)

3.2 INTENSITY OF USE SCHEDULE

For Principal Use (For Multi-family Dwellings, Hotels, Motels, or Motor Inns, see Sec. 3.2.1; For Shopping Centers, see Sec. 3.2.2; For Assisted Living, see Sec. 3.2.3)

R-RB = Rural Residential; R-1 = Coastal Residential; R-RA = Rural Residential; R-2A = Low Density Residential; R-2 = Low/Medium Residential; R-3 = Medium/High Density Residential; R-4 = High Density Residential; S = Service District; CCD = Civic Center District; CB = Central Business; NB = Neighborhood Business; EB = Extensive Business; VB = Village Business ; MI = Marine Industrial; GI = General Industrial; BP = Business Park.

	R-RB (e)	R-1 R-RA (e, k)	R-2A (e, k, l)	R-2 (e, l)	R-3, S (e,l)	R-4 (e)	CB CCD (a, e)	NB (e)	EB (e)	VB (a,e,i)	MI (c, f)	GI (e)	BP (e)
Min. lot area (sf)(j)	80,000	40,000	30,000	20,000	10,000	5,000	0	(c)	10,000	5,000	0	10,000 (h)	40,000
Min. lot area per dwelling unit	80,000	40,000	30,000	10,000	2,000	1,000	-	(c)	-	2,500	-	-	-
Min. lot width (ft)	150	150	100	100	80	50	0	(c)	80	40	0	80 (h)	100
Min. frontage (ft)	100	100	80	80	65	50	0	(c)	65	40	0	65(h)	100
Min. front yard (ft) (d)	40	40	30	30	20	15	0	(c)	30	0	10	10	40
Min. side yds (ft each) (d)	30	30	20	20	10	7.5	(b)	(c)	(b)	(b)	(b)	15(h)	25
Min. rear yard (ft) (d)	30	30	30	30	20	20	(b)	(c)	15	(b)	(b)	15(h)	40
Max. Building Height (ft) (g)	30	30	30	30	30	30	30	(c)	30	30	40	40	40
For Accessory Use (other than signs)													
Min. distance from street (ft)	40	40	30	30	20	15	0	(c)	10	0	0	15(h)	40
Min. distance from side, rear lot lines (ft)	Height of Bldg.	Height of Bldg.	15	15	10	5	(b)	(c)	15	(b)	(b)	15(h)	20
Min. distance from principal building (ft)	20	20	20	20	10	5	10	(c)	10	10	10	10	20
Max. bldg. height (ft)	12	12	12	12	12	12	12	(c)	12	12	12	12	12
Max. Lot Coverage	25%	25%	25%	25%	30%	35%	100%	(c)	50%	75%	100%	50%	50%

Footnotes for 3.2 Intensity of Use Schedule

- a. Residential uses shall conform to the requirements of the R-4 District.
- b. When abutting a residence district, 10 feet. None required elsewhere provided that access to the rear of the structure and space for any required off-street loading or parking can be gained by other means. No yard to be less than 10 feet wide if provided.
- c. Requirements shall be those of the least restricted abutting residential district.
- d. Minor additions to any existing residential structure may be built in conformity with the setbacks established for that particular structure.
- e. Except that the Zoning Board of Appeals may grant a Special Permit with such conditions as it may determine for greater building height up to 35 feet in cases where such an increase is consistent with neighborhood character and is deemed by said Board not to be substantially detrimental to the neighborhood because of view obstruction, overshadowing, utilities consideration, or other adverse neighborhood impacts, but in no case may heights exceed that permissible under applicable building codes. The City Council may grant a Special Permit for a greater building height above 35 feet upon the same findings, subject to such conditions as it may determine.
- f. A building built on a lot that adjoins the harbor shall be set back from one side lot line by a distance equal to one third of the building height but not less than ten feet.
- g. Unless this accessory building does not comply with the front, side and rear yard requirements of the principal use. In such instance the maximum height of the accessory building shall not exceed twelve (12) feet.

h. All structures in existence and lots shown on a recorded plan as of May 1, 1993, and located in the LI Light Industrial District, need only comply with the following requirements:

For Principal Use

Minimum lot area (sq ft)	0	<u>For Accessory Use (other than signs)</u>	
Minimum distance from street (ft)	0	Minimum Lot width (ft)	0
Minimum Lot frontage (ft)	0	Minimum distance from side, rear lot lines	*
Minimum front yard (ft)	10	Minimum distance from principal bldg. (ft)	10
Minimum side yards (ft each)	*	Maximum Building Height (ft)	40
Minimum rear yard (ft)	*	Maximum Lot Coverage	100%
Maximum Building Height (ft)	40		

* When abutting a residential district, 10 feet. None required elsewhere provided that access to the rear of the structure and space for any required off-street loading or parking can be gained by other means. No yard to be less than 10 feet wide if provided.

Footnotes for 3.2 Intensity of Use Schedule (cont.)

- i. Dimensional requirements apply only to buildings constructed or substantially expanded after May 1, 1998. For all other uses, the dimensional requirements in effect immediately prior to that date shall be applied.
- j. To calculate area required for zoning compliance refer to "Lot Area" definition in Section VI of this Ordinance.
- k. See Section 2.4.3(a) (Amended 1/22/02)
- l. See Section 2.4.3(b) (Adopted 1/22/02)

3.2.1 Dimensional Requirements for Multi-family Dwellings, Hotels, Motels or Motor Inns

Multi-family dwellings, hotels, motels, or motor inns must comply with the following table, or such greater restrictions as may be contained in applicable building or other codes, or such greater restrictions as may be specified in a Special Permit, if any, granted by the Council. NB District requirements are those of the least restricted abutting district. Except where noted to the contrary, accessory buildings must comply with the same regulations as principal buildings. No principal building shall be closer to another principal building on the same site than the sum of their building heights, except that the City Council may grant a Special Exception for reduction in cases where the Council finds such reduction not detrimental because of view obstruction, overshadowing, service access, or visual crowding.

	R-2	R-2A	R-3,S,GI	R-4	CB,CCD,MI	EB
Min. lot area (sf)	40,000	30,000	20,000	10,000	10,000	20,000
Min. lot area (sf) per dwelling unit or per two guest units*	10,000	10,000	5,000	2,500	2,500	5,000
Min. open space (sf) per dwelling unit or per two guest units*	7,500 75%	7,500 75%	3,500 70%	1,250 50%	1,250 50%	3,500 70%
Min. lot width (ft)	150	150	100	80	80	100
Min. lot frontage (ft)	125	125	80	65	65	80
Min. front yard (ft) (2)	30(1)	30(1)	20(1)	15(3)	15(3)	20(1)
Min. side, rear yards (ft)	40(1)	40(1)	20(1)	7.5(3)	7.5(3)	20(1)
Max. building height (ft)	30(4)	30(4)	30(4)	30(4)	30(4)	30(4)

* Minimum lot area per dwelling unit and minimum open space per dwelling unit can only be decreased by a SPECIAL PERMIT from the Board of Appeals, upon finding that it is in keeping with neighborhood character and structural density; or if a Major Project, from the City Council subject to the same finding.

(1) Increase by one foot for each foot by which building height exceeds 15 feet.

(2) At least 65% of required front yard area shall be maintained with vegetative cover.

(3) None required for hotels, motel or motor inns. In GI, MI, R-4 and CCD, increase by one-half foot for each foot by which building height exceeds 30 feet.

(4) Except that the Zoning Board of Appeals may grant a Special Permit with such conditions as it may determine for greater building height up to 35 feet in cases where such an increase is consistent with neighborhood character and is deemed by said Board not to be substantially detrimental to the neighborhood because of view obstruction, overshadowing, utilities consideration, or other adverse neighborhood impacts, but in no case may heights exceed that permissible under applicable building codes. The City Council may grant a Special Permit for a greater building height above 35 feet upon the same findings, subject to such conditions as it may determine.

3.2.2 Dimensional Requirements for Shopping Centers

	CB	MI	EB
Min. lot size (sf)	15,000	15,000	30,000
Min. open space per 1000 sf of gross floor area (sf)	100	100	200
Min. lot width (ft)	30	30	100
Min. lot frontage (ft)	65	65	80
Min. lot front yard (ft)	30 (1)	30 (1)	50 (2)
Min. side, rear yards (ft)	7 ½ (1)	7 ½ (1)	20 (2)
Max. building height (ft)	30 (3)	40 (3)	30 (3)

Footnotes:

- (1) None required in CB. In MI, increase by 1/2 foot for each 1 foot by which building height exceeds 20 feet.
- (2) Increase by one foot for each foot by which building height exceeds 20 feet.
- (3) Except that the Zoning Board of Appeals may grant a Special Permit with such conditions as it may determine for greater building height up to 35 feet in cases where such an increase is consistent with neighborhood character and is deemed by said Board not to be substantially detrimental to the neighborhood because of view obstruction, overshadowing, utilities consideration, or other adverse neighborhood impacts, but in no case may heights exceed that permissible under applicable building codes. The City Council may grant a Special Permit for a greater building height above 35 feet upon the same findings, subject to such conditions as it may determine.

3.2.3 Dimensional Requirements for Assisted Living (Adopted 6/20/00)

	R-RB	R-1 R-RA	R-2 R-2A	R-3	R-4	CB CCD	NB	EB	VB	GI
Min.lot area (sf)	5 acres	5 acres	5 acres	40,000	10,000	10,000	40,000	40,000	40,000	40,000
Min.lot area per dwelling unit (sf)	2,000	2,000	2,000	2,000	1,000	1,000	1,000	1,000	1,000	2,000
Min. open space per dwelling unit (sf)	2,000	2,000	1,500	750	500	500	500	500	500	750
Min. lot width (ft)	150	150	100	80	65	65	80	80	80	80
Min lot frontage (ft)	150	100	100	80	65	65	80	80	80	80
Min. front yard (ft)	40	40	30	20	15	10	10	10	10	20
Min. side, rear yard (ft)	40	40	20	20	10	10	10	10	10	20

3.3 LOCATION OF MOTOR VEHICLE SERVICES

Facilities for motor vehicle service, rental, or repair shall not be granted a Special Permit except in conformity with the following:

- 3.3.1 No vehicular entrance or exit shall be located within 25 feet of a residential district or the sideline of an intersecting street.
- 3.3.2 No vehicular entrance or exit shall be located within 400 feet of the nearest property line of any school, library, hospital, playground or religious institution, unless it is demonstrated by the applicant that special circumstances of the site or use effectively mitigate concern over the hazard.
- 3.3.3 There shall be adequate space off-street for not fewer than two cars to await service per filling position.
- 3.3.4 Automatic car washes shall provide space for not less than 10 cars per washing lane to queue off-street and, where waste water does not discharge directly into a public sewer, shall provide positive means of preventing water pollution. Water recycling requirements of the Gloucester Department of Public Works shall be complied with.

3.4 PORK CHOP SHAPED LOTS (Adopted 12/22/87)

3.4.1 Conditions for Issuance:

The Gloucester Planning Board may authorize Pork Chop Shaped Lots by Special Permit (SP) in cluster developments and in residential districts on streets in existence at the date of adoption of this Section, provided that the following conditions are met:

- a. That the site is an appropriate location for the proposed use and that the character of adjoining uses will not be adversely affected.
- b. That the minimum lot area of the Pork Chop Shaped Lot is at least two times the minimum lot area required in the zoning district in which the Pork Chop Shaped Lot is located, except that the portion of the lot to the way shall not be included in the lot area calculation. (Amended 12/8/98)
- c. That safe and adequate vehicular access can be provided on said lot, without easements, from the street frontage to the principal building on the lot.
- d. That the width of the Pork Chop Shaped Lot measured at the shortest distance between side lot lines is no less than forty feet (40') at any point between the street and the existing or proposed building on the lot.

- e. That the depth of that portion of the lot which fails to satisfy the lot frontage requirements set forth in Section 3.2 shall not exceed a distance of two hundred fifty (250) feet from the street, measured along the proposed driveway.
- f. All front, rear and side yard setbacks shall be the same as the yard setbacks of the zone in which the lot is located.
- g. That no more than one principal building shall be located on a lot.
- h. That there is not more than one (1) other Pork Chop Shaped Lot with frontage contiguous to it.

3.4.2 Procedure for Special Permits:

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Laws Chapter 40A and Section 1.4.2 of the Gloucester Zoning Ordinance.

3.5 COMMON DRIVEWAYS (Adopted 12/9/97)

3.5.1 Purpose

The purpose of this Ordinance is to enhance the safety and welfare of residents of common driveways and to clarify the rights and responsibilities of builders and residents of common driveways, and of the City of Gloucester, in order to improve the public safety along streets by reducing the number of curb cuts, to reduce the negative visual impact of multiple driveways exiting upon a street and to minimize negative impacts on natural resources.

3.5.2 Definition

Vehicular access, extending from a street, serving as a common vehicular access to more than one (1) but not more than four (4) residential lots is a common driveway, built in accordance with standards established in "Rules and Regulations Governing the Subdivision of Land in Gloucester, Massachusetts" where allowed by Special Permit. The driveway will lie entirely within the lots being served.

3.5.3 Prohibition

A common driveway which would serve more than four (4) residential lots is prohibited.

3.5.4 Scope

Common driveways may be allowed by Special Permit and plan approved by the Planning Board for single and two-family residential use only. Where the proposed development constitutes a subdivision under the Subdivision Control Law, MGL, Chapter 41, sec. 81-K et seq., this ordinance shall not apply. All lots associated with the use of a common driveway must provide off-street parking as indicated in Section 4.1 "Off Street Parking". A common driveway shall not become a public or private way. The City of Gloucester shall not be required to provide construction, reconstruction, maintenance, snowplowing, school bus

pickup or police patrols along a common driveway, unless by contract duly entered into by the City and all landowners served by the common driveway.

3.5.5 Conditions for Issuance

The Planning Board may authorize the use of common driveways to provide access to no more than four (4) individual lots of land through issuance of a Special Permit (SP) provided the following conditions are met.

a) Common driveways may not be used to satisfy zoning frontage requirements as defined in Section VI. Each lot served shall have lot frontage on a street which serves to satisfy lot frontage requirements as defined in Section VI.

1. No common driveway shall be extended or connected to any way other than at one point of intersection with a street providing frontage to the development.

b) All lots to be served by common driveway must meet the requirements of a lot as defined in Section VI. All dimensional requirements, as defined in the Zoning Ordinance, for lots served by a common driveway, including but not limited to, setback and dimension of front, side and rear yards, as measured in relation to the street serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a common driveway.

c) That common driveways are required to access over approved lot frontage as defined in Section VI.

d) That each lot having access from an approved common driveway may be improved with no more than two (2) dwelling units and related accessory building and uses.

e) That if the common driveway provides access to two (2) OR MORE (no more than four) lots, the landowners of all residences served by a common driveway shall be granted a right-of-way. Such right-of-way shall be recorded at the Essex County Registry of Deeds within thirty (30) days of approval by the Planning Board, together with a statement of covenants as follows:

1. The common driveway shall at no time be used to satisfy frontage requirements under the Zoning Ordinance; and

2. the common driveway shall at no time become the responsibility or liability of the City of Gloucester; and,

3. each landowner served by the common driveway shall be liable and responsible in whole for the repair and maintenance of any portion of the common driveway to which they have the exclusive Right of Way, such as a spur serving solely one parcel; and,

4. each landowner served by the common driveway shall be jointly and severally responsible and liable for the repair and maintenance of all portions of the common driveway to which more than one landowner hold a Right of Way.

f) A covenant shall be entered into between the owner or developer and the City in a form acceptable to the Planning Board prohibiting the sale of lots and erection of building except for lots approved and/or prior to the adoption of this Ordinance, until such time as the common driveway has been constructed in accordance with the approved plan.

g) Common driveways shall provide access to the lots from the street on which the lots served have their frontage and must observe a twenty-five (25) foot setback from the sideline which the lot of origin shares with a lot not served by the common driveway. The Planning Board may waive this requirement if necessary.

h) That common driveways be constructed in accordance with the standards established in "Rules and Regulations Governing the Subdivision of Land in Gloucester, Massachusetts".

3.5.6 Procedure for Special Permits

The Planning Board shall follow the procedural requirements for Special Permits as per Massachusetts General Law, Chapter 40A and Section 1.4.2.2, City Council Procedure for Special Permits of the Gloucester Zoning Ordinance.

SECTION IV GENERAL REGULATIONS

4.1 OFF-STREET PARKING

4.1.1 Intent and Application of Parking Requirements

(a) It is the intention of this Ordinance that all new structures and new building and land uses be provided with sufficient off-street parking spaces to meet the needs of persons making use of such structures and land uses. No permit shall be issued for the erection of a new structure or the enlargement or change of use of an existing structure unless the plans show the specific location and size of the off-street parking required to comply with the regulations set forth in this Ordinance and the means of access to such space from public streets. In the event of the enlargement or change of use of an existing structure, the regulations set forth in this section shall apply only to the area added to the existing structure or to the building or part thereof having a change of use.

(b) Buildings, structures and land uses in existence on the effective date of this ordinance are not subject to these off-street parking requirements and may be rebuilt, altered or repaired, but not enlarged or changed in use without becoming subject to these requirements.

(c) Except for business and municipal uses which occupy more than 10,000 square feet of space and are located in buildings constructed after February 1, 1990, business and municipal uses need not provide off-street parking if they are located within 400 feet of a Municipal Parking Lot/Facility. (Amended 3/2/99)

(d) Residential uses situated above the ground floor in a structure which existed as of February 1, 1990, contains one or more permitted non-residential uses on the ground floor, and which is located in a Central Business (CB) Zoning District, need not provide off-street parking.

4.1.2 The following minimum number of parking spaces must be provided except as exempted above, and except that the Zoning Board of Appeals may issue a Special Permit for a lesser number upon demonstration by the applicant that such lesser number will serve the intent of these provisions:

(a) For residential structures: at least one off-street parking space shall be provided for each dwelling unit in the CB, VB, R-4 or CCD district and at least one and one-half off-street parking spaces shall be provided for each dwelling unit located in other districts. Such spaces shall be located on the same lot as the dwelling they serve. When the off-street parking space is in the form of a private garage, its location on the lot shall conform with the provisions of this Ordinance governing the erection of a structure intended for an accessory use.

(b) For hotels, motels, motor inns, boarding, lodging, or tourist homes: one space per guest unit plus one space per three employees. For dormitories or similar group living quarters, one space per bed.

(c) Places of assembly, not including churches and places of worship, but including all other places customarily involving assembly, such as, but not in limitation thereof, auditoriums, theaters, assembly halls, funeral homes, bowling alleys, fraternal quarters, and other places of assembly, shall provide for each 100 square feet of floor area exclusive of basement or for each four seats, whichever shall be greater, one off-street parking space.

(d) For every retail store, professional and public building, and private educational building, one off-street parking space shall be provided for each 200 square feet of ground floor area not used for bulk storage, and one off-street parking space for each 400 square feet of floor area not used for bulk storage above the ground floor. For restaurant or food-service uses, one additional off-street parking space shall be provided on or adjacent to the site for every three (3) persons that may be served by the establishment at one time.

(e) For industrial establishments, one off-street parking space shall be provided for each motor vehicle in connection with the operation of such establishment, and in addition, one off-street parking space for each three (3) employees on the largest shift.

(f) For Schools, Hospitals, Sanitaria, Nursing Homes, and similar places, one off-street parking space shall be provided for each 500 square feet of floor space exclusive of basements.

(g) Casino boat water uses: one off-street parking space required for every four passengers (including crew) based on the maximum allowable occupant load of the vessel. (Adopted 7/6/99)

4.1.3 Location of Parking Facilities

(a) Required off-street parking facilities shall be provided on the same lot as the principal use they are required to serve, with the following exceptions:

- 1) Required parking facilities for office buildings may be located on other lots if all spaces are within five hundred (500) feet of the entrance to the building to be served.
- 2) Industrial districts and in the case of institutional uses in any district, the required parking facilities may be provided on other lots within a reasonable distance from the building to be served. The reasonable distance to be determined by the Building Inspector.
- 3) In the case of a dormitory of a non-profit educational institution, the required parking facilities may be provided on other lots not more than three thousand (3,000) feet away from the dormitory to be served.

4.1.4 Design and Layout of Required Parking Facilities

(a) General Provisions

1. The following are not subject to the design and layout standards set forth in this Section 4.1.4:

- a) parking spaces required for single-family and two-family dwellings;

b) parking spaces required for the expansion of a building in existence on April 1, 1991 if:

i) the expansion is less than 50% of the floor area of the existing building, or

ii) the expansion would require the creation of no more than ten additional spaces.

2. No accessory off-street parking space shall be permitted within the required front yard of a lot in any residential district.

3. Parking areas shall be designed so as to allow each vehicle to enter and leave each parking space without requiring the moving of any other vehicle (except for an area providing valet parking or a parking lot in which spaces are assigned to occupants of the building served by that lot) and so as not to require the backing of a vehicle onto a collector street.

4. Required off-street parking facilities may be enclosed or may be open. If such facilities are open, they shall be graded, surfaced with bituminous concrete, cement concrete or other non-dusting all weather surface, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion or excessive water flow onto public ways or adjoining property.

5. Parking areas shall not be used for automobile sales, gasoline sales, dead storage, repair work, dismantling or the servicing of vehicles of any kind.

6. Any light fixture used to illuminate parking areas shall be shielded so as not to shine on streets or adjacent properties.

7. No parking stall, except those contained in a parking structure that is below the mean original grade of the lot (determined at the street line), shall be located within one foot of a sidewalk, street, or external property line.

8. Parking areas which contain more than five off-street parking spaces and which are located within ten feet of the boundaries of the property shall be equipped with a barrier, curbing, fence or low wall sufficient to confine vehicles entirely within the property and to protect any plantings and landscaping.

9. Parking areas containing more than five off-street spaces shall be marked so as to clearly indicate the space to be occupied by each motor vehicle, in accordance with the dimensions specified in 4.1.4(b). Such markings shall be maintained so as to be plainly visible.

(b) Parking stall dimensions:

	Parallel Parking		Angle & Perpendicular Parking	
	Width	Length	Width	Length
Standard	8	22	9	18
Compact	7	20	8	16
Handicapped	10	22	12	18

Parking spaces for compact automobiles shall be permitted only in parking lots or garages having 10 spaces or more, shall be appropriately and clearly marked, and shall comprise not more than 30% of the spaces provided.

(c) Parking Aisle Dimensions:

For one-way traffic, the minimum width of aisles providing access to stalls shall be 12 feet for parallel and angle parking, and 14 feet for perpendicular parking. For two-way traffic, the minimum width of aisles providing access to stalls shall be 20 feet for parallel and angle parking, and 24 feet for perpendicular parking.

(d) Access:

1. The minimum width for entrance and exit drives to parking areas shall be the same as required for parking aisles, per 4.1.4 (c) of this section. The maximum width for entrance and exit drives is 25 feet.
2. No portion of any entrance or exit driveway to or from a parking area shall be closer than 20 feet to the curb line of an intersecting street, and all such driveways shall be separated from each other by at least 30 feet.

4.2 OFF-STREET LOADING

4.2.1 Intent

(a) All new business and industrial buildings and all enlargements of existing buildings requiring the delivery of goods as a substantial part of their function must be provided with necessary space for off-street loading as hereinafter set forth. No application for a permit for the erection of such new buildings shall be approved unless it includes a plan for off-street loading facilities in accordance with the regulations set forth in this Ordinance.

(b) Buildings, structures and land uses in existence on the effective date of this Ordinance, are not subject to these off-street loading requirements, and such buildings may be rebuilt, altered or repaired, but not expanded, without becoming subject to these requirements.

(c) Where a building existing on the effective date of this Ordinance is altered or extended in such a way as to increase or enlarge the gross floor area, only the additional gross floor area shall be counted in computing the off-street loading requirements.

(d) Where the computations of required loading bays result in a fractional number only the fraction of one-half or more shall be counted as one.

4.2.2 Table of Loading Requirements

Off-street loading facilities shall be provided for the following specified uses:

<u>Types of Uses</u>	<u>Number of Bays</u>
(a) Retail, wholesale and industrial operations except freezers, cold storage holding buildings, and warehouses with gross floor area of more than 5000 square feet but not more than 40,000 square feet.	One Loading Bay
Hospitals, institutions and similar buildings requiring delivery and with a floor area of 30,000 square feet or less.	One Loading Bay
For each additional 50,000 square feet of floor area in each case	One Loading Bay

(b) Freezers, cold storage holding buildings and Warehouses shall provide off-street loading bays as follows: One bay for buildings of less than 5,000 square feet of storage space; two bays, from 5,000 to 10,000 square feet; three bays; 10,001 to 18,000 square feet; four bays, 18,001 to 35,000 square feet; and one bay for each additional 50,000 square feet. Loading bays shall conform to the following minimum measurements: 15 feet by 50 feet on the ground with a clear height of 14 feet.

4.2.3 Location and Layout of Loading Facilities

(a) Each loading bay, except as above specifically provided, shall have a minimum dimension of not less than 10 feet in width, 25 feet in length, 12 feet in height and may be located either within a building or outside and adjoining an opening in the building.

(b) In case trucks, trailers, or other vehicles larger than the dimensions of the minimum requirements habitually serve freezers, warehouses, or other commercial buildings, additional parking spaces shall be provided so that such vehicles park or stand completely off the street while waiting to be loaded or unloaded.

(c) All accessory driveways and entrance ways shall be graded, surfaced, drained and suitably maintained to the extent necessary to avoid the nuisance of dust, erosion, or excessive water flow across public ways.

(d) Loading facilities shall not be reduced in total extent or usability after their installation, except when such reduction is in conformity with the requirements of this Ordinance. Such facilities shall be designed and used in such a manner as at no time to constitute a nuisance or hazard or unreasonable impediment to traffic.

4.3 SIGN REGULATIONS

The purpose of this ordinance is to provide for a wide range of signage by right; to encourage safe, effective, informative signage; to protect property values, and to minimize the visual impact of signage.

4.3.1 Administration

1. Sign Permits. Except as otherwise herein provided, no person shall erect, alter, modify or move any signs as herein defined without first applying for and obtaining a sign permit from the Building Inspector.
2. Prohibited Signs. All signs not expressly permitted under this section or exempted from regulations under this section are prohibited. Billboards and signs painted on roofs are prohibited in all Districts.
3. Nonconforming Signs. All signs lawfully existing at the time of passage of this section that do not conform to the terms of this section may be continued subject to the following requirements:
 - (a) Determination of Conformance. In the event of a dispute whether a sign was lawful at the time of passage of this section, the Building Inspector shall determine the facts and the law governing use of such sign, which written determination shall be final.
 - (b) Maintenance and Repair of Existing Nonconforming Signs. No sign existing at the time of passage of this ordinance shall be substantially altered or enlarged in any way, except for routine maintenance or repair of damage or minor change permitted by the Building Inspector. Routine maintenance or repair of damage shall not include replacement of the entire sign, which shall be treated as a substantial alteration prohibited under this subsection. The changing of letters on nonconforming signs designed for changeable messages shall not be considered an alteration as long as no other change is made to the sign.
 - (c) Conformity or Removal of Nonconforming Signs. Nonconforming signs shall be made to conform or shall be removed whenever a Major Project Review is sought for a property to which the nonconforming signs are appurtenant.
4. Maintenance of Signs. The sign must be kept clean, neatly painted and free from all hazards, such as, but not limited to, faulty wiring and loose fastenings, and must be maintained at all times in such safe conditions so as not to be detrimental to the public health or safety; or constitute a distraction or obstruction that may contribute to traffic accidents.
5. Illumination. Signs that are internally illuminated or externally illuminated or whose light source is part of the sign display, as is the case with exposed-tube, gaseous-type signs and signs with letters or decorations comprising rows of incandescent bulbs are regulated as follows:
 - (a) Signs shall be illuminated only by steady, stationary light without causing harmful

glare for motorist, pedestrians, or neighboring premises.

(b) Except for indicators of time and temperature, no sign or part of any sign shall either be illuminated more than one hour after the premises is closed, or 11:00 p.m., whichever is later, nor shall any illuminated sign flash, move or make noise.

(c) An illuminated sign is allowed to have an average face brightness not to exceed thirty (30) feet. The applicant may be required to provide an engineer's report to verify the average face brightness.

6. Awning Signs. An awning shall be made of solid or opaque woven material which does not consist of fluorescent or transparent material. The awning may be indirectly illuminated in a manner not distracting to motorist or pedestrian.

7. Off-Premise Signs. A business is allowed to advertise an off premise activity, event or business pursuant to the sign provisions required in a district or for any business.

8. Roof Signs. A roof sign shall not have a vertical dimension exceeding three (3) feet, shall not project above the highest part of the roof ridge line and shall not exceed the maximum permitted area for a single sign in the zoning district.

9. Detached Sign Setbacks. Signs shall be located within the required front yard, but not within a required side yard, rear yard or within or over any street either public or private.

4.3.2 Regulations Applicable to Signs in Nonresidential Districts

	CCD	CB	NB	EB	VB	MI	GI	BP
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1. Single-tenant Building or Single Use Lot.								
a. Maximum Sign Area (sf) for a single sign, one attached and one detached for each street orientation.	16	30	16	30	16	30	30	30
b. Maximum Total Sign Area (sf).	32	60	32	60	32	60	60	60
c. Maximum Detached Sign Height (sf).	12	20	12	20	12	20	20	20
2. Multi-tenant Building or Multiple Use Lot.								
a. Maximum Sign Area (sf) for a single sign, attached or detached.	16	30	16	30	16	30	30	30
b. Maximum Total Sign Area (sf), one detached sign for each street orientation, attached signs not to exceed ten (10%) of the total surface area of the building facade parallel to the front yard.	10%	10%	10%	10%	10%	10%	10%	10%
c. Ladder Sign for each tenant or use, attached to the main permitted detached sign, Maximum Sign Area (sf).	6	6	6	6	6	6	6	6
d. Maximum Detached Sign Height (f).	12	20	12	20	12	20	20	20
3. Illumination.								
a. Maximum Sign Area (sf) for a single sign, internally illuminated sign	N	12	N	12	N	12	12	12
b. Maximum Sign Area (sf) for a single sign, externally illuminated sign	16	30	16	30	16	30	30	30

4.3.3. Signs and Murals Permitted in Addition to the Total Maximum Signage allowed in Nonresidential Districts

	CCD	CB	NB	EB	VB	MI	GI	BP
1. Bulletin or Message Sign, one attached. Maximum Sign Area (sf).	10	10	10	10	10	10	10	10
2. Gloucester Harbor or waterfront orientation, one attached sign. Maximum Sign Area (sf).	N	30	16	30	N	30	N	N
3. Temporary Sign, allowed with permission of Building Inspector up to thirty consecutive days. Maximum Sign Area (sf).	10	10	10	10	10	10	10	10
4. Mural, one painted or attached to a building wall, intended for advertising. Maximum Area (sf).	32	32	32	32	32	32	32	32

4.3.4 Regulations Applicable to Signs in Residential Districts

	R-1	R-RA	R-RB	R-2	R-2A	R-3	R-4
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1. Maximum Sign Area (sf) for a single sign.							
a. Residential Use.	2	2	2	2	2	2	2
b. Non-residential Use.	10	10	10	10	10	10	10
2. Maximum Total Sign Area (sf).	10	10	10	10	10	10	10
3. Maximum Detached Sign Height (f).	12	12	12	12	12	12	12

4.3.5. Other Permitted Signs and Devices

All Districts

1. Federal, state, county, or municipal flags or insignias of any government, public safety, identification not to exceed one square foot. Historical markers.	Yes
2. On or in rolling stock, on fuel pumps.	Yes

4.3.6 Appeals

Appeals of the Building Inspector's decision and provisions of this section are referred to the Zoning Board of Appeals.

4.4 NOISE, LITTER AND SMOKE STANDARDS

- 4.4.1 No activity shall be permitted in any district unless it can be demonstrated that its operation will be so conducted that the following standards will be met, or unless specifically exempted from some of the standards by Section 2.3 or elsewhere in this Ordinance.

Where future compliance with these standards is questionable, the Building Inspector shall require a report on probable compliance, to be furnished at the expense of the applicant. Estimates of compliance shall be based upon engineering analysis, example of similar facilities or other acceptable method prepared and certified by a qualified professional engineer. Where indicated by such report, permits may be issued subject to conditions limiting operations and equipment.

However, the Board of Appeals may grant a Special Permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties.

- 4.4.2 No noise, sound from public address or other amplification systems, vibration, odor or flashing shall be normally perceptible more than 400 feet from the premises if in the GI or BP district, more than 200 feet from the premises if in the CB, VB or EB districts, and more than forty (40) feet from the premises if in a NB, CCD or Residential District. Interferences originating in business or industrial districts shall not normally be perceptible more than 100 feet within a residential district.
- 4.4.3 Cinders, dust, fumes, gases, radiation or trash, or other waste, shall be effectively confined to the premises or disposed of.
- 4.4.4 Smoke density shall not exceed #2 on the Ringelmann scale for more than 10% of the time, and at no time shall exceed #3 on that scale.
- 4.4.5 No process shall be used which creates visual or audible interference in any radio or television receivers off the premises, or causes fluctuations in line voltage off the premises.
- 4.4.6 Operation at any time such that these standards are violated, subsequent to issuance of a permit on the grounds that they would be met, shall constitute a zoning violation.

4.5 SCREENING REQUIREMENTS

- 4.5.1 The following uses shall be screened from any adjacent residential district or use or public way from which they would otherwise be visible.
- (a) Junk Yards
 - (b) Contractor's Yards
 - (c) Mobile Home Park or Campground
- 4.5.2 The following uses shall be screened from any adjacent residential district or use or State Highway from which they would otherwise be visible:
- (a) Parking area for four or more automobiles, or two or more commercial vehicles, except for retail sale of such vehicles.
 - (b) Open storage, whether as principal or accessory use of premises.
 - (c) Loading or service areas.
- 4.5.3 The following uses shall be screened from any adjacent residential district or use from which they would otherwise be visible:
- (a) Outdoor sales display area.
 - (b) Commercial outdoor recreation, such as golf driving ranges or drive-in theaters.
- 4.5.4 "Screening" in this context shall mean a wall, sightly fence, or an area four feet wide or more, densely planted with trees or shrubs five feet or more in height.

SECTION V SPECIAL REGULATIONS

5.1 Mobile Homes, Trailers and Campers

- 5.1.1** Placement and occupancy of mobile homes, trailers and campers shall be in accordance with Section 2.3 and with the following:

Mobile Home

May be stored:	In Mobile Home Park
May be occupied:	In mobile home park or for a period not to exceed 30 days in any 12 months, either accessory to a residence, observing yard requirements for accessory structures, or in conjunction with a carnival, blood bank or like function.
Minimum space lease term:	One month

Travel Trailer Camper

May be stored:	In campground, or accessory to a residence, observing yard requirements for accessory structures; or in a public area designated for such use.
May be occupied:	In campground; or in a public area designated for such use; or for a period not to exceed 30 days in any 12 months, residence, observing accessory structures, or in conjunction with a carnival, blood bank, or like function.
Minimum space lease term:	None

Boat Trailer, Horse Trailer & Utility Trailer

May be stored:	In a public area designated for such use; or accessory to a residence, observing yard requirements for accessory structures.
May be occupied:	Not applicable
Minimum space lease term:	Not applicable

Boat

May be stored:	In a public area designated for such use; or accessory to a residence, except that no boat over twenty-five feet (25') in length may be stored within the front yard setback for a residential lot.
May be occupied:	Not applicable
Minimum space lease term:	Not applicable

5.1.2 Mobile Home Parks

Mobile home parks shall be operated only under license from the Board of Health and shall conform to the following minimum requirements:

- (a) Parcel minimum area to be ten acres.

(b) Each plot shall be serviced with electricity, water, and sanitary drainage suitable for permanent connection.

(c) No mobile home shall be placed within 200 feet of a street line, or within 60 feet of any other lot line.

(d) The development shall comply with all requirements of "An Ordinance to Regulate Trailer Coaches and Trailer Coach Parks," ordained May 21, 1959.

5.1.3 Camp grounds shall be operated only under license from the Board of Health, and shall conform to the following minimum requirements:

(a) Parcel minimum area to be ten acres.

(b) If each plot is not serviced with water and sanitary drainage, common sanitary facilities meeting all requirements of the Gloucester Board of Health shall be provided.

(c) No unit for overnight occupancy shall be placed within 200 feet of a street line, or 60 feet of any other lot line.

(d) The development shall comply with all requirements of Article VIII of the Sanitary Code for the Commonwealth of Massachusetts.

5.1.4 Mobile Home Parks and Camp Grounds shall be reachable via right-of-way not less than 40 feet in width. Pavement widths within a Mobile Home Park or Camp Ground shall be not less than 20 feet in width.

5.1.5 This Ordinance shall not prohibit the owner and occupier of a residence which has been destroyed by fire or other natural holocaust from placing a mobile home for a period not to exceed twelve (12) months, while the residence is being rebuilt, subject to the provisions of the State Sanitary Code.

5.2 EARTH FILL AND REMOVAL REGULATIONS

5.2.1 General

The removal or filling of topsoil, borrow, rock, sod, loam, peat, humus, clay, sand or gravel shall be allowed only by special permit from the City Council in accordance with sections 5.2.2 through 5.2.8, except under the following circumstances:

- (a) When such removal or placement is necessarily incidental to or in connection with the following:
 - i) construction on the same site of a structure for which a building permit has been issued within the past six months, or
 - ii) for grading or otherwise improving the premises of which such building is a part, or
 - iii) for construction pursuant to an approved subdivision;

- (b) When such removal or placement involves the removal from the premises or redistribution within the premises of less than 50 cubic yards during any twelve month period; or a greater amount if, in the opinion of the Building Inspector, the nature of the activity is such that it will not pose a detriment to the abutting properties; in no instance, however, shall the amount of material be greater than 200 cubic yards;

- (c) When such removal or placement is in accordance with the terms of an Order of Conditions or Determination of Applicability issued by the Conservation Commission pursuant to M.G.L. Ch. 131, s.40, and Article 12 of the Gloucester Code of Ordinances;

- (d) When placement is for landscaping or gardening purposes and the material to be placed consists of peat moss, tree bark, wood chips, or other vegetative mulch, loam, or crushed stone or gravel in a walkway, driveway, or parking area.

All fill and removal operations shall conform to the national standards for the stabilization of slopes and materials (Soil & Water Conservation guidelines), a copy of which is available in the office of the Community Development Department and the Building Inspector's Office.

5.2.2 Permit from the City Council

Written application for a Special Permit must be made to the City Council. The following shall be conditions for such issuance:

- (a) The application shall be accompanied by a plan describing the premises and the proposed operation. If involving more than three acres or 1,000 cubic yards, the plan shall be prepared by a registered Land Surveyor or Engineer, showing all man-made features, property lines, names and addresses of all abutters, topography at 5 foot contour intervals of the site and all land within 100 feet of the area from which the above material is to be removed, together with the grades below which no excavation shall take place, and above which no filling shall take place, and the proposed cover vegetation and trees. The application shall also be accompanied by a soils engineering report.

(b) A performance bond in an amount determined by the City Council has been posted in the name of the City assuring satisfactory performance in the fulfillment of the requirements of this Ordinance and such other conditions as the City Council may impose as conditions to the issuance of its permit.

(c) Before granting a permit, the City Council shall give due consideration to the location of the proposed earth removal or fill operation, to the general character of the neighborhood surrounding such location and to the general safety of the public on the public ways in the vicinity.

5.2.3 Fill

Temporary stockpiling of fill may be allowed prior to the issuance of a special permit, upon the finding of the Building Inspector that such temporary stockpiling will not be detrimental to the abutting properties; in no instance, however, will such stockpiling be allowed for a period exceeding ninety (90) days.

During fill operations no slope shall exceed one (1) foot vertical rise to one and one-half foot horizontal distance or the natural angle of repose of the material in a dry state, whichever is the lower, except undisturbed ledge. Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

5.2.4 Removal

Removal operations shall be subject to the following conditions:

(a) Earth removal shall take place at the grades specified on the plan accompanying the permit application.

(b) During removal operations no slope shall exceed one (1) foot vertical rise to one and one-half foot horizontal distance or the natural angle of repose of the material in a dry state, whichever is the lower, except undisturbed ledge.

(c) Provision shall be made for safe drainage of water, and for prevention of wind or water erosion carrying material onto adjoining properties.

(d) Soil shall not be disturbed within one hundred (100) feet of the boundaries of the premises, excepting at the conclusion of operations if required in order to improve the overall grading.

(e) All trucking routes and methods will be subject to approval by the Chief of Police.

(f) All roads leading from earth removal areas to City streets shall be treated with oil, stone, or other suitable material to reduce dust and mud for a distance of 200 feet from said street. Roads leading from earth removal areas to City streets shall be constructed with a curve so as to help screen the operation from view.

5.2.5 Restoration

Forthwith following the expiration or withdrawal of a permit, or upon voluntary cessation of operations, or upon completion of removal in a substantial area, that entire area shall be restored as follows:

- (a) All land shall be so graded that no slope exceeds one (1) foot vertical rise in three (3) feet horizontal distance and shall be so graded as to safely provide for drainage without erosion.
- (b) All boulders larger than one-half cubic yard shall be removed or buried.
- (c) The entire area excepting exposed ledge rock shall be covered with not less than four (4) inches of good quality loam, which shall be planted with cover vegetation adequate to prevent soil erosion, using either grasses or ground cover, depending upon conditions.
- (d) Bond shall not be released until sufficient time has lapsed to ascertain that the vegetation planted has successfully been established and that drainage is satisfactory.

5.2.6 Additional Conditions

The City Council may set conditions in addition to the above, including but not limited to: duration of the permit, hours of the day during which removal may take place, hours during which vehicles may leave the premises, and trees to be planted.

5.2.7 Renewal or Renovation of Permit

Permits will be issued for one year periods only, but a permit may be renewed upon application without a public hearing. Prior to renewal, inspection of the premises shall be made by the Building Inspector to determine that the provisions of this Ordinance are being complied with. The City Council, after hearing and proof of violation of this Ordinance, shall withdraw the permit, after which the operation shall be discontinued and the area restored in accordance with Section 5.2.5.

5.2.8 Removal Activities Prior to this Ordinance

Earth removal activities in lawful operation at the time this Ordinance is adopted may continue until abandoned for more than 12 consecutive months, provided that within 60 days after the effective date of this Ordinance the owners of such premises shall submit to the City Council a plan and application as required in Section 5.2.2.

5.3 HOME OCCUPATIONS

Customary home occupations are permitted if conforming to the following conditions:

- 5.3.1 No more than 25% of the floor area of the residence shall be used for the purpose of the home occupation or the professional use.
- 5.3.2 Not more than one person, not a member of the household, shall be employed on the premises in the home occupation.
- 5.3.3 There shall be no exterior display, no exterior storage of materials and no other exterior indication of the home occupation except for an identification sign not in excess of two (2) square feet in area, nor shall there be any other variation from the residential character of the principal building.
- 5.3.4 No offensive noise, vibration, smoke, dust, odors, heat or glare shall be produced. (See Section 4.4)
- 5.3.5 Traffic generated shall not exceed volumes normally expected in a residential neighborhood.
- 5.3.6 Parking generated shall be accommodated off-street, other than in a required front yard.
- 5.3.7 A Special Permit shall be required and may be issued only by the Zoning Board of Appeals after Public Hearing and with such restrictions as the Board deems proper.

5.4 DUMPING AND FILLING

No garbage, rubbish, refuse or other waste material shall be dumped or incinerated in any District, home incineration excepted, and no land shall be used as a dump or fill area, without authorization for any use covered by the provisions of Section 150A of Chapter III of the General Laws, as inserted by Chapter 310 of the Acts of 1955, with respect to any site unless it has been assigned by the Board of Health to such use in accordance with the provisions of said Section.

5.5 LOWLAND REQUIREMENTS

- 5.5.1 Sections 5.5.2 and 5.5.3 shall not apply to lands bordering Gloucester Harbor north and east of a line from the mouth of Blynman Canal to the intersection of Farrington Avenue and Eastern Point Boulevard.
- 5.5.2 No building permit for a principal building shall be issued for construction on land less than 10 feet elevation above U.S.G.S datum except on approval of a Special Permit for an exception by the City Council. Such Special Permit shall be issued only if it is demonstrated by the applicant that the proposed development will pose no hazard to the health or safety of the occupants thereof.
- 5.5.3 Without limiting the generality of the foregoing, the following are presumed to be hazardous to health or safety:
- (a) Floor level of any structure for human occupancy less than 12 feet elevation.
 - (b) Individual sewage disposal systems subject to inundation in the event of coastal flooding to ten feet elevation.
 - (c) Methods of filling or excavation subject to displacement by coastal flooding to ten feet elevation.
 - (d) Water supplies subject to interruption or contamination in the event of coastal flooding to ten feet elevation.
- 5.5.4 No person shall remove, fill, dredge or build upon any bank, marsh, swamp, or flat bordering on coastal or inland waters or any other land subject to tidal action or coastal storm flowage without a Special Permit from the City Council. Such permit shall be issued only upon determination that the requirements of the Hatch Act (G.L. Ch. 131, Sec. 40) has been satisfied, and that such removal, filling, dredging or construction will not pose a hazard to health or safety, and will be so executed as to conserve the shellfish and other wildlife resources of the City. (Amended 10/26/99)

(Adopted April 25, 1970)

5.6 HOUSING FOR THE ELDERLY

On Special Permit from the City Council, the requirements of this Ordinance may be reduced as follows for multi-family dwellings in which two-thirds or more of the units are reserved through contract, covenant or other binding legal device for occupancy by persons 62 years or older, and where construction provides features specifically designed for the elderly, including all public areas and entrances and at least 5% of all units designed to accommodate wheel chairs and provision of special function rooms such as clinics or social rooms. Reductions shall apply only to units having two or fewer bedrooms, equipped with bathtub and toilet grab bars, emergency signals, out-swinging doors and other features for the elderly.

- 5.6.1 Parking requirements per elderly dwelling unit may be reduced to not less than one-third that otherwise required by Section 4.1.
- 5.6.2 Required lot area and open space shall be reduced to $(1-.65 E/T)$ times that required by Section 3.2, where E is the number of dwelling units reserved and equipped for the elderly and T the number of dwelling units.

5.7 MAJOR PROJECTS

5.7.1 Applicability.

Any application for a multi-family dwelling is required on a Special Permit and involving 21 or more bedrooms, or 11 or more dwelling units, or if abutting a parcel for which a permit for multi-family dwelling has been issued in the past 36 months, shall be considered a Major Project, and shall comply with all requirements below. Any application for a hotel, motel, or motor inn resulting in 30 or more guest units (existing plus proposed) shall also be considered a Major Project, and shall comply with all requirements below. A Shopping Center (as defined herein) shall be considered a Major Project and shall comply with all requirements below. Assisted Living projects of 11 dwelling units or greater shall be considered a Major Project and shall comply with all requirements in 5.7 except 5.7.5(f).

5.7.2 Application

Major Project applications shall be submitted in conformance with the requirements of Section 1.4.2.2.

(a) In addition to the information required under that Section, the developer shall submit photographs of the premises in relation to adjoining structures and to natural features, and for projects involving 50 or more dwelling units a simple block model of proposed buildings and topography. For projects not to be connected to municipal sewerage, percolation test reports shall be submitted. Required plans shall have been prepared by a registered Engineer, bear their respective seals and signatures, and also bear certifications by each that the materials were prepared by them or under their supervision for the site in question, and comply with all state statutes and local ordinances and regulations. Eight copies of the application and plans shall be submitted, plus a reproducible copy of the site plan.

5.7.3 Departmental Reviews

Forthwith upon their receipt, one copy of Major Project applications and plans submitted to the City Clerk for approval shall be transmitted by the City Clerk to the following for their review and report:

City Building Department
Public Health Department
Engineering Department

Public Works Department
Fire Department
Conservation Commission

The above shall report in writing to the Council regarding compliance of the proposal to existing state statutes and local rules, regulations, and ordinances, and regarding relationship of the proposal to matters within the Department or Commission's area of concern. No Special Permit shall be decided upon within twenty-one days of forwarding such plans without receipt of an advisory report thereon from all of the above Departments or Commissions.

5.7.4 Planning Board Review

Forthwith upon their receipt, one copy of Major Project applications and plans submitted to the City Council for approval shall be transmitted by the City Clerk to the Planning Board for their review and report regarding the Special Permit criteria below. The Planning Board may, when they deem it advisable, engage professional assistance, at the applicant's expense, for such review and report.

No Special Permit shall be decided upon within thirty-five (35) days of forwarding such plans without receipt of an advisory report thereon from the Planning Board. The Planning Board may require of the developer submission of sufficient data on hydrology, traffic, or other environmental impacts to allow determination of compliance with the Special Permit criteria of Section 5.7.5 and 5.14.4.

5.7.5 Special Permit Criteria

The following criteria shall be considered as guidelines by the Council in addition to those of Section 1.4.2.2(e) in acting upon Major Projects:

(a) Major Projects should have access from an arterial or collector street via ways serving not more than ten single-family homes.

(b) Where not connected to municipal sewerage, assisted living facilities, multi-family or hotel, motel or motor inn major projects should be so located that there is minimal danger of pollution, evidenced by reasonable grades at leaching areas, a percolation rate of ten minutes per inch drop or less, maximum ground water table at least four feet below the bottom of the disposal field, and location not less than 100 horizontal feet distant from the bank of any pond, stream, river, swamp, or marsh or from the Mean High Water line of adjoining tidal waters. All projects must comply with Gloucester Board of Health regulations and meet Massachusetts Title V Requirements.

(c) The site plan shall include the following: Access, drainage and utilities serving each structure meet functional standards equivalent to those established in the Gloucester Planning Board's adopted Subdivision Regulations; access via minor streets servicing single-family homes is avoided; parking areas are screened from public ways by building location, grading, or screening; lighting of parking areas avoids glare on adjoining properties; egress does not require backing onto any public way; major topographic changes or removal of existing trees are avoided. (Amended 6/20/00)

(d) All other requirements of the Zoning Ordinance and of all applicable building codes must have been satisfied. Specific attention is drawn to the requirements of the Subdivision Control Law, and the necessity of obtaining occupancy permits prior to occupancy of any building or portion thereof.

(e) Where a multi-family residential or assisted living facility use is proposed in a non-residential district a Special Permit will only be granted if the Council finds that:

1. The public good will be served;
2. The non-residentially zoned area would not be adversely affected; and,
3. That the uses permitted in the zone would not be noxious to the multi-family or assisted living use.

(f) The following criteria, in addition to the above, shall apply to Shopping Centers:

1. Shopping Centers should be so located that not more than ten residential structures existing at the time of application shall be within 300 feet of the proposed buildings, parking areas, and access drives.
2. Shopping Centers should be so located that annual average daily traffic is not increased 50% or more above current levels at any point more than 1000 feet from an expressway interchange, current levels as determined by the Gloucester Department of Public Works; and should be so located that resultant traffic is not above the capacity of roads and interchanges at level of service "C" at any point within one (1) mile of the premises using definitions and methods of estimation as outlined by the Highway Research Board Highway Capacity Manual, 1935, or later editions.
3. No part of any parking area or structure of a Shopping Center shall be built within 100 feet of the right-of-way line of Route 128 (but not ramps) or within 30 feet* of any other street. At least 75% of these reserved areas shall be planted or retained in vegetative cover. *Except in CB district, none required.
4. Storm water leaching (recharge) basins, retention basins, or other devices as necessary should be employed in order that peak flows through existing drainage structures or channels are not in a 15 year storm increased more than 15% above current flows or caused to exceed design capacity of structures or channel capacity of streams or to cause flooding.
5. No egress onto an existing street shall be within 250 feet (centerline to centerline) of any other egress on the same side of street is serving 20 or more parking spaces or within 250 feet of the nearest point of an expressway interchange right-of-way or within 100 feet of the intersection of sidelines of intersecting streets. Egressing vehicles should have at least 400 feet visibility in each travel direction.
6. Outdoor lighting fixtures shall not be higher than 20 feet. No light overspill shall be bright enough to create discernible shadows off the premises.
7. All banks exceeding 15 degrees in slope resulting from site grading shall either be retained with a non-bituminous retaining wall, or covered with loam to a depth of four inches and planted with vegetative cover reasonably sufficient to initially prevent erosion.

8. The requirements of Section 5.2 Earth Removal Regulations and Section 5.5 Lowlands Requirements shall be met.

9. Parking shall conform to the requirements of Section 4.1 Off-Street Parking.

10. All open storage, parking, and loading or service areas shall be screened in accordance with the requirements in Section 4.5.

11. Shopping Center parking areas shall contain or be bordered within five feet by a least one tree per eight cars, trees to be of two inch caliper or larger, and if within the parking area to be planted in curbed soil plots allowing not less than 36 square feet of unpaved soil area per tree.

12. On the shopping center premises there shall be not more than one freestanding sign, plus not more than one building sign per business. All signs must comply with the requirements of Section 4.3. No sign shall be located within required setbacks from Route 128.

(g) In addition to the above-stated criteria, except 5.7.5(f), the following criteria shall apply to Assisted Living Facilities: (Adopted by City Council 6/20/00)

1. Twenty (20)% of the units of all assisted living facilities, twenty (20) units or greater in size, shall be designated for low to moderate income persons. Low and moderate income persons shall be defined by the most recent income guidelines established by the U.S. Department of Housing and Urban Development.

2. The developer/manager of the Facility shall annually certify to the Gloucester Community Development Director that the income of the residents meets the U.S. Department of Housing and Urban Development qualifications.

At the discretion of the SPGA, this requirement will be fulfilled in one of the following ways:

(A) 20% of the units on-site shall be designated for low to moderate income persons;

(B) The equivalent value of these units will provide for housing services for low to moderate income persons offsite.

3. Gloucester residents or their relatives shall be given priority in admission so long as all federal, state or local rules, laws, regulations, or ordinances are satisfied.

4. Parking Requirements: One off-street parking space for every two dwelling units, one visitor parking space for every ten units, plus one parking space for each two hundred square feet of nonresidential area.

5. Assisted Living Residences shall comply with the dimensional requirements as shown in Sections 2.3.1 Residential Uses #11A and 3.2.3 Intensity of Use Schedule.

5.7.6 Council Action

Indication of City Council approval shall be placed upon approved Special Permits and upon all supporting documentation on which such approval is based. The Special Permit shall be made conditional upon project execution not deviating from supporting documentation without explicit Council authorization, which may be granted without further public hearing if deviations are minor.

(Subsections 5.7.1, 5.7.5(e) & (g) amended June 20, 2000)

5.8 FREIGHT, TRANSPORTATION TERMINAL FACILITIES

No trailer truck park shall be located within 1000 feet from the lot line of an established residence in a residential zone, and such potential development must be assessed in terms of its impact on the environment.

5.9 CLUSTER DEVELOPMENT

5.9.1 Purpose

The cluster development is intended to accomplish all of the following:

- (a) Encourage the efficient and creative use of land in harmony with its natural features;
- (b) Minimize the consumption of open space by limiting the network of streets and utilities;
- (c) Preserve natural topography and wooded areas within developed areas;
- (d) Provide usable open space and, where appropriate, recreational facilities;
- (e) Preserve the visual character of the neighborhood;
- (f) Ensure high-quality design and site planning of developments to enhance the neighborhoods in which they occur and the city as a whole;
- (g) Preserve sites and structures of historical importance.

5.9.2 Applicability

The Planning Board may grant a special permit for a Cluster Development on a parcel of land of a size equivalent to five times the minimum lot size in the District, but no less than three acres of contiguous land not separated by a roadway or utility easement at the time of application, in the R-1, R-RA, R-RB, R-2, R-2A and R-3 residential districts, subject to the following regulations and conditions.

5.9.3 Preliminary Cluster Development Plan

5.9.3.1 Submittal Requirements

To facilitate the review process, applicants are encouraged to submit a Preliminary Cluster Development Plan and application to the Planning Board. Such submittal shall include the following information:

- (a) A plan prepared in accordance with the requirements for a preliminary subdivision plan, as described in Section 3.1.2 and 3.1.3 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, whether or not the development constitutes a subdivision, and shall include proposed location, bulk, and height of all proposed buildings and structures.
- (b) An evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value and accessibility by residents of the city or of the cluster.

5.9.3.2 Review By Other Boards

Upon its receipt of the Preliminary Cluster Development Plan, the Planning Board shall transmit one copy each to the Board of Health, Conservation Commission, Fire Department, and the Building Inspector for review and comment.

5.9.3.3 Approval or Disapproval

The Board shall act on the Preliminary Cluster Development Plan within forty-five (45) days of the date of submission. The Board may approve the Plan, with or without modification, or disapprove it, in accordance with section 3.1.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

5.9.4 Definitive Cluster Development Plan

5.9.4.1 Submittal Requirements

An applicant seeking approval of a Definitive Cluster Development shall submit a plan and application to the Planning Board. Such submittal shall include the following:

- (a) A plan prepared in accordance with the requirements for a definitive subdivision plan, as described in Section 3.2.2, 3.2.3, and 3.2.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, whether or not the development constitutes a subdivision, and shall include proposed location, bulk, and height of all proposed buildings and structures.
- (b) An evaluation of the open space proposed within the cluster, with respect to size, shape, location, natural resource value and accessibility by residents of the city or of the cluster.
- (c) All materials required by Section 3.2.1 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.
- (d) A program for the permanent maintenance of all open space.
- (e) A development schedule which, at minimum, describes the phases of construction, proposed commencement dates, and the anticipated completion date for all road and utility improvements.

5.9.4.2 Review By Board of Health

At the time of filing the Definitive Cluster Development Plan, the applicant shall also file two copies of the Plan with the Board of Health. In accordance with the requirements of Section 3.3 of the Rules and Regulations Governing the Subdivision of Land in Gloucester, the Board of Health shall, within 45 days of the Plan's filing, report to the Planning Board its approval or disapproval of the Plan.

5.9.4.3 Review By Other City Officials

The Planning Board shall transmit copies of the Definitive Cluster Development Plan to the Department of Public Works, Fire Department, Building Inspector, and the Conservation Commission, in accordance with section 3.4 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

5.9.4.4 Approval or Disapproval

The Board shall hold a public hearing and act on the Definitive Cluster Development Plan within ninety (90) days of the date of submission, or within one hundred thirty-five (135) days if such Plan did not properly evolve from a Preliminary Cluster Development Plan. The Board may approve the Plan, with or without modification, or disapprove it, in accordance with Sections 3.5 and 3.6 of the Rules and Regulations Governing the Subdivision of Land in Gloucester.

5.9.5 Design Criteria

(a) The Planning Board, in order to grant a special permit for a Cluster Development, must find that the proposed design and layout of the development is superior to a conventional one in preserving open space for conservation and recreation; in preserving natural features of the land; and in allowing more efficient provision of streets, utilities and other public services.

(b) In its consideration of a Cluster Development, the Planning Board shall give particular attention to, and shall use as a basis for its decision, all of the following:

1. Lots, streets, off-street parking, sidewalks, pathways and buildings which achieve the harmonious integration of the proposed development with surrounding properties;
2. The overall layout and design that achieves the best possible relationship between the proposed development and the land;
3. Appropriately sized and configured open spaces for active or passive recreation;
4. Protection of natural features such as streams, mature trees or clusters of trees, rock outcrops, bluffs, slopes, and historic or archeological features;
5. Provision of access to open spaces for the physically handicapped, elderly, and children;
6. Use of open spaces for preserving, enhancing, or providing scenic vistas;
7. Preservation and protection of historic resources;
8. Adequacy of provisions for public safety, protection from fire and flood, and maintenance of public facilities, streets, utilities, and open space.

5.9.6 Allowable Uses

A Cluster Development may include any residential use permitted in that zoning district. The Planning Board may grant special permits required for any such structures located in a Cluster Development. These structures may be situated on separate lots, or situated on a single lot together with open space. Lots created under this provision with more than one dwelling unit under separate ownership thereon shall be in compliance with applicable M.G.L. c. 183A, or with the charter and by-laws of a land trust whose purpose is the provision of affordable housing. Cluster Developments that do not involve the subdivision of land shall comply with all of the design criteria and improvement requirements of the Rules and Regulations Governing the Subdivision of Land in Gloucester, MA.

5.9.7 Development Density

(a) The maximum number of dwelling units allowed in a Cluster Development shall be derived by dividing the parcel of land by 90% of the normal minimum lot area or square footage per unit requirements in that district.

(b) Where the Cluster Development includes more than one ownership and/or lies in more than one district, the number of units allowed shall be calculated as above for each district and summed to give an overall allowable total, which may be located on the plan without respect to allowable subtotals by district or ownership areas.

5.9.8 Density Bonus

The Planning Board may authorize an increase in lots or dwelling units up to 20% above that allowed under Section 5.9.7 of this Ordinance, if either of the following conditions are met:

(a) The applicant deeds to the city or restricts under a conservation restriction a portion of the **Applicable Land Area**, if that land is determined by the Planning Board to be of critical importance for the public good. **Applicable Land Area** shall be calculated by a registered land surveyor, and equals the total area encompassed by the Cluster Development minus land subject to either inland or coastal wetland regulations (Article 12, Gloucester Code of Ordinances), and minus land otherwise prohibited from development by other local ordinances or regulations.

(b) The applicant sets aside a portion of the dwelling units on the site as affordable units, as defined by Section 5.11.2 of this Ordinance. For each affordable unit the applicant shall receive a density bonus of one added lot or dwelling unit for each 1.5 permanently affordable dwelling units built.

5.9.9 Dimensional Requirements

(a) The minimum size of lots in a Cluster Development shall be 10,000 square feet for a single or two-family house, and 20,000 square feet for a multi-family dwelling.

- (b) The Planning Board may waive up to fifty percent of the minimum requirements for frontage and/or yard requirements of each lot in the Cluster Development in order to achieve maximum open space area.
- (c) More than one single or two-family dwellings may be located on a lot in a Cluster Development, provided that the minimum lot area per dwelling unit is no less than 10,000 square feet.
- (d) Clusters of housing shall contain no more than ten single-family or two-family dwellings, and no more than four multi-family dwellings.
- (e) The minimum width of open space between clusters of dwellings, and between the Cluster Development and adjacent property, shall be fifty feet in each case.
- (f) Except as noted above, each lot in a Cluster Development shall comply with the dimensional requirements of the district within which it is located.

5.9.10 Common Open Space

- (a) Common open space is that land so designated by the applicant and approved by the Planning Board.
- (b) Common open space shall comprise not less than 30% of the **Applicable Land Area** within the Development Plan.
- (c) Such open space may be in one or more parcels of a size and shape appropriate for its intended use as determined by the Planning Board and shall be within easy access to its intended users.
- (d) Common open space land shall be used only for the following purposes:
 - 1. Conservancy in its natural, undisturbed state. At least fifty percent of the common open space must be used in this manner;
 - 2. grazing and agriculture;
 - 3. walking, horseback riding and/or bicycle riding;
 - 4. playing fields and courts;
 - 5. swimming pools and other recreational facilities and structures for the use of the owners of the building lots; or
 - 6. any combination of the above.
 - 7. structures and parking specifically for the maintenance and use of the open space, provided that they occupy no more than five percent of said open space.
- (e) The common open space shall be conveyed in one of the following ways, as approved by the Board:
 - 1. To a corporation or trust comprising a homeowners association whose membership includes the owners of all lots or units contained in the development. The developer shall include in the deed to owners of individual lots beneficial rights in said open land, and

shall grant a conservation restriction to the city of Gloucester over such land to insure that it be kept in an open state and not be built upon for residential use or developed for accessory uses such as parking or roadways.

2. To a non-profit organization, the principal purpose of which is the conservation of open space. The developer or non-profit organization shall grant a conservation restriction as set out above.

3. To the city for park or open space use, subject to the approval of the City Council, for management by the Conservation Commission, with a trust clause insuring that it be maintained as open space.

(f) The removal of material, including groundwater, minerals and trees over four inches basal diameter, except as necessary to comply with conditions of the Planning Board's approval, is prohibited.

5.9.11 Future Change

Any Cluster Development approved by the Planning Board under the provisions of this Section shall incorporate by reference the Cluster Development Plan and development schedule submitted by the developer with application. Minor amendments to such Cluster Development may be approved by the Planning Board, upon application and for good cause shown, but without necessity of public hearing; provided, however, that any of the following shall be considered a major amendment, and shall be acted upon only under the procedures applicable to the initial approval for a Cluster Development:

- (a) Reduction in the amount or change in the use of common open space, or any change in the general location of the common open space as provided in the permit; or
- (b) Any change in the general layout of the ways as provided in the permit; or
- (c) Any increase in the number of lots or dwelling units as provided in the permit; or
- (d) Altering the location of any building or structure by more than ten feet.

5.9.12 Changes Not Permitted

Lots and dwelling units created under this provision shall not be modified in any manner other than as indicated in Section 5.9.11.

(Adopted May 27, 1986; amended December 3, 1991)

5.10 WATERSHED PROTECTION OVERLAY DISTRICT

5.10.1 Purpose of District

To promote the health, safety and welfare of the community by protecting and preserving the surface and groundwater resources of the City from any use of land or buildings which may reduce the quality of its water resources.

5.10.2 Scope of Authority

The Watershed Protection Overlay District is considered as overlaying other zoning districts. Uses not permitted in the portions of the districts so overlaid shall also be prohibited in this district.

This district does not limit the existing authority of the Conservation Commission pursuant to Section 40 of Chapter 131 of the General Laws and Article 12 of the Local Code of Ordinances.

5.10.3 Establishment and Definition of District

(a) The Watershed Protection Overlay District includes all lands lying adjacent to water courses and surface water bodies which contribute to the city's water supply, and which create the catchment or drainage areas of such water courses and bodies, as part of their natural drainage system. The map defining the Watershed Protection Overlay District boundaries, entitled "Public Water Supply Watershed Boundary Maps, City of Gloucester" drawn at a scale of 1 inch to 100 feet, are hereby adopted by the City Council and are incorporated herein by reference and are on file in the City Planning Office.

(b) Where the bounds delineated are in doubt or in dispute, the burden of proof shall be upon the owner of the land in question to show where they should properly be located. If the property owner can prove, to the satisfaction of the Planning Board, the Board of Health, and the City Engineer, that his property does not drain into the watershed of the public water supply, then this district shall not apply. At the request of the owner the city may engage a geologist, hydrologist or other qualified professional to determine more accurately the location and extent of a watershed or recharge area, and may charge the owner for all or part of the cost of the investigation.

5.10.4 Prohibited Uses

The following land uses, activities, devices, structures, and/or substances are prohibited within the Watershed Protection Overlay District:

- (a) Dry cleaning establishments.
- (b) Junk and salvage yards.
- (c) Car washes, except when located on public water and sewer.

- (d) Boat and motor vehicle service, storage and repair establishments.
- (e) Any industrial use that discharges processed wastewater.
- (f) Commercial removal or relocation of earth materials, including but not limited to sand, gravel, topsoil, metallic ores, or bedrock.
- (g) Any animal feedlots or pastures less than 5 acres in size lying within 100 feet of the center line of all brooks, streams and rivers or within 100 feet of the normal highwater line of lakes, ponds, marshes, swamps and bogs.
- (h) Landfills and the storage of salt and road de-icing chemicals.
- (i) The outdoor storage of fertilizers, herbicides, and pesticides and outdoor uncovered storage of manure.
- (j) Burial in any cemetery or other place within 100 feet of the high water mark of a course of public water supply or tributary thereto. Lands shall not be taken or used for cemetery purposes until a plan and sufficient description of the lands is presented to the DEQE and until such taking or use is expressly approved in writing by the DEQE.
- (k) The disposal of solid wastes other than brush or stumps.
- (l) The disposal of leachable wastes.
- (m) The dumping of snow contaminated by de-icing chemicals which is brought in from outside the district.
- (n) The storage or disposal of hazardous materials, as defined by the Hazardous Waste Regulations promulgated by the Hazardous Waste Board, and Water Resources Commission, and the Division of Water Pollution Control, except for the storage of chemicals for use associated with the operation of public water supply facilities.
- (o) The storage and/or sale of petroleum and other hydrocarbons other than that normally associated with residential use, except for the storage of fuel for use associated with the operation of public water supply facilities. Heating oil shall be stored within the buildings which it will heat. Underground storage of any petroleum product is expressly prohibited.
- (p) Any discharge of water which has been used for washing, cooking or otherwise altered and devices for the collection, storage and disposal of said wastes, unless that water is of household origin and is processed, prior to discharge, through a treatment system that satisfies the minimum requirements of the state environmental code, known as 310 CMR 15, Title V, or the regulations of the Gloucester Board of Health.
- (q) Privy, dry well, or other place for the collection, storage or disposal of human excrement that does not satisfy the minimum requirements of the state environmental code, known as 310 CMR 15, Title V, or the regulations of the Gloucester Board of Health.

(r) Public or private hospital or other establishment intended for the treatment of persons afflicted with a contagious or infectious disease.

(s) Hitching or standing place for horses, cattle or other animals.

(t) Storage or disposal of any human excrement or compost containing human excrement, or any municipal, commercial or industrial refuse or waste product or polluting liquid or any substance which in the opinion of the Massachusetts DEQE is of a nature that is poisonous or injurious either to human beings or animals, or other putrescible organic matter whatsoever, at any place from which such liquid or substance may flow or be washed or carried into said source of water supply or tributary thereto.

(u) Manufacturing or processing plant producing wastes which are toxic or injurious either to human beings or animals, unless the location thereof has been expressly approved in writing by the DEQE.

(v) Any building or structure lying within 50 feet of the banks of all brooks, streams and rivers or within 50 feet from the normal highwater line of lakes, ponds, marshes, swamps and bogs.

5.10.5 Special Permit Uses

The Planning Board, under the authority of Section 3.4.2 of this ordinance, may allow the following uses within the Watershed Protection Overlay District, upon issuance of a special permit in accordance with Section 5.10.6 hereof and subject to any additional conditions the Board may impose.

(a) Those business and industrial activities permitted in the underlying district and not specifically prohibited in Section 5.10.4 of this ordinance, provided that a plan to prevent compaction and siltation, loss of recharge, seepage from sewer pipes and contamination by oil, chemicals, nutrients, etc. is submitted and determined to be satisfactory.

(b) The incidental removal of gravel, sand, loam or other earth material from new and existing excavations.

5.10.6 Procedures for Issuance of Special Permits

(a) Each application for a special permit shall be filed with the Planning Board and shall be accompanied by 3 copies of the plan. In addition to submittal requirements listed in section 1.4.2.2(b)1, the following additional information should be provided:

- i) Provisions to control soil erosion and sedimentation, soil compaction, and to prevent seepage from sewer pipes.
- ii) Drainage recharge features and provisions to prevent loss of recharge.
- iii) Amount of impervious surface proposed for the lot.

(b) Said application and plan shall be prepared in accordance with the data requirements of the proposed development (e.g., site plan review, erosion and sedimentation control plan, etc.).

(c) The Planning Board shall refer copies of the application to the Board of Health, the Conservation Commission and the City Engineer, which shall review, either jointly or separately, the application and shall submit their recommendation to the Planning Board within 35 days of the referral of the application.

(d) The Planning Board shall hold a hearing, in conformity with the provision of section 9 of Chapter 40A of the General Laws, within 65 days after the filing of the application, in accordance with the procedures defined in section 1.4.2.2.

Notice of the public hearing shall be given by publication and posting and by first-class mailings to "parties in interest" as defined in section 11 of chapter 40A of the General Laws. The decision of the Planning Board and any extension, modification or renewal thereof, shall be filed with the Planning Board and City Clerk within 90 days following the closing of the public hearing. Failure of the Board to act within 90 days shall be deemed a granting of the permit. However, no work shall commence until a certification is recorded as required by Section II.

(e) After notice and public hearing, and after due consideration of the reports and recommendations of the Board of Health, the Conservation Commission, and the City Engineer, the Planning Board may grant a special permit provided that it finds that the proposed use is consistent with the criteria set forth in 1.4.2.2(e) and further meets the following criteria:

- i) is consistent with the purpose and intent of this ordinance;
- ii) is appropriate to the natural topography, soils, and other characteristics of the site to be developed;
- iii) will not have a significant adverse effect, during construction or thereafter, on the existing or potential quality or quantity of water that is available in the Water Supply Protection District, and;
- iv) is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.

5.10.7 Application of Fertilizers, Pesticides and Herbicides

For any use involving the application of fertilizers, pesticides, or herbicides, the applicant must obtain a report from the Board of Health Agent stating that all necessary precautions shall be taken to prevent hazardous concentrations of pesticides in the water and on the land within the district as a result of such application and submit it to the permit granting authority. Such precautions include, but are not limited to, erosion control techniques, the control of runoff water (or the use of pesticides having low solubility in water), the prevention of volatilization and redeposition of pesticides and the lateral displacement (i.e. wind drift) of pesticides. The application of fertilizers for non-domestic or non-agricultural uses will be approved only if the applicant can prove that such application shall be made in such manner as to minimize adverse impacts on surface and groundwater due to nutrient transport and deposition and sedimentation.

(Adopted January 10, 1989)

5.11 INCLUSIONARY HOUSING REQUIREMENTS

The requirements of this Part are established for the purpose of:

- (a) increasing the supply of housing in the City of Gloucester that is permanently available to and affordable by low and moderate income households;
- (b) encouraging a greater diversity of housing accommodations to meet the needs of families and other Gloucester residents; and
- (c) developing and maintaining a satisfactory proportion of the city's housing stock as affordable units.

5.11.1 Applicability

These Inclusionary Housing Requirements shall apply to all multi-family residential developments involving 21 or more bedrooms, or 11 or more dwelling units. A development project shall not be segmented to avoid compliance with these requirements.

5.11.2 Requirements

All residential developments subject to this Section shall be required to set aside ten percent of the total number of dwelling units provided on the site as affordable housing. Affordable owner-occupied housing shall be defined as dwelling units having a purchase price of no more than 2 1/2 times 80% of the median income for a family of three in the Salem/Gloucester Standard Metropolitan Statistical Area. Affordable rental units shall be defined as dwelling units having a monthly rent no greater than 80% of the maximum current rent established by the U. S. Department of Housing and Urban Development for Section 8 rental units.

5.11.3 Conditions

(a) Permanent Affordability

Affordable owner-occupied and rental units provided under this Part shall remain so permanently. The method employed for insuring the permanent affordability of these units shall be developed and implemented by the City's Community Development Department. Such methods may include deed covenants, contractual requirements, transferring ownership of the property to a local land trust, and/or other appropriate arrangements to ensure permanent affordability.

(b) Comparability

Affordable units shall be dispersed throughout the site and shall be indistinguishable from market-rate units except in size, interior finish, fixtures and appliances.

(c) Family Units

Except as otherwise provided by the City Council, affordable units shall contain a minimum of two bedrooms and shall be in every way suitable for family occupancy.

5.11.4 Alternative Requirements

With the approval of the City Council the inclusionary housing requirement may be met through one of the following alternative methods:

(a) Off-Site Location

Location of some or all of the required affordable units on an alternative site or sites suitable for housing use. Affordable off-site units shall be newly created and at least equal in number to the affordable units that would have been provided on-site. Affordable off-site units required by this Section may be located in an existing structure, provided that their construction constitutes a net increase in the number of dwelling units contained in the structures.

(b) Cash Contribution

Cash contribution to the City of Gloucester or its designee, to be used for the sole purpose of providing affordable housing for low and moderate income families. The amount of the cash contribution shall be, for each affordable unit, equal to the cost of erecting a 1600 square foot manufactured home on a foundation and providing a suitable site on which to place it. The contribution shall be placed into a separate fund to be administered by the Community Development Department, and to be used solely for the purpose of increasing the availability and affordability of housing in Gloucester. The contribution shall be made to the city upon, or prior to, the city's issuance of a certificate of occupancy of 50% of the units in the development.

Affordable units provided through such alternative methods shall comply, in all respects other than on-site location, with the requirements of this section.

5.11.5 Compliance

(a) Permit Conditions

No major project special permit shall be issued without appropriate restrictions to ensure that the provisions of this Section are made binding upon the applicant.

(b) Performance Bond

Prior to the issuance of a building permit the applicant shall submit a performance bond secured by a deposit of money or negotiable securities. The bond shall be, in the opinion of the City Council, equal to 120% of the cost of constructing the approved development. After the development has been built to the satisfaction of the City Council in accordance with the approved Special Permit, the applicant may request discharge of the bond.

(c) Occupancy Conditions

No certificate of occupancy shall be issued for any market-rate units in a development covered by this Section until all deed covenants, contractual agreements, and/or other documents necessary to ensure compliance by the applicant until the requirements of this Section have been executed.

(Adopted April 23, 1991)

5.12 BUSINESS PARK DISTRICT

All principal uses permitted in the BP Business Park District shall conform to the design standards described in the subsections below.

5.12.1 Open Space

To maintain the function, safety and aesthetics of parking areas and building development within the district, a minimum of ten (10) percent of each lot shall be maintained as open space. Such open space areas may include suitability landscaped areas, areas left in their natural state, planting areas within or adjacent to parking and loading areas, pedestrian walkways and exterior recreation areas.

5.12.2 Landscaping Around Buildings

For all buildings constructed after April 1, 1993, a five (5) foot wide landscaped foundation planting shall be provided at the base of not less than fifty (50) percent of the length of the building wall facing the way upon which it has its frontage.

5.12.3 Buffer Zone

A seventy-five (75) foot buffer zone shall be provided from the lot line of any lot that abuts or is partially within the residential district. No structures, parking, or paved areas shall be allowed within the buffer zone.

5.13 PERSONAL WIRELESS SERVICE FACILITY

5.13.1 Purpose and Intent

It is the express purpose of this ordinance to minimize the visual and environmental impacts of personal wireless service facilities. The Ordinance enables the review and approval of personal wireless service facilities by the City of Gloucester in keeping with the City's existing Ordinances and historic development patterns, including the size and spacing of structures and open spaces. This Ordinance is intended to be used in conjunction with other regulations adopted by the City, including historic district regulations, site plan review and other local Ordinances designed to safeguard public health and safety, encourage appropriate land use, environmental protection, and provision of adequate infrastructure development in the City of Gloucester.

The regulation of personal wireless service facilities is consistent with the Charter of the City of Gloucester and planning efforts of the city through its local comprehensive plan to further the conservation and preservation of developed, natural and undeveloped areas, wildlife, flora and habitats for endangered species; the preservation of coastal resources; protection of the natural resources of Cape Ann; balanced economic growth; the provision of adequate capital facilities; the coordination of the provision of adequate capital facilities with the achievement of other goals; and the preservation of historical, cultural, archaeological, architectural and recreational values.

If a personal wireless service facility is permitted by right in a zoning district, then the basic assumption is that the personal wireless service facility could go anywhere within that zoning district provided certain dimensional standards are met. This Ordinance does not recommend this approach because there may be sensitive resources in any zoning district that could be negatively affected by these facilities.

If a personal wireless service facility is permitted by Special Permit, then the basic assumption is that the personal wireless service facility could go anywhere in the City, providing certain discretionary and dimensional standards are met. The Special Permit regulations of this Ordinance are intended to mitigate any negative impacts of these facilities.

5.13.2 Definitions

5.13.2.1 Above Ground Level (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

5.13.2.2 Antenna. The surface from which wireless radio signals are sent and received by a personal wireless service facility.

5.13.2.3 Available Space. The policy that requires siting of personal wireless service facilities on existing buildings or structures, regardless of height, before looking to new

construction opportunities. The theory is that available space exists throughout the urban area and that it is more cost-effective, resource-conserving and visually acceptable to place personal

wireless service facilities on available space. It is the first preference of the City of Gloucester to have personal wireless service facilities use available space.

- 5.13.2.4 Camouflaged. A personal wireless service facility that is disguised, hidden, or made a part of an existing or proposed structure is considered "camouflaged."
- 5.13.2.5 Carrier. A company that provides wireless services.
- 5.13.2.6 Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.
- 5.13.2.7 Concealed. A personal wireless service facility that is placed within an existing or proposed structure so that it is hidden from view is considered "concealed."
- 5.13.2.8 Dual-polarized (or cross-polarized) antenna. A low mount that has three panels flush mounted or attached very close to the shaft.
- 5.13.2.9 Elevation. The measurement of height above sea level.
- 5.13.2.10 Environmental Assessment (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.
- 5.13.2.11 Equipment Shelter. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.
- 5.13.2.12 Fall Zone. The area on the ground within a prescribed radius from the base of a personal wireless service facility. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.
- 5.13.2.13 F.A.A. Federal Aviation Administration
- 5.13.2.14 F.C.C. Federal Communications Commission
- 5.13.2.15 Functionally Equivalent Services. Cellular, Personal Communication Services (PCS), Enhanced Specialized Mobile Radio, Specialized Mobile Radio and Paging.
- 5.13.2.16 Guyed Tower. A monopole or lattice tower that is tied to the ground or other surface by diagonal cables.
- 5.13.2.17 Lattice Tower. A type of mount that is self-supporting with multiple legs and cross-bracing of structural steel.

- 5.13.2.18 Licensed Carrier. A company authorized by the FCC to construct and operate a commercial mobile radio service system.
- 5.13.2.19 Monopole. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.
- 5.13.2.20 Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:
- a) Roof-mounted. Mounted on the roof of a building.
 - b) Side-mounted. Mounted on the side of a building.
 - c) Ground-mounted. Mounted on the ground.
 - d) Structure-mounted. Mounted on a structure other than a building.
- 5.13.2.21 Omnidirectional (whip) antenna. A thin rod that beams and receives a signal in all directions.
- 5.13.2.22 Panel Antenna. A flat surface antenna usually developed in multiples.
- 5.13.2.23 Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act. (See Footnote 1)
- 5.13.2.24 Personal Wireless Services. The three types of services regulated by this Ordinance, including commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services.
- 5.13.2.25 Radiofrequency (RF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radiofrequencies.
- 5.13.2.26 Radiofrequency Radiation (RFR). The emissions from personal wireless service facilities. (See Footnote 2)
- 5.13.2.27 Repeater. A small receiver/transmitter of not more than 20 Watts output designed to provide service to areas which are not able to receive adequate coverage directly from a personal wireless service facility.
- 5.13.2.28 Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.
- 5.13.2.29 Separation. The distance between one carrier's array of antennas and another carrier's array.
- 5.13.2.30 S.P.G.A. Special Permit Granting Authority.

Footnotes:

1. Personal wireless service facilities are defined in the Telecommunications Act of 1996. This definition is also provided in Section 2.0 of the City of Gloucester Zoning Ordinance.
2. It is RFR, not all EMF, that is regulated by the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines). The FCC Guidelines were published on 8/1/96. The FCC had extended the implementation date of the FCC Guidelines from 1/1/97 to 10/15/97.

- 5.13.2.31 Telecommunications Act of 1996. 47 U.S.C., Section 332 (c) (7) preserves the authority of municipalities to regulate the placement, construction and modification of personal wireless service facilities, but provides that municipalities shall not unreasonably discriminate among providers of functionally equivalent services and shall not prohibit or have the effect of prohibiting the provision of personal wireless service facilities.
- 5.13.2.32 Wetlands. As defined in MGL, Chapter 131, Section 40 and City of Gloucester Code of Ordinances, Chapter 12 "Marshlands".
- 5.13.2.33 Historic Structure. A structure listed on the Natural Register of Historic Places or Eligible structure for placement on the National Register of Historic Places.
- 5.13.2.34 Scenic Road. To be determined.

5.13.3 Municipal Regulations

- 5.13.3.1 Use Regulations. A personal wireless service facility shall require a building permit in all cases and may be permitted as follows:
 - a) A personal wireless service facility may locate on any existing guyed tower, lattice tower, monopole, electric utility transmission tower, fire tower or water tower, provided that the installation of the new facility does not increase the height of the existing structure except as provided in Section 5.13.3.3 (e) below. Such installations shall require a Special Permit.
 - b) A personal wireless service facility involving construction of one or more ground- or building (roof- or side-) mounts shall require a Special Permit in all zoning districts within the City, provided that the proposed use complies with the height and setback requirements of Section 5.13.3.3 and all of the Special Permit Regulations set forth in Section 5.13.4 of this Ordinance.
 - c) A personal wireless service facility that exceeds the height restrictions of Sections 5.13.3.3(a) through 5.13.3.3(e) inclusive may be permitted by Special Permit in a designated Personal Wireless Service Facility Overlay District, provided that the proposed facility complies with the height restrictions of Section 5.13.3.3(f), and all of the setback and Special Permit Regulations set forth in Section 5.13.3.3 and 5.13.4 of this Ordinance.
- 5.13.3.2 Location. Applicants seeking approval for personal wireless service facilities shall comply with the following:

- a) The applicant shall have the burden of proving that there are no feasible existing structures upon which to locate. If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, water towers, existing telecommunications facilities, utility poles and towers, and related facilities, provided that such installation preserves the character and integrity of those structures. In particular, applicants are urged to consider use of existing telephone and electric utility structures as sites for one or more personal wireless service facilities.
- b) If the applicant demonstrates that it is not feasible to locate on an existing structure, personal wireless service facilities shall be designed to as to be camouflaged to the greatest extent possible, including but not limited to: use of compatible building materials and colors, screening, landscaping and placement within trees.
- c) The applicant shall submit documentation of the legal right to install and use the proposed facility, in the form of a license from the FCC, at the time of application for a building permit and/or Special Permit.
- d) The use of repeaters to assure adequate coverage, or to fill holes within areas of otherwise adequate coverage, while minimizing the number of personal wireless service facilities may be allowed. An applicant who has received a personal wireless facility Special Permit under this Ordinance may, with at least 30 days written notice to the SPGA, Planning Board, Board of Health, Conservation Commission, Building Inspector, and City Clerk, install, at the applicant's expense, one or more additional repeaters. Site Plan review before the SPGA will be required. The SPGA will publish written notice of public meeting date at least 14 days in advance. Applicants shall detail the number, location, power output, and coverage of any proposed repeaters in their systems and provide engineering data to justify their use. No repeaters shall be located closer than 50 feet to an existing dwelling, nor less than 25 feet above the ground. Maximum height shall be up to 150 feet in the Personal Wireless Service Facility Overlay District or up to ten feet above average tree, or tallest building height within 300 feet of the repeater.

5.13.3.3 Dimensional Requirements. Personal wireless service facilities shall comply with the following:

- a) Height, General. Regardless of the type of mount, personal wireless service facilities shall be no higher than ten feet above the tallest height of buildings within 300 feet of the proposed facility. In addition, the height of a personal wireless service facility shall not exceed by more than ten feet the height limits of the zoning district in which the facility is proposed to be located, unless the facility is completely camouflaged such as within a flagpole, steeple, chimney or similar structure. Personal wireless service facilities may locate on a building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.
- b) Height, Ground-Mounted Facilities. Ground-mounted personal wireless service facilities shall not project higher than ten feet above the tallest building height or, if there are no buildings within 300 feet, these facilities shall not project higher than ten feet above the average tree canopy height, measured from ground level (AGL). If there are no buildings within 300 feet of the proposed site of the facility, all ground-mounted personal wireless service facilities shall be surrounded by dense tree growth to screen

views of the facility in all directions. These trees may be existing on the subject property or planted on-site.

c) Height, Side- and Roof-Mounted Facilities. Side- and roof-mounted personal wireless service facilities shall not project more than ten feet above the height of an existing building nor project more than ten feet above the height limit of the zoning district within which the facility is located. Personal wireless service facilities may locate on a

building that is legally non-conforming with respect to height, provided that the facilities do not project above the existing building height.

d) Height, Existing Structures. New antennas located on any of the following structures existing on the effective date of this Ordinance shall be exempt from the height restrictions of this Ordinance provided that there is no increase in height of the existing structure as a result of the installation of a personal wireless service facility: Water towers, guyed towers, lattice towers, fire towers and monopoles.

e) Height, Existing Structures, (Utility). New antennas located on any of the following existing structures shall be allowed to exceed the height restrictions of this Ordinance with a Special Permit provided that there is no more than a twenty feet (20') increase in the height of the existing structure as a result of the installation of a personal wireless service facility: electric transmission and distribution towers, telephone poles and similar existing utility structures. This provision shall not apply in Historic Districts, within 150 feet of the right-of-way of any scenic roadway, or in designated scenic viewsheds.

f) Height, Personal Wireless Service Facility Overlay Districts. Where the City of Gloucester establishes Personal Wireless service Facility Overlay Districts (as designated on the City of Gloucester Zoning Map), personal wireless service facilities of up to 150 feet in height may be permitted by Special Permit. Monopoles are the preferred type of mount for such taller structures. Such structures shall comply with all setback and Special Permit Regulations set forth in this Ordinance, except for the average tree height canopy requirement of 5.13.3.3(b).

g) Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. In addition, the following setbacks shall be observed:

- 1) In order to ensure public safety, the minimum distance from the base of every personal wireless service facility to the property line of any residence, school, daycare center, medical facility or nursing home shall be at least **500 feet** measured on a horizontal plane. The minimum distance from the base of any ground- mounted personal wireless service facility to any other type of property line, road, structure, or business shall be the height of the facility/mount including any antennas or other appurtenances. For these uses only, this setback is considered a fall zone. (Amended 3/9/99)

- 2) In the event that an existing structure is proposed as a mount for a personal wireless service facility, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing

non-conforming structures, personal wireless service facilities and their equipment shelters shall not increase any non-conformities, except as provided in Section h) below.

h) Flexibility. In reviewing a Special Permit application for a personal wireless service facility, the City Council (SPGA) may reduce the required fall zone and/or setback distance, if it finds that a substantially better design will result from such reduction.

In making such a finding, the City Council (SPGA) shall consider both the visual and safety impacts of the proposed use.

5.13.3.4 Personal Wireless Service Facility Overlay District. The City shall establish four (4) districts where personal wireless service facilities up to 150 feet in height may be granted Special Permits.

a) Two districts shall be in the G-I zoning districts in the Western portion of the City of Gloucester along Kondelin Road and west of Magnolia Avenue respectively.

b) Two districts shall be in the Eastern Portion of the City of Gloucester, one, part of the B-P zoning district at Blackburn Industrial Park and the other, part of the G-I zoning district adjacent to the Blackburn Industrial Park.

c) The personal Wireless Service Facility Overlay District shall be mapped and on file with the City of Gloucester Zoning Map at the Office of Community Development.

d) The Gloucester City Council may, from time to time, add other overlay district areas to this list.

5.13.4 Special Permit Regulations

All personal wireless service facilities shall comply with the Performance Standards set forth in this section.

5.13.4.1 Design Standards

a) Tiering. It shall be the policy of the City of Gloucester to consider applications for special permits to construct a personal wireless service facility on available space in the following order of priority:

1) First, personal wireless service facilities that are to be concealed within existing buildings or structures shall be preferred and only when presented with evidence that such buildings or spaces are not available, will the Gloucester City Council consider...

2) Second, personal wireless service facilities that are mounted on the roof of existing buildings shall be considered and, only when presented with evidence such buildings do not exist within the desired service areas, will the Gloucester City Council consider...

3) Third, personal wireless service facilities that are mounted on available space, including existing personal wireless service facilities within one of four personal wireless service facility overlay districts.

4) The above preferences are to be considered opportunities carrying with them a favorable review, providing other applicable requirements of this ordinance are met.

5) For any of the priorities above, any assertion of property owner refusal, regardless of cost considerations, must be represented by a registered letter from the property owner.

b) Visibility/Camouflage or Concealment. Personal wireless service facilities shall be camouflaged or concealed as follows:

1) Camouflage or Concealment by Existing Buildings or Structures:

A) When a personal wireless service facility extends above the roof height of a building on which it is mounted, every effort shall be made to conceal the facility with or behind existing architectural features to limit its visibility from public ways. Facilities mounted on a roof shall be stepped back from the front facade in order to limit their impact on the building's silhouette.

B) Personal wireless service facilities which are side-mounted shall blend with the existing building's architecture and, if over five square feet, shall be painted or shielded with material which is consistent with the design features and materials of the building.

2) Camouflage or Concealment by Vegetation. If personal wireless service facilities are not camouflaged from public viewing areas by existing buildings or structures, they shall be surrounded by buffers of dense tree growth and understory vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may be existing on the subject property or installed as part of the proposed facility or a combination of both. The City Council (SPGA) shall determine the types of trees and plant materials and depth of the needed buffer based on site conditions.

3) Color

A) Personal wireless service facilities which are side-mounted on buildings shall be painted or constructed of materials to match the color of the building material directly behind them.

B) To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding it, they shall be painted

with neutral colors that are harmonious with and blend with the background, such as sky or wooded terrain.

c) Equipment Shelters. Equipment shelters for personal wireless service facilities shall be reviewed by the City Council (SPGA) with a preference for the following design standards:

- 1) Equipment shelters shall, as a first preference, be located in underground vaults; or if not, demonstrable evidence offered as to why underground vaulting is impossible, and then,
- 2) Equipment shelters above grade shall, as a second preference, be designed consistent with traditional New England architectural styles and materials, with a roof pitch of at least 10/12 and wood clapboard or shingle siding; or, if not,
- 3) Equipment shelters shall, as a last preference, be camouflaged behind an effective year-round landscape buffer, equal to the height of the proposed building, and/or wooden fence. The City Council (SPGA) shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood.

d) Lighting and Signage

- 1) Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. There shall be total cutoff of all light at the property lines of the parcel to be developed, and footcandle measurements at the property line shall be 0.0 initial footcandles when measured at grade.
- 2) Signs shall be limited to those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of the City's sign regulations.

e) Historic Buildings and Districts.

- 1) Any personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- 2) Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads or viewing areas within the district.

f) Scenic Landscapes and Vistas

- 1) No new ground-mounted personal wireless service facilities shall be located within areas contained in the Visual Overlay District on file in the City of

Gloucester Department of Community Development. The Visual Overlay District Map shall contain:

A) View corridors, or that strip of land within 250 feet of the outer edge of the right-of-way on both sides of State Route 128.

B) Coastal shoreline, or that inland strip of land within 250 feet of the ten-foot contour line above mean sea level except that such inland strip shall extend 250 feet above the mean high tide line when no beach or coastal marsh area is located inland from such line.

C) Watercourse and water body buffers, or those strips of land within 75 feet of average mean high water on all streambeds, quarries, reservoirs and ponds.

D) Public open space, or all lands reserved for parks, recreation, public schools and playgrounds as well as conservation through public control.

2) Roof-mounted, side-mounted, camouflaged or otherwise concealed personal wireless service facilities may be subject to the Special Permit process and will be permitted within the areas shown on the Visual Overlay District Map, provided they meet the standards of this Ordinance.

g) Security Barriers

1) All ground-mounted personal wireless facilities shall be surrounded by a security barrier.

5.13.4.2 Environmental Standards

a) Personal wireless service facilities shall not be located in wetlands. Locating of wireless facilities in wetland buffer areas shall be avoided whenever possible and disturbance to wetland buffer areas shall be minimized.

b) No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, including all hydrocarbon products, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.

c) Stormwater run-off from the facility shall be contained on-site.

d) Environmental Standards, Noise:

1) Ground-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 decibels at the property line.

2) Roof-mounted or side-mounted equipment for personal wireless service facilities shall not generate noise in excess of 50 decibels at ground level at the base of the building closest to the antenna.

3) The City Council (SPGA) retains the right to commission an acoustical engineer to study noise at a proposed site in accordance with the standards in Section 5.13.5.5(e) of this Ordinance. The cost for retaining such an engineer shall be borne by the applicant.

5.13.4.3 Health Standards. As proposed, all requirements to protect public health and safety below are specified to ensure a legally defensible position by the City.

a) Radiofrequency Radiation (RFR) Standards. All equipment proposed for a personal wireless service facility shall be authorized per the FCC Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (FCC Guidelines). The FCC Guidelines were published on August 1, 1996. The FCC had extended the implementation date of the FCC Guidelines from January 1, 1997 to October 15, 1997.

b) Retention of Experts. The City Council (SPGA) retains the right to commission experts to study the existing, probable or potential RFR at a proposed site. The cost for retaining such experts shall be borne by the applicant.

5.13.5 Application Procedures

5.13.5.1 Special Permit Granting Authority (SPGA). The Special Permit Granting Authority (SPGA) for personal wireless service facilities shall be the Gloucester City Council.

5.13.5.2 Other Permits Required. Any other permits required from federal, State or municipal agencies must be applied for and granted to the applicant prior to acceptance of an application for a Special Permit for a personal wireless service facility from the City of Gloucester.

5.13.5.3 Special Permit Procedures. All procedures for applying for Special Permits shall be consistent with, and as provided for, Section 1.4.2 of the City of Gloucester Zoning Ordinance and Rule 25 of the City of Gloucester Zoning Ordinance.

5.13.5.4 Special Permit Requirements. The required application for a Special Permit shall not follow 1.4.2.2(b)1 or 1.4.2.2(b)2. of the City of Gloucester Zoning Ordinance, but rather shall meet the requirements in Sections 5.13.5.5 et seq.

5.13.5.5 Application Filing Requirements

The following shall be included with an application for a Special Permit for all personal wireless service facilities:

a) General Filing Requirements:

- 1) Name, address and telephone number of applicant and any co-applicants as well as any agents for the applicant or co-applicants.
- 2) Co-applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.
- 3) A licensed carrier shall either be an applicant or a co-applicant.
- 4) Original signatures for the applicant and all co-applicants applying for the Special Permit. If the applicant or co-applicant will be represented by an agent, original signatures authorizing the agent to represent the applicant and/or co-applicant. Photo reproductions of signatures will not be accepted.

b) Location Filing Requirements:

- 1) Identify the subject property by including the City as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- 2) Tax map and parcel number of subject property.
- 3) Zoning district designation for the subject parcel (Submit copy of City zoning map with parcel identified).
- 4) A line map to scale showing the lot lines of the subject property and all properties within 300 feet and the location of all buildings, including accessory structures, on all properties shown.
- 5) A City-wide map showing the other existing personal wireless service facilities in the City and outside the City within one mile of its corporate limits.
- 6) The proposed locations of all existing and future personal wireless service facilities in the City on a City-wide map for this carrier.

c) Siting Filing Requirements:

- 1) A one-inch-equals-40-feet vicinity plan showing the following:
 - A) Property lines for the subject property.
 - B) Property lines of all properties adjacent to the subject property within 300 feet.
 - C) Tree cover on subject property and adjacent properties within 300 feet, by dominant species and average height, as measured by or available from a verifiable source.

- D) Outline of all existing buildings, including purpose (e.g. Residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet.
- E) Proposed location of antenna, mount and equipment shelter(s).
- F) Proposed security barrier, indicating type and extent as well as point of controlled entry.
- G) Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the personal wireless service facility.
- H) Distances, at grade, from the proposed personal wireless service facility to each building on the vicinity plan.
- I) Contours at each two feet AMSL for the subject property and adjacent properties within 300 feet.
- J) All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
- K) Representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas and any other construction or development attendant to the personal wireless service facility. All heights shall be shown as proposed AGL, before any grading or disturbance of the natural grade.
- L) Plan lines representing the sight line showing viewpoint (point from which view is taken) and visible point (point being viewed) from "Sight Lines" sub-section below.
- M) If the proposed facility will extend above the tree canopy, a vicinity viewshed map and sectional drawings at a scale of 1 inch = 40 feet including the entire area within 2500 feet and showing the following: 1) topography, public and private roads, buildings and structures, bodies of water, and landscape features; and 2) areas which are likely to have views of the facility based on terrain characteristics, including openness, elevation and slope.

2) Sight lines and photographs as described below:

- A) Sight line representation. A sight line representation shall be drawn from any public road within 300 feet and the closest facade of each residential building (view point) of the personal wireless service facility. Each sight line shall be depicted in profile, drawn at one inch equals 40 feet. The profiles

shall show all intervening trees and buildings. In the event there is only one residential building within 300 feet there shall be at least two sight lines from the closest habitable structures or public road.

B) Existing (before condition) photographs. Each sight line shall be illustrated by one four-inch by six-inch photograph of what can currently be seen from any public road within 300 feet.

C) Proposed (after condition). Each of the existing condition photographs shall have the proposed personal wireless service facility superimposed on it to show what will be seen from public roads if the proposed personal wireless service facility is built.

3) Siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed personal wireless service facility plus from all existing public and private roads that serve the subject property. Elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and show the following:

A) Antennas, mounts and equipment shelter(s), with total elevation dimensions and AGL of the highest point.

B) Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be cut away to show the view behind the barrier.

C) Any and all structures on the subject property.

D) Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.

E) Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

d) Design Filing Requirements

1) Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

2) Materials of the proposed personal wireless service facility specified by generic type and specific treatment (e.g., galvanized steel, anodized aluminum, stained wood, painted fiberglass, etc.). These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

3) Colors of the proposed personal wireless facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas,

mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

4) Dimensions of the personal wireless service facility specified for all three directions: height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

5) Appearance shown by at least two photographic superimpositions of the personal wireless service facility within the subject property. The photographic superimpositions shall be provided for the antennas, mounts, equipment shelters, cables as well as cable runs, and security barrier, if any.

6) Landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen and species.

7) Within 21 days of filing an application for a Special Permit, the applicant shall arrange for a 48-hour, 24 hours of which must be on a weekend day, balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, including a second date, in case of poor visibility due to weather conditions on the initial date, time and location of such test shall be advertised in a newspaper of general circulation in the City at least 14 days, but not more than 21 days prior to the test.

8) If lighting of the site is proposed, the applicant shall submit a manufacturers computer-generated point-to-point printout, indicating the horizontal footcandle levels at grade, within the property to be developed and twenty-five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

e) Noise Filing Requirements. The applicant shall provide a statement listing the existing and maximum future projected measurements of noise from the proposed personal wireless service facilities, measured in decibels Ldn (logarithmic scale accounting for greater sensitivity at night), for the following:

1) Existing, or ambient: the measurements of existing noise.

2) Existing plus proposed personal wireless service facilities: maximum estimate of noise from the proposed personal wireless service facility plus the existing noise environment. Such statement shall be certified and signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards of this Ordinance.

3) As proposed, all requirements are specified to ensure a legally defensible position by the City.

f) Radiofrequency Radiation (RFR) Filing Requirements. The applicant shall pay for an Independent Consultant, hired by the city, to monitor the background levels of radiofrequency radiation around the proposed personal wireless service facility site. The Independent Consultant shall provide a statement listing the existing and maximum future projected measurements of radiofrequency radiation from the proposed personal wireless service facility, for the following situations:

- 1) Existing, or ambient: the measurements of existing RFR.
- 2) Existing plus proposed personal wireless service facilities: maximum estimate of RFR from the proposed personal wireless service facility plus the existing RFR environment.
- 3) Certification, signed by a RF engineer stating that RFR measurements are accurate and meet FCC Guidelines as specified in the Radiofrequency Radiation Standards sub-section of this Ordinance.

A report of the monitoring results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Planning Board, Building Inspector, and City Clerk.

g) Federal Environmental Filing Requirements:

1) The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CRF Ch. I). The FCC requires that an environmental assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:

- A) Wilderness areas.
- B) Wildlife preserves.
- C) Endangered species habitat.
- D) Historical site.
- E) Indian religious site.
- F) Flood plain.
- G) Wetlands.
- H) High intensity white lights in residential neighborhoods.
- I) Excessive radiofrequency radiation exposure.

2) At the time of application filing, an EA that meets FCC requirements shall be submitted to the City for each personal wireless service facility site that requires such an EA to be submitted to the FCC.

3) The applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.

h) The Special Permit Granting Authority may waive one or more of the application filing requirements of this section if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility.

5.13.6 CO-Location

5.13.6.1 Licensed carriers shall share personal wireless service facilities and sites where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All applicants for a Special Permit for a personal wireless service facility shall demonstrate a good faith effort to co-locate with other carriers. Such good faith effort includes:

a) A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;

b) Sharing information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

5.13.6.2 In the event that co-location is found to be not feasible, a written statement of the reasons for the infeasibility shall be submitted to the City. The City may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the applicant. The City may deny a Special Permit to an applicant that has not demonstrated a good faith effort to provide for co-location.

5.13.6.3 If the applicant does intend to co-locate or to permit co-location, the City shall request drawings and studies which accurately show the ultimate appearance and operation of the personal wireless service facility at full build-out.

5.13.6.4 If the City Council (SPGA) approves co-location for a personal wireless service facility site, the Special Permit shall indicate how many facilities of what type shall be permitted on that site. Facilities specified in the Special Permit approval shall require no further zoning approval. However, the addition of any facilities not specified in the approved Special Permit shall require a new Special Permit. Estimates of RFR emissions will be required for all facilities, including proposed and future facilities.

5.13.7 Modifications

A modification of a personal wireless service facility may be considered equivalent to an application for a new personal wireless service facility and will require a Special Permit when the following events apply:

5.13.7.1 The applicant and/or co-applicant wants to alter the terms of the Special Permit by changing the personal wireless service facility in one or more of the following ways:

- a) Change in the number of facilities permitted on the site;
- b) Change in the technology used for the personal wireless service facility.

5.13.7.2 The applicant and/or co-applicant wants to add any equipment or additional height not specified in the original design filing.

5.13.8 Monitoring and Maintenance

As proposed, all requirements are specified to ensure legally defensible position by the City.

5.13.8.1 After the personal wireless service facility is operational, the owner(s) of any personal wireless service facility located on any facility site shall pay for an Independent Consultant, hired by the City, to conduct testing and monitoring of radiofrequency radiation emitted from said site and to report results of said monitoring as follows:

Within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, the Independent Consultant shall submit existing levels of radiofrequency radiation from the personal wireless service facility. Such measurements shall be signed by a radiofrequency engineer stating that radiofrequency measurements are accurate and meet Federal Communications Commission guidelines as specified in the Radiofrequency Standards of this Ordinance.

A report of the Monitoring Results shall be prepared by the Independent Consultant and submitted to the City Council, Board of Health, Planning Board, Building Inspector and City Clerk.

5.13.8.2 After the personal wireless service facility is operational, the applicant shall submit, within 90 days of the issuance of the Special Permit, and at annual intervals from the date of issuance of the Special Permit, existing measurements of noise from the personal wireless service facility. Such measurements shall be signed by an acoustical engineer, stating that noise measurements are accurate and meet the Noise Standards sub-section of this Ordinance.

5.13.8.3 The applicant and co-applicant shall maintain the personal wireless service facility in good condition. If the SPGA deems it necessary, an initial bond shall be posted to cover construction costs and an annual maintenance bond to cover maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, access road maintenance and maintenance of the buffer areas and landscaping.

5.13.9 Abandonment or Discontinuation of Use

5.13.9.1 At such time that a licensed carrier plans to abandon or discontinue operation of a personal wireless service facility, such carrier will notify the City by certified U. S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than 30 days prior to abandonment or discontinuation of operations. In the event that a licensed carrier fails to give such notice, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.

5.13.9.2 Upon abandonment or discontinuation of use, the carrier shall physically remove the personal wireless service facility within 90 days from the date of abandonment or discontinuation of use. "Physically remove" shall include, but not be limited to:

- a) Removal of antennas, mount, equipment shelters and security barriers from the subject property.
- b) Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
- c) Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.

5.13.9.3 If a carrier fails to remove a personal wireless service facility in accordance with this section of this Ordinance, the City of Gloucester shall have the authority to enter the subject property and physically remove the facility. The City Council (SPGA) shall require the applicant to post a bond at the time of construction to cover costs for the removal of the personal wireless service facility in the event the City must remove the facility.

- a) Such a performance bond shall only be deposited in an Enterprise Account, so labeled and established for the sole purpose of removing an abandoned or discontinued facility.
- b) In the absence of an Enterprise Account, the Building Inspector may request removal authority and sufficient funds from the Gloucester City Council.

5.13.10 Reconstruction or Replacement of Existing Towers and Monopoles

Guyed towers, lattice towers, utility towers and monopoles in existence at the time of adoption of this Ordinance may be reconstructed, altered, extended or replaced on the same site by Special Permit, provided that the City Council (SPGA) finds that such reconstruction, alteration, extension or replacement will not be substantially more detrimental to the neighborhood and/or the city than the existing structure. In making such a determination, the City Council (SPGA) shall consider whether the proposed reconstruction, alteration, extension or replacement will create public benefits such as opportunities for co-location, improvements in public safety, and/or reduction in visual and environmental impacts. No reconstruction, alteration extension or replacement shall exceed the height of the existing facility by more than twenty (20) feet.

5.13.11 Term of Special Permit

A Special Permit issued for any personal wireless service facility over fifty (50) feet in height shall be valid for twenty-five (25) years. At the end of that time period, the personal wireless service facility shall be removed by the carrier or a new Special Permit shall be required.

5.13.12 Provision for Fire Safety and Rescue

5.13.12.1 All applicants for ground-mounted personal wireless service facilities shall contribute toward improving the adequacy of City of Gloucester's response in the event of hazardous or emergency events on high, free-standing structures such as:

a) Training fire department personnel on accessing high structures with conventional fire-fighting methods and equipment.

b) Purchasing any new equipment necessary to improve the City of Gloucester's ability to suppress emergencies and rescue personnel on high, free standing structures.

5.13.12.2 The Gloucester Fire Department shall establish an Enterprise Account for the purposes set forth above.

5.13.12.3 All applicants shall contribute to the Fire Safety and Rescue Enterprise Account for personal wireless service facilities on a pro-rated basis.

5.13.13 Regulation Compliance

Failure to comply with any regulations under the Special Permit shall be grounds for removal of non-complying structures, buildings, devices, at the owner's expense.

(Adopted January 6, 1998)

5.14 ASSISTED LIVING FACILITIES

5.14.1 Purpose

The purpose of this section is to provide for the availability of elderly assisted living residences and services in the City of Gloucester; to provide for functionally impaired individuals by guiding residential settings that promote the dignity, individuality, privacy and decision-making ability of such persons. Assisted Living is a special combination of housing, personalized support services and care designed to respond to the individual needs of those requiring help in activities of daily living (ADL's), but who do not require the skilled medical care provided in a nursing facility. Assisted Living care promotes maximum independence and choice by addressing the individual needs and preferences of each resident while encouraging the involvement of a resident's family, neighbors and friends.

5.14.2 Administration

An Assisted Living Facility of up to ten (10) units is a use authorized by the granting of a Special Permit (CCS) by the City Council under Section 2.3.1, Paragraph 11A, in all use districts, except for Marine Industrial (MI), Business Park (BP), and watershed overlay districts where municipal sewer is not available. An Assisted Living Facility of eleven (11) or more dwelling units is a use authorized by the granting of a Special Permit (CCS) by the City Council under Section 5.7, Major Projects and Section 2.3.1, Paragraph 11A, in all use districts, except for Marine Industrial (MI), Business Park (BP), and watershed overlay districts where municipal sewer is not available.

5.14.3 Definitions

Assisted Living Residence - As defined by MGL Chapter 19D, 1, an Assisted Living Residence is an entity, however organized, whether conducted for profit or not for profit, which meets all the following criteria:

1. Provides room and board; and
2. Provides, directly by employees of the entity or through arrangements with another organization which the entity may or may not control or own, assistance with activities of

daily living for three or more adults who are not related by consanguinity or affinity to their care provider; and

3. Collects payments or third party reimbursements from, or on behalf of, residents to pay for the provision of assistance with the activities of daily living or arranges for the same.

Ancillary Services - Services and facilities may include, but not be limited to, the following: meeting room, laundry rooms, gardening, exercise rooms and recreational areas; libraries, common or private dining facilities; offices, health practitioner services for diagnoses and outpatient services for residents only; social services; barber/beauty services; transportation for medical and recreational purposes; assistance with activities of daily living, concierge service, housekeeping services, sundry store, swimming/therapeutic pools, whirlpools, lecture/theater hall, chapel, pub (for residents only), ice cream parlor, banking office (for residents only). Such services shall be ancillary to residential use and shall be intended primarily for the residents and employees of the assisted living residence.

Personal Care Services - Personal Care Services shall mean staffing, facilities and programs which are provided to residents of assisted living residences in the areas of health counseling, instruction, examination, diagnosis, hygiene, nutrition, and physical fitness

Activities of Daily Living - Bathing, dressing, and grooming, walking and moving about, eating, toileting, medication management, and other personal tasks.

Resident - Resident shall mean an individual who resides in an assisted living residence and who requires and receives the housing and personal services of an Assisted Living Facility.

Dwelling Unit - A portion of an assisted living residence designed for and occupied by one or two individuals as the private living quarters of such individuals. Shared units occupied by two people are allowed, as are semiprivate units with separate sleeping quarters and a shared bathroom for up to three residents.

5.14.4 Additional Dimensional Requirements and Performance Standards

In addition to the requirements of Section 5.7 for Assisted Living Facilities of eleven (11) units or more and Section 1.4.2.2 for Assisted Living Facilities of ten (10) units or less, the following requirements shall be considered:

1. Accessory buildings must comply with the same regulations as principal buildings.
2. A specific height restriction of any proposed building is not included in these dimensional requirements, as it is the specific goal of this section that the building to be designated be consistent with the neighborhood, be responsive to existing topographical conditions, and be committed to good architectural design. This approach may result in a building whose height as calculated according to the formula of Building Height in the definition section of the Zoning ordinance exceeds thirty (30) feet. If the calculated height exceeds thirty (30) feet, the SPGA may grant a special exemption for an increase where such increase is judged by the SPGA not to be detrimental to the neighborhood; but in no case may the height exceed that permissible under the building codes. This section specifically discourages the use of flat roofs.

3. In the General Industrial district, the setback requirement for the area which directly abuts an industrial use and the assisted living facility shall be doubled and shall provide buffering and screening by providing an area at least ten (10) feet wide, densely planted with trees or shrubs five feet or more in height.

4. In R-RB, R-RA, R-1, R-2, R-2A districts, neither rooftops nor yard setbacks will be counted toward fulfilling minimum open space per dwelling unit requirements.

5. The development shall be integrated into the existing terrain and surrounding landscape, and shall be designed to protect abutting properties and community amenities. Building sites shall, to the extent deemed feasible by the SPGA:

- 1) minimize obstruction of scenic views from publicly accessible locations;
- 2) preserve unique natural or historic features;
- 3) minimize tree, vegetation, rock and soil removal and grade changes;
- 4) maximize open space retention;
- 5) screen objectionable features from neighboring properties and roadways.
- 6) Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and City through the appropriate use of, screening, massing, roofline, and wall lines and other architectural techniques.
- 7) Connecting tree-lined walkways may be provided between structures, parking areas, and abutting public ways. A mixture of shade trees may be spaced at a minimum of forty feet along said walkways if SPGA deems it desirable.
- 8) Drainage shall be designed so that the pre-construction rate of run-off shall not be increased, groundwater recharge is maximized, surface and ground water quality is maintained, and neighboring properties will not be adversely affected. Drainage and stormwater management for the project should meet standards equivalent to those established in the City of Gloucester's Subdivision Rules and Regulations. The SPGA may require that existing drainage problems on or attendant to the site be mitigated as a condition of a special permit under this section.
- 9) The plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent ways through proper layout, location, design and detailing of facilities and dwellings.
- 10) Parking areas shall be screened from public/private ways and adjacent or abutting properties by building location, fencing, and/or dense planting.
- 11) Exposed storage areas, machinery, service areas, truck loading areas, solid waste disposal facilities, utility buildings and structures and other unsightly uses shall be set

back and/or screened to protect the neighbors and protect residents from objectionable features.

12) No building shall be floodlit. Drives, walkways, entryways, and parking areas shall not be illuminated by lights higher than fifteen (15) feet, which shall be shielded to have a total cutoff of all light at less than ninety (90) degrees and a beam cutoff less than seventy-five (75) degrees. The total cutoff of all light shall occur within the property lines of the parcel to be developed.

13) Electric, telephone, cable TV, and other such utilities shall be underground where physically and environmentally feasible.

14) The SPGA and applicant shall seek guidance from the Historical Commission to insure the protection, restoration, or preservation of said historic locations, artifacts or structures within the proposed development.

15) If a development for elderly and handicapped persons is owned or converted to ownership of more than one ownership entity, a nonprofit, incorporated community association shall be established, requiring membership of each property owner in the development. The community association shall be responsible for the permanent maintenance of all communal water and septic systems, common open space, recreation and thoroughfare facilities. A community association agreement or covenant shall be submitted with the special permit approval application guaranteeing continuance maintenance of such common utilities, land and facilities, and assessing each lot a share of maintenance expenses. Such agreement shall be subject to the review and approval of City Legal Counsel and the SPGA.

16) Such agreements or covenants shall provide that in the event that the association fails to maintain the common open land in reasonable order and condition in accordance with the agreement, the City may, after notice to the association and public hearing, enter upon such land and maintain it in order to preserve the taxable values of the properties within the development and to prevent the common land from becoming a public nuisance. The covenants shall be assessed ratably against the properties within the development.

17) The SPGA may also impose, in addition to any applicable conditions specified in this Ordinance, such applicable conditions as it finds reasonably appropriate to safeguard the neighborhood, or otherwise serve the purposes of this Ordinance, including but not limited to, the following: front, side, or rear yards greater than the minimum required by this Ordinance, screening buffers or planting strips, fences, or walls, as specified by the SPGA; modification of the exterior appearance of the structure; limitation upon the size, numbers of occupants, method and time of operation, time of duration of permit, or extent of facilities; regulation of number and location of driveways, or other traffic features, and off-street parking or loading or other special features beyond the minimum required by this Ordinance.

(Adopted June 20, 2000)

5.15 OPEN SPACE RESIDENTIAL DEVELOPMENT

5.15.1 Purpose and Intent

5.15.1.1 Primary purposes for Open Space Residential Development, hereafter OSRD, are:

- (a) To advance and be consistent with the goals, objectives and strategies of The Community Development Plan for the City of Gloucester, 2001: A Comprehensive Plan, August 2001.
- (b) To encourage permanent preservation of open space, agricultural land, forest, forestry land, wildlife habitat, other natural resources including aquifers and watershed, water bodies and wetlands, and historical and archeological resources.
- (c) To encourage a more efficient form of development that is less sprawling, consumes less open land, and conforms to existing topography and natural features better than a grid subdivision.
- (d) To minimize the total amount of disturbance on a site and to preserve the natural topography of a site.
- (e) To allow greater flexibility and creativity in design of residential developments.
- (f) To facilitate the construction and maintenance of housing, ways, utilities and services in a more economical and efficient manner.

5.15.2 Eligibility

5.15.2.1 OSRD is permitted in the following zoning districts: R-1; R-RA; R-RB; R-2; R-2A; R-3; R-4; CCD, NB and VB (See Section 2.3.1 #11B).

5.15.3 Design Overview

5.15.3.1 The Four Step Design Process:

(a) Identify and delineate the following:

1. Primary Conservation Areas which include wetlands, riverfront areas, and floodplains; and Secondary Conservation Areas which are unregulated features of the natural landscape, such as: steep slopes, mature woodlands, prime farmland, meadows, additional wildlife habitats and cultural features such as historic and archeological sites, and scenic views; and
2. Potentially Developable Areas which is all other land outside identified Primary and Secondary Conservation Areas.

(b) Locate house sites, providing the approximate sites of individual houses within the Potentially Developable Area along with delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistency with the city's historical development patterns. The number of homes enjoying the amenities of the development should be maximized.

(c) Align Streets and Trails. Align streets in order to access the house lots. Trails should be laid out to create internal and external connections to existing and/or potential future streets, sidewalks and trails.

(d) Draw in the lot lines.

5.15.3.2 Generic Design Standards:

- (a) OSRD shall promote permanent preservation of open space, agricultural land, forestry and, natural resources, historical and archeological resources better than a grid subdivision.
- (b) OSRD shall consume less open land than a grid subdivision.
- (c) OSRD shall conform to existing topography and natural features of the land.
- (d) OSRD shall have less total amount of disturbance on the site than a grid subdivision.
- (e) OSRD shall facilitate the layout, construction and maintenance of ways, utilities, and public services in a more economical, safe and efficient manner than a grid subdivision.
- (f) The landscape shall be preserved in its natural state. Tree and soil removal shall be minimized. Any grade changes shall be in keeping with the general appearance of neighboring developed areas. Individual building sites shall be oriented to maintain natural topography, soils and vegetation.
- (g) Ways shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
- (h) Proposed buildings and associated development shall be compatible with surroundings, terrain, other existing uses, scale, and architecture of nearby buildings and possess a functional and visual relationship to the nearby environment.

- (i) All open space that is not set aside for wildlife habitat and resource protection shall be designed to add to the visual amenities of the area by maximizing its visibility for persons passing the site or overlooking it from nearby properties.
- (j) The removal or disruption of historic, traditional or significant uses, structures, or architectural elements shall be minimized insofar as practicable.
- (k) The proposal should protect the adjoining premises and general neighborhood from any detrimental impact resulting from the use of the subject property, including but not limited to the production of a nuisance by virtue of noise, odor, unsightliness, or vibration.

5.15.3.3 Detailed Design Standards are further defined in the OSRD Rules and Regulations.

5.15.3.4 In approving an OSRD Site Plan, Planning Board, hereinafter referred to as the Board, may impose conditions to ensure that a site plan complies with OSRD detailed design standards.

5.15.4 Open Space Requirements

5.15.4.1 Open Space. A minimum of fifty percent (50%) of the site shall be open space with no more than twenty-five percent (25%) defined as Resource Area and at least fifteen percent (15%) of the remaining open space shall not consist of 'Buffer Zone' as defined by the City of Gloucester General Wetlands Ordinance (Article 12, Gloucester Code of Ordinances) or slope of more than twenty percent (20%).

- (a) Open space shall not include driveways, roads or ways necessary for access and egress to the site.
- (b) One third (1/3) of the twenty (20) foot site perimeter setback, as required in 5.15.5.1(c), may be used towards the required open space.
- (c) One hundred percent (100%) of the open space, shall either be:
 - 1. Conveyed to the City of Gloucester and accepted by it for open space use with an assignment for the perpetual care and custody of the site under the jurisdiction of the Conservation Commission;
 - or
 - 2. Conveyed to the Commonwealth of Massachusetts as part of a state forest, park, or wildlife management area; or
 - 3. Conveyed to a nonprofit corporation, the principal purpose of which is the conservation of open space, and made subject to a conservation restriction prepared in accordance with provisions of Section 31 and 33, inclusive, of MGL Chapter 184; or
 - 4. Made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of MGL Chapter 184 running in favor of either the City or, upon the

approval of the Board, a nonprofit corporation, the principal purpose of which is the conservation open space. The conservation restriction shall provide that such land shall be kept, in perpetuity, in an open or natural state, in accordance with the above noted sections of MGL Chapter 184.

- (d) Open space shall be a large contiguous parcel.
- (e) Open space shall be used for conservation purposes, including wildlife habitat, watershed protection, historic preservation, education, outdoor education, passive recreation, park purposes, agriculture and horticulture/ forestry.
- (f) Provided that the Board finds that such uses will not be detrimental to the character, quality or use of the open space, wastewater and stormwater management systems, and underground utilities serving the site may be located within open space. Surface systems, such as retention and detention ponds, shall not qualify towards the minimum required open space.

5.15.5 Dimensional Requirements

5.15.5.1 Applicants for OSRD development are encouraged to modify lot size, shape and other dimensional requirements for lots within an OSRD development. Section 3.2 of the City of Gloucester Zoning Ordinance setting forth the minimum lot requirements shall not apply to lots within OSRD. The minimum requirements for such lots are:

- (a) Minimum lot area shall be five thousand (5,000) square feet.
- (b) Minimum frontage shall be twenty (20) feet.
- (c) A site perimeter setback of at least twenty (20) feet shall be provided at the perimeter of the overall site subject to OSRD except that driveways necessary for access and egress to the site may be allowed within the site perimeter setback for the overall site subject to OSRD. No vegetation in this buffer shall be disturbed, destroyed or removed, except for normal maintenance. (See Open Space Requirements, Section 5.14.4).
- (d) New lots shall not have frontage on a way other than one created within an OSRD.
- (e) The minimum frontage for the overall site subject to OSRD shall be fifty (50) feet.
- (f) Maximum building height shall not exceed thirty (30) feet.
- (g) The maximum lot coverage for an individual lot shall not exceed fifty (50) percent.

5.15.6 Pre-application

5.15.6.1 Prior to submitting an OSRD site plan, the applicant shall make a written request for an informal pre-application review by the Board at a regular meeting.

- 5.15.6.2 Submittals under this category of review shall be labeled 'PRE-APPLICATION'.
- 5.15.6.3 Pre-application Site Visit. The Board shall hold a site visit as soon as possible with the applicant and/or agents in attendance.

5.15.7 Site Plan

- 5.15.7.1 For the purposes of this ordinance the Planning Board is the site plan review authority.
- 5.15.7.2 The Site Plan shall consist of a Yield Plan and a Sketch Plan:
- 5.15.7.3 The Yield Plan shows the maximum number of lots that can be placed on a site under a grid subdivision plan.

- (a) Sites with access to municipal sewer. The Basic Maximum Number of Allowed Lots is the sum of total area, which is all acreage within a site being considered for development, minus wetland resource area, plus twenty-five percent (25%) times resource area, with a figure of ten percent (10%)

of the total area subtracted from the earlier product. That result is divided by the applicable zoning district minimum lot area as defined in the Zoning Ordinance Intensity of Use Schedule. The resulting figure is rounded down to the next whole number. Formula #1, shows this equation used to calculate Basic Maximum Number of Allowed Lots:

Formula #1: Basic Maximum Number of Allowed Lots

$$(((\text{Total Area} - \text{Resource Area}) + (\text{Resource Area} \times 0.25)) - (0.10 \times \text{Total Area})) / \text{District Minimum Lot Area}$$

- (b) Sites served by individual or shared on-site wastewater systems governed under 310 CMR 15.00 The State Environmental Code, Title 5 and The City of Gloucester On-site Wastewater Regulations. The Basic Maximum Number of Allowed Lots shall be derived by submittal of a yield calculation using Formula #1 accompanied by a plan that provides evidence, acceptable to the Board, confirming the number of dwelling units that could be served by on-site wastewater treatment and disposal systems and which probably could be permitted to serve a set number of dwelling units based on site soil evaluations and consideration of relevant state and local laws. The applicant shall have a burden of proof to supply soils analysis and engineering information on the plan that defines, with reasonable certainty, the number of allowable dwelling units that can be safely sited on a lot. At a minimum, standard soil and percolation testing specified in state and local regulations shall be completed for each proposed area which might be suitable for an on-site wastewater treatment and disposal system with such testing witnessed by the agents of the Board of Health. A site plan showing calculations and possible locations of suitable areas for on-site systems shall be compiled. The City of Gloucester On-site Wastewater Regulations should be reviewed and the Board of Health consulted for additional information. Within twenty one (21) days of receiving written request from Planning Board, the Board of Health shall provide written input to the Planning Board regarding this determination.
- (c) Sites served by on-site shared wastewater systems governed under 314 CMR 3 (Surface Water Discharge Permit) or 314 CMR 5 (Groundwater Discharge Permit) shall take into consideration the carrying capacity of the land and receiving water(s). In no instance shall yield calculation be greater than that which could be calculated under 5.15.7.3(a) and (b). Within twenty one (21) days

of receiving written request from the Planning Board, the Board of Health shall provide written input to the Planning Board regarding this determination.

5.15.7.4 The Sketch Plan shall:

- (a) Be prepared and signed by a certified Landscape Architect, or by a multidisciplinary team of which one member must be a certified Landscape Architect; and
- (b) Provide specific reference to the Yield Plan; and
- (c) Address the general features of the land, give approximate configurations of the open space, roads, lots, and include the information, as appropriate, as listed in OSRD Rules and Regulations; and
- (d) Include detailed narrative regarding the layout of open space, stormwater management, wastewater management, utilities, landscaping, and other aspects of infrastructure and building design; and
- (e) Reflect the four step design process as set forth in Section 5.15.3.1; and

(f) Comply with the design standards set forth according to sections 5.15.3.2. and 5.15.3.3.

5.15.7.5 A Site Plan may be a fully engineered plan, conforming with the provisions of this ordinance. The Site Plan shall incorporate the features of the sketch plan and include stormwater management, wastewater management, utilities, and all other information as required within this ordinance and referenced regulations.

5.15.7.6 OSRD definitive subdivision approval shall be conditional upon approval of the Site Plan.

5.15.8 Procedure for Submittal and Approval of Site Plan

5.15.8.1 A complete application shall be filed with the City Clerk and the Planning Board. Thirty (30) copies shall be filed.

5.15.8.2 Review by municipal entities. The Board of Health, Conservation Commission, Building Inspector, Fire Department, Police Department, and Engineering/DPW shall consider, review and report to the Board in writing on the application. Reports from other boards and officials shall be submitted to the Board within thirty-five (35) days of receipt of the City Clerk of a complete application. Failure of these reviewing parties to make recommendations after receiving the applicable materials shall be deemed a lack of opposition thereto. In the event that a public hearing by the Board is held prior to the expiration of the thirty-five (35) day period, the Board shall continue the public hearing to permit the formal submission of reports and recommendations.

5.15.8.3 Public hearing. The Board shall hold a public hearing within thirty-five (35) days of receipt of a complete application.

5.15.8.4 Board decision. The Board shall issue a written site plan decision within sixty five (65) days of the submittal of a complete site plan. In reviewing a site plan, the Board may impose conditions

to ensure that the site plan complies with generic and detailed design standards, requirements of OSRD Rules and Regulations. The decision shall contain written explanation for any significant departures from the recommendations of any reviewing party. The decision shall be upon a majority of the Board and a written decision shall be endorsed by the Board Chair. The appeal of any decision of the Board shall be made in accordance with the provisions of MGL Ch. 41 81BB. A copy of the decision shall be filed with City Clerk and shall be forwarded to the applicant by registered mail.

5.15.8.5 Site plan approval shall lapse one (1) year from the date that the Board votes to endorse a site plan unless the applicant has submitted an OSRD definitive plan application, or within three (3) years unless building permits have been issued, whichever is less. Prior to the lapse of this period an applicant may make a written application requesting a time extension for the site plan, by providing a rationale for said request for a time extension. For good cause such approval may be granted by the Board by issuing a written extension following a public hearing.

5.15.9 Relationship Between OSRD Site Plan and OSRD Definitive Subdivision Plan

5.15.9.1 The issuance of OSRD Site Plan Approval allows the applicant to submit an OSRD Definitive Subdivision Plan to the Board for consideration under the Subdivision Control Law.

5.15.9.2 The OSRD definitive subdivision plan shall substantially comply with the OSRD Site Plan. Substantial compliance is deemed to exist providing that there is no:

- (a) Increase in the number of building lots or units;
- (b) Significant decrease in open space area;
- (c) Significant change in site layout;
- (d) Significant change in the general development pattern which adversely affects natural landscape features and open space preservation; and
- (e) Significant change to stormwater and wastewater management.

5.15.9.3 If the Board determines that the OSRD Definitive Subdivision Plan does not substantially comply with the OSRD Site Plan, the Board may disapprove the definitive subdivision plan.

5.15.9.4 The Board may conditionally approve an OSRD Definitive Subdivision Plan that does not substantially comply with the Site Plan. The Board shall issue a written decision identifying where the plan does not substantially comply with the Site Plan and shall require that the Site Plan be amended to be in compliance. The Board shall also require that the applicant file an application to amend the Site Plan within a specified time period. The public hearing on the application to amend the Site Plan shall be limited to the significant changes identified by the Board in their conditional approval of the OSRD Definitive Subdivision Plan. These are

the only considerations that the Board may take into account in deciding whether to amend the Site Plan.

5.15.9.5 Submittals and permits provided for in this section shall be in addition to any other requirements of the Subdivision Control Law, Rules and Regulations Governing the Subdivision of Land, or any provisions of the City of Gloucester Zoning Ordinance.

5.15.10 Rules and Regulations

See "Rules and Regulations Pertaining to the City of Gloucester Open Space Residential Development (OSRD)", Section 6.1, of the Rules and Regulations Governing the Subdivision of Land, Gloucester.

(Adopted August 20, 2002)

5.16 VILLAGE DEVELOPMENT OVERLAY DISTRICT

5.16.1 Statement of Legislative Intent

Consistent with the Community Development Plan For the City of Gloucester, 2001 (August 2001) and the West Gloucester Land Use and Wastewater Plan (Ward 5-2 Section) -- Final Report (July 2001), also known as the Daylor Report, the "Village Development Overlay District Zoning Ordinance" (VDOD) is intended to provide incentives to direct development into locations where there is adequate existing or planned infrastructure, such as sewers, water facilities and roads. The VDOD special permit mechanism is intended to provide an incentive mechanism whereby areas of high environmental sensitivity are permanently preserved as open space in exchange for a density bonus -- meaning that a "Village Development Project" (VDP) proponent may increase density of housing by a set proportion in exchange for the permanent protection of open space, and by providing a mix of housing, including permanently affordable units. The overlay mechanism also provides incentive by allowing Planning Board (special permit granting authority) to approve a more flexible layout than other available options such as a conventional subdivision or a council multifamily special permit. Provisions of this overlay district zoning ordinance are discretionary -- the existing underlying zoning remains in effect, and a developer may continue to build under that criteria. Standards applicable to this section apply only to areas within the municipality specifically defined in applicable zoning maps. This ordinance promotes the protection and environmental quality of key natural resources, and promotes managed development of sewer facilities and other infrastructure in targeted areas. This ordinance shall not be construed to authorize or mandate construction of aforementioned public facilities. This ordinance is adopted in conjunction with City Ordinance Ch. 23 Utilities, Art. II Sewers, Division 2: Use regulations, Sec. 23-42 Sewer Extensions in Ward Five (5) Precinct Two (2) adopted December 17, 2002.

5.16.2 Purpose

The purposes of the Village Development Overlay District are to:

- (a) Encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use;
- (b) Protect the natural environment;
- (c) Promote appropriate compact development in areas served by public water and sewer lines;
- (d) Promote creative developments that provide a range of housing styles and prices that suit the needs of Gloucester's residents.

5.16.3 Definitions

- 5.16.3.1. As defined by the Planning Board, "Affordable to persons or families qualifying as low income" shall mean affordable to persons or families earning less than fifty percent (50%) of the median income for Gloucester using the U.S. Department of Housing and Urban Development (HUD) Income Guidelines that are issued on an annual basis for the Boston Primary Metropolitan Statistical Area (PMSA).
- 5.16.3.2. As defined by the Planning Board, "Affordable to persons or families qualifying as moderate income" shall mean affordable to persons or families earning more than fifty percent (50%) but less than eighty percent (80%) of the median income for Gloucester using the U.S. Department of Housing and Urban Development (HUD) Income Guidelines that are issued on an annual basis for the Boston Primary Metropolitan Statistical Area (PMSA).
- 5.16.3.3. "Basic maximum number of allowed units" shall mean the number of dwelling units which could reasonably be expected to be developed upon the site under a conventional plan in full conformance with all zoning, subdivision regulations, health regulations, wetlands regulations and other applicable requirements.
- 5.16.3.4. "Basic maximum number of allowed bedrooms" shall mean the basic number of allowed units multiplied by three (3).
- 5.16.3.5. "Designated Open Space" shall mean those areas of land designated as desirable for open space purposes as set forth in Section 5.16.16, including Type I and Type II.
- 5.16.3.6. "Targeted Village Development Areas" shall mean the area labeled 'areas recommended for incentive zoning' on VILLAGE DEVELOPMENT OVERLAY ZONING DISTRICT MAP: Applicable to Portions of Ward Five Precinct Two Pursuant to Zoning Ordinance 5.16, on file with City Clerk and the Community Development Department. That map is derived from the Land Use Recommendations map, labeled Figure 10, as presented in West Gloucester Land Use and Wastewater Plan: Ward 5-2 Section -- Final Report . Targeted village development areas are designated for creative and compatible higher density development.
- 5.16.3.7. "Areas Targeted for Lower Density Development" shall mean all areas located outside of the Targeted Village Development Areas on the VILLAGE DEVELOPMENT OVERLAY ZONING DISTRICT MAP: Applicable to Portions of Ward Five Precinct Two Pursuant to Zoning Ordinance 5.16, on file with City Clerk and the Community Development Department.

Areas Targeted for Lower Density Development are designated for conservation and lower density development.

5.16.3.8 “Village Development Project (VDP)” shall mean a development authorized by special permit in Targeted Village Development Areas pursuant to regulations and guidelines herein.

5.16.4 Overlay District

The Village Development Overlay District is hereby established and shall be construed as an overlay district. Within the Village Development Overlay District all ordinances and regulations of the underlying district(s) shall continue to be in full force and effect, except where the Village Development Overlay District ordinances and regulations supersede such underlying requirements or provide an alternative to such requirements. The Village Development Overlay District shall consist of Targeted Village Development Areas and Areas Targeted for Lower Density Development, as defined above and as shown on the map entitled VILLAGE DEVELOPMENT OVERLAY ZONING DISTRICT MAP: Applicable to Portions of Ward Five Precinct Two Pursuant to Zoning Ordinance 5.16, hereby incorporated by reference into the zoning ordinance -- the map is made part of the official zoning map and a copy of such map is on file at the Office of City Clerk and the Community Development Department.

5.16.5 Development Allowed by Special Permit

Within the Village Development Overlay District, a VDP may be constructed exclusively in Targeted Village Development Areas upon the issuance of a special permit by the Planning Board, subject to the requirements set forth herein. Only those uses and structures specifically authorized herein shall be permitted in conjunction with a VDP.

5.16.6 Pre-application Process

Applicants for Village Development Projects are strongly encouraged to request pre-application review at a regular business meeting of the Planning Board. The purpose of pre-application review is to minimize the applicant's costs of engineering and other technical experts, and to commence negotiations with the Planning Board at the earliest possible stage of design. At the pre-application session, the applicant may outline the proposed VDP, seek preliminary feedback from Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. At the request of the applicant, and at the expense of the applicant, Planning Board may engage technical experts to review the informal plans of the applicant and to facilitate submittal of a formal application for a special permit. Pre-application process is non-binding on all parties and it is not to be construed as site plan review.

5.16.7 Procedures

Following the pre-application review, applicants for a VDP shall file with the Planning Board an application in accordance with the rules and regulations of the Board. Planning Board shall follow the procedural requirements for special permits as per Massachusetts General Law Chapter 40A and Section 1.4.2 of the Gloucester Zoning Ordinance. Planning Board by written procedural rules may augment these procedures, such as to further define the form and content of an application.

5.16.8 Modification of Lot Requirements and Other Standards

Modification of Lot Requirements and Other Standards. Lots within a VDP are not subject to any of the Intensity of Use Schedule requirements set forth in the Zoning Ordinance or any Off-street

Parking requirements set forth in the Off-Street Parking subsection of the General Regulations of the Zoning Ordinance except for the following:

(a) No building shall exceed thirty (30) feet in height unless a separate additional special permit is granted by the City Council.

5.16.9 Basic Maximum Number of Allowed Dwelling Units

In a VDP the proponent shall have the burden of proof to show the Basic Number of Allowed Dwelling Units that a site could yield with regard to the design and engineering specifications for a conventional plan, such as a subdivision. The Planning Board shall consult the Board of Health and Conservation Commission (and their staff) regarding the methods used and their interpretation of the findings of such analysis.

5.16.10 Density Bonus Calculation

Planning Board may award a density bonus in a VDP to increase the number of dwelling units or bedrooms beyond the Basic Maximum Number of Allowed Dwelling Units or Bedrooms. The density bonus for the VDP shall not, in aggregate, exceed an additional one hundred percent (100%) of the Basic Maximum Number of Allowed Dwelling Units or Bedrooms. Density bonus computations shall be rounded down to the next lowest whole number. The applicant may choose to calculate the density bonus by using one of the following methods:

(a) Dwelling Unit Method: The Basic Maximum Number of Allowed Dwelling Units within a VDP may be increased as a result of the density bonus. At least fifty percent (50%) of all dwelling units awarded as a density bonus shall be two bedroom units and/or permanently restricted to occupancy by persons over the age of fifty-five.

(b) Bedroom Method: The Basic Maximum Number of Bedrooms within a VDP may be increased as a result of the density bonus. A density bonus for bedrooms for the VDP shall be calculated by determining the density bonus for dwelling units and then multiplying said density bonus by three

(3). The bedrooms may be provided in dwelling units of various sizes, including one (1) bedroom, two (2) bedroom, and three (3) bedroom units.

5.16.11 Reasons for Density Bonus

A density bonus may be awarded under the following circumstances; an applicant shall have the burden of proof to show that proposed designated open space could yield the basic maximum number of dwelling units that the applicant claims:

(a) For Designated Open Space Type I permanently restricted as specified in Section 5.16.16, the density bonus for dwelling units shall be the number of dwelling units that could be constructed on the Designated Open Space times one and one-half (1.5). This means that the density bonus is the base number of units that could be constructed on 'proposed open space' plus an additional fifty percent of units -- the resulting total number of bonus units is sent from the proposed open space into the proposed VDP as an additional bonus increment (see also 5.16.10). The density bonus for bedrooms shall be the number of dwelling units that could have been constructed on the Designated Open Space times four and one-half (4.5).

(b) For Designated Open Space Type II permanently restricted as specified in Section 5.16.16, the density bonus for dwelling units shall be the number of dwelling units that could be constructed on

the Designated Open Space. The density bonus for bedrooms shall be the number of dwelling units that could have been constructed on the Designated Open Space times three (3).

(c) In lieu of permanently restricted open space of either type, the Planning Board may award an appropriate density bonus where the applicant agrees to deposit in the City's Ward 5-2 Open Space Trust Fund an equivalent amount of funds to be used for the purchase of open space (Note: At the point of adoption of this ordinance this fund was not yet established, and it will take a separate City Council action to do so). The Planning Board may engage technical experts to assist in determining the appropriate in lieu payment.

5.16.12 Affordable Component

As a condition of the grant of any special permit for a VDP, a minimum of twenty percent (20%) of the total number of dwelling units shall be restricted for 45 years in the following manner:

(a) Ten percent (10%) of the units shall be affordable to persons or families qualifying as low income; and

(b) Ten percent (10%) of the units shall be affordable to persons or families qualifying as moderate income.

The method employed for defining affordability to persons of low and moderate income shall be defined by the Planning Board, which may enlist the assistance of the City Community Development Department. The forty-five (45) year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the City for a period not less than one hundred twenty (120) days after notice thereof by registered mail. The City may transfer that right of first refusal to another entity.

5.16.13 Payment in Lieu

Alternatively, in lieu of actually building the affordable unit(s), the applicant may contribute an appropriate amount per required affordable units to the City's Affordable Housing Trust Fund (Note: At the point of adoption of this ordinance this fund was not yet established, and it will take a separate City Council action to do so). In the case of fractional units, the contribution shall be prorated for the fractional portion of any unit. The Planning Board may engage technical experts to assist in determining the appropriate in lieu payment.

5.16.14 Types of Buildings

The VDP may consist of any combination of single family, two family and multifamily residential structures. A multifamily structure shall not contain more than four (4) dwelling units, unless an additional special permit is granted by the City Council. The architecture of all multifamily buildings shall be residential in character, with an articulated footprint, and varied facades. Residential structures should be oriented toward the street serving the premises and not toward the off street parking area, if any.

5.16.15 Standards

The development of a VDP shall conform to the following standards:

(a) Roads. The principal roadway(s) serving the site shall be designed to conform with the standards of the Planning Board, with the Subdivision Rules and Regulations serving as a guide, where the roadway is or may be ultimately intended for dedication and acceptance by the City.

Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the Applicant.

1. To the extent possible, roadways shall form an interconnected pattern of rectilinear or curvilinear streets. If one or more properties adjacent to a site being consider for development are undeveloped, a plan should provide at least one right of way, as may be required by Planning Board under its subdivision review regulations, suitable to provide future access connections to the adjacent areas. Cul de sacs are discouraged.

2. Parking may be provided on a street with the consent of the Planning Board, however, the minimum pavement width on streets where on-street parking is allowed shall not be less than twenty four (24) feet.

(b) Parking. Parking may be provided on-street or off street.

1. Parking provided shall be at a standard of at least one and a half (1.5) parking spaces provided per dwelling unit (see also 'roads' above). It may be preferred to have two (2) spaces per unit for those units with two or more bedrooms.

2. Parking areas with greater than eight spaces should be screened from public view, preferably by landscaping treatment that utilizes vegetation for screening.

(c) Drainage. Stormwater management shall be consistent with the requirements for subdivisions set forth in the Planning Board's Subdivision Rules and Regulations.

(d) Perimeter Buffer. A perimeter buffer of not less than twenty-five (25) feet shall be provided, except where access roads enter or exit the premises. The Planning Board may waive this requirement where suitable screening is provided by fencing, plantings, or other methods. No structures or parking areas shall be located in the perimeter buffer.

5.16.16 Designated Open Space

Designated Open Space includes land within Areas Targeted for Lower Density Development that as been identified by the Conservation Commission or Planning Board as suitable for conservation, recreation, and open space purposes.

(a) Type I Designated Open Space. Type I Designated Open Space shall include any land within Areas Targeted for Lower Density Development that has one or more of the following characteristics:

1. The land is adjacent to existing protected open space or provides access to protected open space.
2. The land contains or is adjacent to a stream or creek that drains to Essex Bay, Little River, Jones River, Annisquam River, Ipswich Bay, or any beach.
3. The land provides access to a beach, dune, or tidal flat.
4. The land contributes to the area's scenic character by virtue of abutting a street.
5. The land has been recommended for acquisition by either the Conservation Commission or Planning Board.

(b) Type II Designated Open Space. Type II Designated Open Space shall include any other land within the Area Targeted for Lower Density Development that is deemed appropriate by the Planning Board for the purposes set forth below, including lands containing marsh and wetland.

(c) Purposes. Designated Open Space shall be restricted for conservation, historic preservation, outdoor education, recreation, public parks, agriculture, horticulture, forestry, or for a combination of these uses, as determined by the Planning Board, and shall be served by suitable access for such purposes.

(d) Improvements. The Designated Open Space shall remain unbuilt upon, provided that Planning Board may permit up to ten percent (10%) of such open space to be altered for structures accessory to the dedicated use or uses of such open space or for pedestrian walks, bike paths, and the like.

(e) Ownership. Any Designated Open Space provided through this Section 5.16 shall, at the Planning Board's discretion, be conveyed to or restricted in favor of the following:

1. City of Gloucester acting through its City Council; or
2. A nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above.

5.16.17 Decision

The Planning Board may approve, approve with conditions, or deny an application for a VDP after determining whether the VDP better promotes the purposes of Section 5.16.2 than would a conventional development on the same site.

5.16.18 Relation to Other Requirements

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning Ordinance not superseded by the provisions of Section 5.17 or any other applicable state and local laws and regulations.

5.16.19 Reports on the Use and Impacts of the Village Development Overlay District

No more than five years from the date of adoption of this ordinance, the Community Development Department shall formulate a comprehensive written review of permit activity that has occurred under this ordinance and the resulting impacts within the community. Such report shall be transmitted to the Mayor who shall provide a copy to Planning Board and City Council.

(Adopted January 29, 2003)

5.17 DRIVE-THROUGH FACILITIES

5.17.1 Purpose

The purpose of this section is to protect the health, safety, welfare and convenience of residents, minimize traffic congestion, and maintain the architectural integrity of the surrounding area by requiring performance standards for the construction and operation of drive-through facilities.

5.17.2 Administration

(a) Drive-through facilities are allowed by special permit in only the following districts: Central Business (CB), Neighborhood Business (NB), Extensive Business (EB), Village Business (VB), Marine Industrial (MI), General Industrial (GI), and Business Park (BP).

(b) Dimensional Requirements:

	CB	NB	EB	VB	MI	GI	BP*
Min. Lot Area (sf)	15,000	20,000	15,000	20,000	15,000	15,000	40,000
Min. Frontage (ft)	100	100	100	100	100	100	100
Min. Front Yard (ft)	30	30	30	30	30	30	40
Min. Side Yard (ft)	20	20	20	20	20	20	25
Min. Rear Yard (ft)	30	30	30	30	30	30	40

*At least 15,000 sf must be designated for drive-through facility.

5.17.3 Special Permit Application Procedures

- (a) The Special Permit Granting Authority: The Special Permit Granting Authority (SPGA) for drive-through facilities shall be the City Council. The City Council shall follow the procedural requirements for special permits as set forth in General Laws Chapter 40A, Section 9, and Section 1.4.2.2 of the City of Gloucester Zoning Ordinance.
- (b) Application Submittal: The applicant shall submit to the City Clerk twelve (12) copies of an application for a special permit which shall include a site plan in accordance with the requirements as set forth in Section 5.17.5(b).
- (c) Drive-Through Application Review: Review of a drive-through facility application shall be referred to the Planning Board for their review within 45 days of receipt of the application from the City Council. The Planning Director will submit the application to key municipal departments, including Planning, Building, DPW/Engineering, Public Health Department, Police, Fire, and Traffic Commission for their review and comment.
- (d) Independent Review: At the City Council's discretion, an independent review may be requested at the applicant's expense.

5.17.4 Definitions

Access Connection: A means of approach to provide vehicular or pedestrian entrance or exit to a property from the public/private roadway, such as, but not limited to a driveway, curb cut, turnout.

Driveway/ Curb Cut Spacing: The distance between access points of the driveway, measured from the closest edge of pavement of the driveway or curb cut to the next closest edge of the pavement along the public/private roadway.

Stacking Lane: An area of driving lane and waiting spaces provided for vehicles waiting for drive-through service, that is physically separated from other traffic and pedestrian circulation on the site.

Stacking Space: An area within a stacking lane for vehicles waiting to order and/or finish a drive-through transaction.

5.17.5 Performance Standards

Drive-through service facilities shall comply with the performance standards set forth in this section. Except for dimensional requirements, the City Council may impose additional conditions or alter performance standards if it finds that a substantially better design will result from such additional or alternate standards. In so doing, the City Council shall consider how such additions or alterations will impact public safety, character of the neighborhood, and the environment.

(a) **Traffic Impact Study (TIS)**

The City Council shall require that a Traffic Impact Study (TIS) be prepared by a registered professional engineer who is a member of the Institute of Transportation Engineers (ITE). The purpose of a TIS is to document existing traffic conditions in the vicinity of the proposed drive-through facility, to describe the volume and effect of projected traffic generated by the proposed project, and to identify measures to mitigate any adverse impacts on traffic, as stated in the following:

(1) Existing Traffic Conditions: Average daily and peak hour volumes, average and peak speeds, sight distances, appropriate and pertinent accident data, levels of service of intersections and streets likely to be affected by proposed project. Generally, such data shall be presented for all streets and intersections adjacent to or within 500 feet of the project's boundaries. The data will be no more than twenty-four (24) months old, upon submittal unless other data is specifically approved by the City Council.

(2) Projected Impact of Proposed Project: Projected peak hour and daily traffic generated by the drive-through on roads and ways in the vicinity; sight lines at the intersections of the proposed driveways and streets; existing and proposed traffic controls in the vicinity; projected post development traffic volumes and levels of service of intersections and streets likely to be affected by proposed project.

(b) Site Plan

The site plan, prepared by a registered Professional Civil Engineer and Registered Land Surveyor, shall accompany the special permit application and shall include the following items and information:

(1) Site plan shall be at a scale of one inch equals forty feet (1" = 40'), or such scale as may be approved by the City Council.

(2) Name and address of project; name and address of owner; name and address of Engineer and Surveyor; assessors map and lot numbers; zoning district; locus (1" = 1,000'); North arrow; boundaries; topography; date; scale of plan.

(3) The proposed site plan, incorporating recommendations of the Traffic Impact Study shall minimize points of traffic conflict, both pedestrian and vehicular. The following guidelines shall be used to evaluate compliance with this standard:

- a. Entrance and exit driveways shall be located and designed to create maximum practicable distance from existing and proposed access connections from adjacent properties.
- b. Where possible, driveways shall be located opposite similar driveways.
- c. Left-hand turning movement shall be minimized.
- d. No parking shall be allowed on street within 8' of curb cuts.
- e. No vehicular waiting shall be allowed on the street. Vehicle stacking spaces to accommodate waiting traffic shall be provided in the drive-through lane.
- f. Pedestrian and bicycle circulation shall be separated from motor vehicle circulation as far as practicable by an ADA compliant walkway from sidewalk to facility.
- g. Off-street loading shall comply with Zoning Ordinance Section 4.2.

(4) The location and use of all existing and proposed buildings and structures, including their dimensions, height, and exterior entrances and exits. Location of all service equipment. Location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, walls, buffers for screening purposes, paths, landscaping, planting areas, signs, refuse and other waste disposal containers. Detailed location of accessing entrance and exit, and sight distance for any access connection applicable to site.

(5) Location of all existing and proposed public and private utilities.

(6) Lighting shall be shown on the site plan.

(c) Site Access

(1) Width of the access connections at the property line shall not exceed twenty-five (25) feet, unless the TIS identifies and the City Council agrees to the need for turning lanes from the development onto the adjacent public road.

(2) All streets and intersections impacted by the project as identified in TIS shall have a comparable level of service to pre-development conditions.

(d) Stacking Lanes

(1) Entrances to stacking lane(s) shall be clearly marked and a minimum of forty (40) feet from the intersection with the public street. The distance shall be measured from the property line along the street to the beginning of the entrance.

(2) Each stacking space shall be a minimum of twenty (20) feet in length and ten (10) feet in width along all portions of the lane(s).

(3) Fast food restaurants shall have a minimum of 5 spaces for queuing cars accessing the ordering window or speaker. If pickup/payment windows are provided separately, the queuing distance between windows and/or speaker(s) shall be a minimum of 2 stacking spaces.

Banks, service and retail establishments shall have a minimum of 3 stacking spaces for queuing cars accessing a drive-through window or speaker.

(4) Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking areas with striping, curbing, landscaping and the use of alternative paving materials or raised medians.

(5) Stacking lanes shall be designed to prevent congestion, both on site and on adjacent streets.

(6) Stacking lane layout:

- a. shall be integrated with the on-site circulation pattern;
- b. shall minimize conflicts between pedestrian and vehicular traffic by providing physical and visual separation between the two;
- c. shall provide an emergency by-pass or exit, if said stacking lane is curbed;
- d. shall not impede or impair access into or out of parking spaces;
- e. shall not impede or impair vehicular or pedestrian traffic movement;
- f. shall not interfere with required loading and trash storage areas;
- g. shall not enter or exit directly into a public right-of-way.
- h. shall not be located in the setbacks in NB and VB districts exclusively.

(e) Layout of Outdoor Service Equipment

(1) Menu Signs / Speaker Boards:

- a. Signs shall be a maximum of thirty (30) square feet, with a maximum height of six (6) feet, and shall not require a separate permit under the sign ordinance, but shall follow requirements of Zoning Ordinance Section 4.3.
- b. Menu Signs and speaker boards shall be physically shielded from any public street and residential properties by landscaping or other means.

c. Outdoor speakers shall comply with the noise ordinance of Chapter 13 of the City of Gloucester Code of Ordinances, and should be directed away from abutting properties.

(2) Dumpsters:

a. Based on the Board of Health "Dumpster Regulations", no dumpster shall be placed within fifteen (15) feet of a building unless approved by the Fire Chief, and shall not block a public way or sidewalk.

b. No dumpster shall be placed within ten (10) feet of a property line.

(f) Lighting

(1) Flood and area lighting is unacceptable.

(2) All luminaries/lighting fixtures shall have a total cutoff of all light at less than ninety (90) degrees from vertical. The lighting from the fixture shall only be visible from below.

(3) Shielding shall provide cutoff of all light at the property lines of the subject site.

(4) The luminaries/lighting fixtures in the parking lot, sidewalks, paths and adjacent to the vehicular circulation system shall not exceed twelve (12) feet in height.

(5) Where wall-pack type luminaries/lighting fixtures are utilized for outdoor lighting, these shall be equipped with lenses to reduce glare. Wall-pack lighting shall direct lighting towards the ground.

(6) All luminaries/lighting fixtures shall be restricted to a maximum horizontal foot-candle level of 8.0 (initial), as measured directly below the fixture at grade.

(g) Landscaping

(1) A landscape plan, prepared by a Landscape Architect, shall show all existing natural land features and all proposed changes to these features.

(2) The landscape shall be preserved in its natural state as much as possible by minimizing tree and soil removal and by avoiding abrupt grade changes. There should be an attempt to blend into existing topography.

(3) There shall be a five (5) foot minimum landscaped buffer zone between the exterior lot lines of the proposed development and abutters in NB and VB Districts. Open space should be landscaped with a variety of plant material and maintained accordingly.

(h) Operation and Security

(1) The applicant shall submit information on the hours of operation, security on the site, employee parking, and plans for cleanup and maintenance.

(Adopted July 13, 2004)

SECTION VI DEFINITIONS

In this Ordinance the following terms, unless a contrary meaning is required by the content or is specifically prescribed, shall have the following meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is intended to be mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used or occupied." The word "person" includes a corporation as well as an individual.

Accessory Building or Use: A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than 30% of the floor area or 50% of the lot area is occupied by such use, it shall no longer be considered accessory.

Animal Feedlot: A plot of land on which 25 livestock or more per acre are kept for the purposes of feeding.

Animal Kennel or Hospital: A structure used for the harboring and/or care of more than three dogs that are more than six months old, whether commercially operated or not.

Arterial Street: All state-numbered highways (Routes 127, 127A, 128, 133), Atlantic Road north of Moorland Road, Bass Avenue west of Thatcher Road, East Main Street, Eastern Point Road, Rogers Street, and Sayward Street, plus any streets subsequently laid out with right-of-way width of eighty (80) feet or more.

Aquifer: A confined geologic formation composed of rock or unconsolidated material, from which significant quantities of potable water may be obtained.

Assisted Living: See Section 5.14

Automatic Amusement Devices, Arcade: A business establishment with five or more coin-operated automatic amusement devices, licensed by the Licensing Board.

Bedroom: Any inhabitable room in a dwelling, other than a living room, dining room, kitchen, utility room, or bath if such room exceeds seventy (70) square feet.

Billboard: A structure or part of a structure, of any size, either free-standing or affixed to a building, the surface of which is for hire for advertising purposes.

Boarding, Lodging, or Rooming House: A building which contains rooms offered for lodging and in which meals also may be served to lodgers only, provided that the house is licensed by the Licensing Board and appropriate agencies, and the total number of lodgers in any boarding house may not exceed twenty (20) persons.

Building: A structure enclosed within exterior walls or firewalls, built, erected and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property.

Building Height: The vertical distance measured from the average grade prior to building construction to the highest point of the roof assembly (including parapets) in the case of a flat roof, or to the highest point of the peak or ridge in the case of a sloping roof. The average grade prior to building construction is established by determining the elevation of the building at all of its corners and deriving the average thereof. Included in the determination of height are widow walks and any towers or cupolas that are more than 4 feet long, 4 feet wide and 4 feet tall. Not included in the limitation are accessory features such as chimneys, skylights, television antennae and building mechanicals in commercial construction. (Amended 10/12/99)

Bulk Storage (Outdoor): Exposed outdoor storage of sand, lumber, coal, or other bulk materials, bulk storage of liquids in tanks, excluding underground tanks that are accessory to a principal use.

Camper: A portable dwelling, eligible to be registered and insured for highway use, designed to be used for travel, recreational and vacation uses, but not for permanent residence. Includes equipment commonly called travel trailers, pick-up coaches or campers, motorized campers, and tent trailers, but not mobile homes.

Camp Ground: Premises used for travel trailers, campers, tenting, or for temporary overnight facilities of any kind where a fee is charged.

Camping, Supervised: Facilities operated on a seasonal basis for a continuing supervised recreational, health, educational, religious, and/or athletic program, with persons enrolled for periods of not less than one week.

Casino Ship: "Casino Ship" includes all boats landing or mooring in Gloucester where its customers do not lodge on board overnight, where it has only one port of docking and destination and where gaming is its main activity. (Adopted 7/6/99)

Club or Lodge: Premises or buildings of a non-profit organization exclusively servicing members and their guests for recreational, athletic, or civic purposes, but not including any vending stands, merchandising, or commercial activities except as required generally for the membership and purposes of such club. Does not include golf clubs as elsewhere defined, or clubs or organizations whose chief activity is a service customarily carried out as a business.

Collector Street: Any street, other than an arterial street, which serves non-residential property fronting thereon, or subsequently laid out having a right-of-way of at least sixty (60) feet wide, plus the following named streets: Atlantic Road, south of Moorland; Atlantic Street south of Massachusetts Avenue; Concord Street south of Bray Street; Farrington Avenue; Haskell Street; Hesperus Avenue east of Norman Avenue; Magnolia Avenue; Maplewood Avenue; Moorland Road; Mt. Pleasant Avenue; Norman Avenue; Pleasant Street; Poplar Street; Prospect Street; Railroad Avenue; Reynard Street; and Wheeler Street south of Shore Hills Rd.

Condominiums: Land and building or buildings thereon, containing office or dwelling units and common areas and facilities which are regulated and managed by an organization of unit owners, under a master deed according to the provisions of Ch. 183A., M.G.L.

Consumer Service Use: An establishment in which the principal activity is the performance of a service. Consumer service establishments include, but are not necessarily limited to, the following: appliance repair, barber shop, beauty salon, catering, locksmith, photographer's studio, printing establishment, radio/TV repair, shoe repair, sign painting, tailor, watch and jewelry repair.

Contractor's Yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of sub-assemblies, and parking of wheeled equipment.

Cruise Ship: "Cruise ship" includes all boats landing or mooring in Gloucester Harbor whose main purpose is to travel to more than one port, where all its passengers lodge on board overnight and where gaming is incidental to the main purpose of visiting more than one port on each voyage. (Adopted 7/6/99)

Discharge: The disposal, deposit, injection, dumping, spilling, leaking, incineration, or placing of any hazardous material into or on any land or water so that such hazardous material or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including groundwaters.

Drive-Through Facility: A commercial facility which provides a service directly to a motor vehicle or where the customer drives a motor vehicle onto the premise and to a window or mechanical device through or by which the customer is serviced without exiting the vehicle, although this shall not include the selling of fuel at a gasoline filling station or the accessory functions of a car wash facility such as a vacuum cleaning stations. See Section 5.17, Drive-Through Facilities, for permitting requirements.

Dwelling: A building or part of a building used exclusively as the living quarters for one or more families.

Dwelling Unit: Living quarters for a single family with cooking, living, sanitary, and sleeping facilities for each unit.

Dwelling, Multi-Family or Apartment: A structure containing three (3) or more dwelling units, whether for rental, condominium ownership, or other form of tenancy, including row or townhouse structures; or a structure containing one or more permitted non-residential uses on the ground floor, or on the ground and other floors, and also containing one or more dwelling units above the ground floor.

Dwelling, Single-Family Detached: A building containing a single dwelling unit, and having no common or party walls.

Dwelling, Two-Family: A building containing two (2) dwelling units that are in immediate proximity to each other and share either a common vertical exterior wall or a floor/ceiling separation. The length of any connecting corridor, hallway or passageway may not exceed three (3) times the width of corridor, hallway or passageway. (Amended 12/11/01)

Family: One or more persons, including domestic employees, occupying a dwelling unit and living as a single, non-profit housekeeping unit; provided that a group of six (6) or more persons who are not within the second degree kinship to each other, as defined by civil law, shall not be deemed to constitute a family.

Fast Food Restaurant: Any restaurant serving the majority of its food in disposable containers, packages, or other similar wrapping, for consumption on or off the premises.

Fish: Means fin fish, mollusks, crustaceans, and all other forms of marine animals and plant life, except marine mammals and birds.

Fishing Vessel: Means a vessel that commercially engages in the catching, taking or harvesting of fish or an activity that can be reasonably expected to result in the catching, taking or harvesting of fish (as defined in the Commercial Fishing Industry Vessel Act, P.L. 98-364, 46 U.S.C. Sec. 2101-2114 as amended).

Floor Area: The sum of the gross horizontal area of the several floors of a building and its accessory buildings on the same lot, including the area of basements not more than fifty (50) percent below grade, roofed porches and roofed terraces, excluding areas with less than six (6) feet floor to ceiling height. All dimensions shall be measured between exterior faces of walls.

Gross Floor Area: The sum of the areas of the several floors of a building, including areas used for human occupancy in basements, attics, and penthouses, as measured from the exterior faces of the walls. It does not include cellars, unenclosed porches, or attics not used for human occupancy, or any floor space in accessory buildings or in the main building intended and designed for the parking of motor vehicles in order to meet the parking requirements of this Ordinance. It shall include the horizontal area at each floor level devoted to stairwells and elevator shafts.

Groundwater: Water located beneath the earth's surface in the zone of saturation of unconsolidated or consolidated aquifers.

Guest Unit: A bedroom or suite of rooms, including a bedroom, in a hotel, motel, motor inn, lodging house, guest house, Bed and Breakfast Home or Establishment, to be rented as separate units to transient guests.

Hazardous waste: A product or waste or combination of substances which because of quantity, concentration, or physical, or chemical, or infectious characteristics poses, in the Board of Health's judgement, a substantial present or potential hazard to the human health, safety, or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. Any substance deemed a hazardous waste in G.L., Ch. 21C, shall also be deemed a hazardous material for the purpose of this ordinance.

Hotel, Motel, Motor Inn: A structure or structures providing sleeping rooms for residence of transient guests, and where public eating facilities are provided; but not including buildings of charitable, educational or philanthropic institutions.

Impervious Surface: Material on the ground that does not allow surface water to penetrate into the soil.

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

Junk Yard: Premises, whether licensed or not, where waste or scrap articles or materials are abandoned, stored, sorted, packed, bought or sold.

Leachable Waste: Waste materials, including solid wastes, sewage, sludge, and agriculture wastes, that are capable of releasing water-borne contaminants to the surrounding environment.

Lot: An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose.

Lot Area: The horizontal area of a lot exclusive of any area in a street or way open to public use. For multi-family residential dwellings, not more than ten (10) percent of the lot area required for zoning compliance shall be a brook, stream, river, pond, lake, estuary or bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, wet meadow or swamp, or any land subject to tidal action, coastal storm flowage, flooding or inundation, as defined by Section 12-11 of the City of Gloucester Code of Ordinances. For all other residential and non-residential buildings for the creation of new lots only (already existing lots would not be affected), at least seventy-five (75) percent of the lot area required for zoning compliance shall not be a brook, stream, river, pond, water-filled quarry, lake, estuary or bank, fresh water wetland, coastal wetland, beach, dune, flat, marsh, wet meadow or swamp, or any land subject to tidal action, coastal storm flowage, flooding or inundation, as defined by Section 12-11 of the City of Gloucester Code of Ordinances. AND FURTHER, that this section shall apply only to new applications after March 8, 1999. (Amended 3/9/99)

Lot Coverage: Percentage of total area covered by structures, or roofed.

Lot Frontage: That portion of a lot fronting upon and having access to a street or public way, to be measured continuously along one street line between its side lot lines and their intersection with the street line.

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

Marine-Related: An activity involving, pertaining to or requiring the loading, unloading, storage, processing or sale of fish or other water-borne goods or materials, or the embarking or disembarking of passengers, or the docking, construction, repair, servicing or maintenance of vessels.

Mining of Land: The removal or relocation of earth materials, including but not limited to, topsoil, sand and gravel, metallic ores, or bedrock.

Mobile Home: A movable or portable dwelling unit built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round

living. A manufactured home designed for installation on a permanent foundation and for permanent connection to utilities without any provision for attachment of wheels shall not be considered a mobile home, whether or not built on a chassis, provided such manufactured home has a brick, wood, or similar exterior, and a pitched roof; and meets U.S. Department of Housing and Urban Development construction and safety standards.

Mobile Home Park: Premises which have been planned and improved for the placement of mobile homes for nontransient use.

Mural: A decorative display applied directly to a wall surface without supplementary backing, framing or other means of support.

Nonconforming Building or Lot: A building or lot that does not conform to a dimensional regulation prescribed by this Ordinance for the district in which it is located or to regulations for signs, off-street parking, off-street loading, or accessory buildings but which building or lot was in existence at the time the regulation became effective and was lawful at the time it was established.

Nonconforming Use: A use of a building or lot that does not conform to a use regulation prescribed by this Ordinance for the district in which it is located, but which was in existence at the time the use regulation became effective and was lawful at the time it was established.

Nursery School or Day Care Center: Any facility operated on a regular basis, whether known as a day nursery, nursery school, kindergarten, child play school, progressive school, child development center, pre-school, or known under any other name which receives children, not of common parentage, under seven years of age, or under sixteen years of age if such children have special needs, for non-residential custody and care during part of all of the day separate from their school system; any part of a private organized educational system, unless the services of such a system are primarily limited to kindergarten, nursery or related pre-school services; a Sunday school conducted by a religious institution; a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children with or without compensation therefor.

Nursing, Convalescent or Rest Home, Hospital: An institution licensed by the Department of Public Health as a nursing, convalescent or rest home, charitable home for the aged, hospital or sanitarium pursuant to Sections 51 and 71 of Chapter III, General Laws.

Open Space: Lot area not covered by any structure other than a swimming pool, and not used for driveways, parking or storage. However, balconies and any roof area developed for recreation shall be deemed to be open space.

Parking Space: Space adequate to park an automobile, plus means of access. All parking spaces required by this Ordinance shall be built to the standards set forth in Section 4.1.4. Where spaces are not marked, each space shall be assumed to require 350 square feet.

Personal Wireless Service Facility: See Section 5.13

Philanthropic Institution: An endowed or charitably supported non-profit religious or non-sectarian activity maintained for a public or semi-public use.

Principal Building or Use: Building or use other than an accessory one.

Public Utility: Electrical, gas, steam, water, communication or public passenger transportation systems and their appurtenances. Excluded from this definition are all personal wireless service facilities.

Radio Transmission: Premises used for the commercial transmission of radio or television, not including studios.

Recharge Area: Area of permeable earth materials which is hydrologically connected to aquifers through which precipitation or surface water is transmitted to the subsurface zone of saturation.

Recreational Vessel: Means a vessel that is (a) being manufactured or operated primarily for pleasure; or (b) leased, rented or chartered to another for the latter's pleasure.

Retail Use: A business establishment where the principal activity is the sale of goods directly to the consumer. Retail business uses include, but are not necessarily limited to, the following: antique store, appliance store, book/newspaper store, clothing store, computer store, department store, drug store, dry goods store, furniture store, grocery store, jewelry store, liquor store, musical instruments, stereo/video store, variety store.

Shopping Center: A retail business, entertainment, or consumer service establishment or an aggregation of such establishments on the same premises, having a minimum of 10,000 square feet of gross floor area.

Sign: Any device, including those on or inside of windows, designed to inform or attract the attention of persons not on the premises on which the sign is located, except for those devices specifically not considered signs in Section 4.3.1.

Sign, Accessory: A sign whose subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services or activities on the premises.

Sign Area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities. Structural members not bearing advertising matter shall not be included unless internally or decoratively lighted. Only one side of flat, back-to-back signs shall be included in calculating sign area.

Sign, Free-Standing: A sign erected or affixed to the land, and not attached to a building.

Sign, Non-Accessory: Any billboard, or sign not an accessory sign.

Solid Waste: Useless, unwanted, or discarded solid material with insufficient liquid content to be free flowing. This includes but is not limited to rubbish, garbage, scrap materials, junk, refuse, inert fill material and landscape refuse.

State Highway: A highway owned by the Commonwealth of Massachusetts, or one designated as a State Numbered Highway by the Massachusetts Department of Public Works.

Street: Any public or private way which, by lawful procedure, has been recognized by the City and which has, as determined by the Planning Board, sufficient width, suitable grades and sight distances, adequate clearances, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land deriving frontage therefrom, and for the installation of municipal services to serve such land and the buildings erected or to be erected on such land.

Street Line: The right-of-way line of a street, assumed to be twenty (20) feet from the center of the traveled roadway where no such right-of-way line has been established or can be readily determined.

Structure: Anything constructed or erected, the use of which requires a fixed location on the ground, or attachment to something located on the ground. Structures include buildings, mobile homes, billboards, fences that exceed six (6) feet in height, swimming pools, tanks, or the like, or part thereof; boundary walls and fences not exceeding six feet in height are not considered to be structures.

Swimming Pool: Any constructed pool, located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading, or bathing purposes. Pools having depth of two feet or more and having a capacity of two hundred cubic feet or more in volume shall be considered structures.

Temporary Structure: Tent, construction shanty, or trailers, or similarly portable or demountable structures, intended for continuous use for not longer than one year.

Temporary Use: Use, occupation or occupancy of a parcel of land, building or structure for a period not to exceed one calendar year.

Trailer Truck Park: A transportation terminal principally used for the parking, storage, and servicing of trailer trucks or other trucks of more than two-ton capacity, may include eating and sleeping facilities for truck drivers.

Transportation Terminal: Premises principally used for the loading or unloading of cargo from or into vehicles or storage, which may include the parking, storage or servicing of such vehicles, including trucks, rail freight cars, and marine vessels; but not including such activities if customarily accessory to a principal use.

Utility Trailer: A towed vehicle for transportation of goods or animals, but not intended for human occupancy.

Water's Edge: The point where land, seawall or bulkhead meets the mean high tide line, or if a pier or dock extends beyond the mean high tide line, the edge of that pier or dock next to the water.

Watershed: Lands lying adjacent to water courses and surface water bodies which create the catchment or drainage areas of such water courses and bodies.

Yard: An open space unoccupied and unobstructed by any structure or portion of a structure from the ground upward, except for fences, walls, other customary yard accessories, or projections allowed to encroach on building lines by the Commonwealth of Massachusetts State Building Code. In measuring a yard for purposes of determining the required width of a side yard, the required depth of a front yard or the required depth of a rear yard, the minimum horizontal distance between the lot line and the principal building shall be used.

Yard, Front: A yard extending between lot side lines across the front of a lot adjacent to each street it adjoins, measured between the street line and the principal building or any projection thereof other than steps, unenclosed balconies and unenclosed porches, except as otherwise provided in this Ordinance.

Yard, Rear: A yard extending across the rear of the lot between inner side yard lines, measured between the rear lot line and the rear of the main building or any projection thereof other than steps, unenclosed balconies or unenclosed porches except as otherwise provided in this Ordinance. On both corner lots and interior lots the rear yard shall be at the opposite end of the lot from the front yard.

Yard, Side: A yard extending from the rear line of the required front yard to the rear lot line.

Yard Sale: The occasional temporary use of a yard or garage for the retail sale of household articles formerly used by the residents of those or neighboring premises.

APPENDIX A - RULE 25: RULES OF PROCEDURE

SPECIAL PERMIT PROCEDURES

PART I: STATUTORY REQUIREMENTS

The following summary of the provisions of Chapter 40A of the General Laws of Massachusetts that govern the City Council's actions on Special Permits is included for the convenience and information of applicants for Special Permits and other interested citizens. The Council cannot depart from the following prescribed procedures in its handling of such Special Permits as are assigned to it for decision by the Zoning Ordinance.

These rules are adopted by the City Council in compliance with Section 9, Chapter 40A, M.G.L.

GENERAL PROCEDURE:

Special Permits by the City Council shall only be issued following a public hearing(s) held within sixty-five (65) days after the filing of an application with the City Council. The date of filing shall be considered the date a complete application is received by the City Clerk's Office. A complete application will contain all the information required under Section 1.4.2.2 of this Ordinance, and "Major Projects" as defined herein shall be submitted in conformance with the additional requirements of Section 5.7.2. Personal Wireless Service Facilities, as defined herein shall be submitted in conformance with Section 1.4.4.2 of the Ordinance and the additional requirements of Section 5.13.5. All reference to Special Permits, without specifying type (i.e., "CC", "CCS", or "Major Projects") shall be considered a "CC" permit.

The required public hearing may be held before a Committee of the City Council, or before the entire City Council, as the Council so chooses. The entire City Council shall vote on the Special Permit application within ninety (90) days following the close of the public hearing, after receiving a report by the Committee, if any, that held the public hearing. The vote to grant a Special Permit will be by two-thirds vote of all members of the City Council. Failure by the City Council to take final action upon any application for a Special Permit within said ninety (90) days following the close of the public hearing shall be deemed to be a grant of the permit applied for. The Council shall follow the Council Rules on Special Permit Procedures set forth in Part II of this section.

NOTICE:

Notice of the public hearing shall be published in the local newspaper of general circulation in each of two successive weeks, the first publication at least fourteen (14) days before the day of the hearing, and by posting such notice in the City Hall for a period of not less than fourteen (14) days before the day of said hearing.

Notice shall also be mailed, postage prepaid, to:

- (a) the applicant, or petitioner;
- (b) the Planning Board;

- (c) the owners of land abutting the applicant's property, and abutters to the abutters within three hundred feet of the property line of the petitioner as they appear on the most recently applicable tax list;
- (d) the owners of land directly opposite on any public or private street or way;
- (e) the owners of all other property deemed by the City Council to be affected;
- (f) the Planning Boards of all abutting cities or towns.

The Assessor's Department shall certify to the City Council the names and addresses of parties in interest as defined above and such certification shall be conclusive for all purposes.

The notice shall contain the name of the applicant, the location of the area or premises for which the permit is applied, the street address, if any, the subject matter of the hearing, the nature of the action or relief being sought, and the date and place of the public hearing.

PUBLIC HEARING:

The presiding officer at the hearing may administer oaths, summon witnesses, and call for the production of papers.

All hearings shall be open to the public.

DECISION:

There must be a detailed record of the Council's proceedings, showing the vote of each member on each question (or if absent or failing to vote). This record must set forth clearly the reasons for the Council's decisions. City Council decision shall be based upon the written determination of the impact on the items of consideration listed in Section 1.4.2.2(e) of this Ordinance. Copies of the record are to be filed with the City Clerk and the Planning Board. Notice of the decision shall be mailed to all parties in interest, and also to each person at the public hearing who so requests.

The Council shall issue to the landowner a certified notice of the granting of any Special Permit, containing the name and address of the landowner, identifying the land affected, and stating that a Special Permit has been granted as set forth in the decision on file with the City Clerk. The permit does not take effect until this decision has been recorded in the Registry of Deeds, with the recording fee paid by the owner.

If an application has been denied by the City Council it may not be again considered on its merits within two (2) years of the decision except with the consent of all but one of the members of the Planning Board.

APPEALS:

Any person aggrieved by a decision of the City Council on a Special Permit, whether or not previously a party to the proceeding, or any Municipal Officer or Board may appeal to the Superior Court Department of Essex County, by bringing action within twenty (20) days after the decision has been filed in the Office of the City Clerk. Appeal procedures shall conform to Section 17 of Chapter 40A, M.G.L.

PART II: COUNCIL RULES ON SPECIAL PERMIT PROCEDURES

As required by Chapter 40A of the General Laws, the Gloucester City Council adopts the following rules for its procedure in acting on Special Permits assigned to the City Council for decision by the Zoning Ordinance:

1. Preliminary Informal Review

To promote better communication and avoid misunderstanding, applicants for Special Permits are encouraged to submit preliminary materials for informal review by the City Council or its standing committee, the Planning Board, the Building Inspector, the City Planner, and any other City officials or agency that the applicant considers likely to be considered in the decision. On all major projects, in addition to preliminary informal review, an applicant is encouraged at the 25% design stage, to submit materials for an informal interim review; said materials should show the location, height, density, and architectural treatment of buildings, traffic, environmental and utility considerations and the fiscal impact to the City. It is important, however, for applicants to realize that these preliminary informal reviews are not to be thought of as preliminary approvals, and interim informal reviews are in no way binding on the City Council in its action on the final application.

2. Applications for Council Special Permits

- a. The Application shall be submitted on forms available at the City Clerk's Office, which have been prescribed and approved by the City Council.
- b. The Special Permit shall include a description of whatever criteria are or may be listed in 1.4.2.2(e); for Major Projects there shall be an additional form listing the criteria in 5.7.5.
- c. City staff shall be available to assist applicants in preparing the applications, including when appropriate the Building Inspector and the City Planner.
- d. No application shall be received by the City Clerk and placed on the City Council agenda unless it is complete, including the materials required by 1.4.2.2(b), 5.7.2 for a Major Project, and 5.13.5 for Personal Wireless Service Facilities. The City Clerk, in determining the completeness of an application, may at his discretion refer it to the Building Inspector, the City Planner, or other City officials. If it is determined through such review that the project cannot be built unless a zoning variance is granted, the City Clerk shall rule that the application is not complete and return it to the applicant without prejudice, so that the applicant may either appeal to the Board of Appeals for the grant of such variance prior to reapplying to the City Council, or revise the plans to eliminate the need for a variance.
- e. The City Clerk shall affix the date of receipt of a complete application for Special Permit on the application form. Such date shall constitute the date of filing as set forth in Chapter 40A, M.G.L.

3. First Action by City Council

- a. When a completed special permit application, including a report and recommendation from the City Staff Review Committee, is received by the City Council, the Council shall refer same to its Planning & Development Committee for their initial review, to make a date for a site visit and set a date for public hearing before the full City Council.
- b. The Planning & Development Committee after review may also make a recommendation to the full City Council on disposition of the application, to be read after the City Council's public hearing.
- c. Proper notification of the public hearing before the full City Council (as required by State Statute) to the abutters shall be handled by the City Council. However, the applicant shall be responsible for sending out notices to abutters and parties of interest of the date(s) of Planning & Development Standing Committee Review(s).
- d. The public hearing date shall be set within sixty-five (65) days of the filing of the application with the City Clerk.

4. Public Hearing

- a. The first order of business at the public hearing shall be the reading of the notice of the hearing and a determination that the hearing is being properly held.
- b. The second order of business shall be a description of the proposed project and the presentation of arguments in favor of the application by the applicant and by any others who wish to speak in favor of the application. There shall be provided by the applicant and displayed within view of the Council and of those attending the hearing such maps, drawings, models, or other graphic materials required to have been submitted with the application as are necessary to explain the proposal.
- c. The third order of business shall be presentation of all advisory reports requested or required under 3.c. above. These reports shall have been submitted in writing, but may be presented and summarized orally either by a representative of the reporting agency if one is present or by the City Planner. For Major Projects, the Council may request the presence of representatives of one or more of the reporting agencies.
- d. The fourth order of business shall be arguments opposed to the application. This shall be followed by presentation of all communications not covered in Paragraph 4.c., then by brief opportunities for rebuttal by the proponents and counter-rebuttal by the opponents.
- e. With all testimony complete, and all questions concerning the proposal answered to the satisfaction of the Council, the public hearing shall be closed. If testimony is not complete, or questions remain to be answered by the applicant(s), opponent(s) or other source(s) of information, as directed by the City Council, the public hearing shall be continued to a time and date certain, and the record shall remain open for additional written communications.

Upon reopening the public hearing, such additional testimony or information shall be presented as set forth in 4.b., 4.c. and 4.d. above. At the conclusion of such additional testimony or presentation of information and all rebuttals as stated in 4.d. above, the public hearing shall be closed.

f. The final order of business shall be Council action, either final or preliminary. (See 5 below)

5. Council Action

a. Final action by City Council on a request for Special Permit shall be taken within ninety (90) days following the public hearing. Failure to take action within said ninety (90) day period shall be considered a grant of the permit applied for.

b. If in the course of the public hearing it appears that the project cannot be built unless a zoning variance is granted, the Council shall rule that the application is not complete and therefore is not properly before it; and the application shall be returned to the applicant without prejudice for such action or revision as he may choose.

c. Final Council action on an application for a Special Permit shall be by adoption, by a two-thirds roll call vote, of a written document which shall have been available to every member of the Council prior to the vote, and subject to normal procedures of debate, amendment, and action.

d. This document shall include a specific finding and judgment, in relation to the case in hand, on each of the considerations listed in 1.4.2.2(e) and, where applicable, each of the criteria listed in 5.7.5, 5.13.3 and 5.13.4. It shall conclude with a summary evaluation of the findings and judgments, supporting one of the following actions:

- (1) Denial of the Special Permit;
- (2) Approval, subject to specified conditions or modifications;
- (3) Approval as submitted, without conditions or modifications.

e. Drafts of this document to be considered by the Council may have been prepared by any member of the Council, or by any City official or employee upon instruction by the Council. Written material may be submitted by either proponents or opponents prior to the close of the public hearing, as set forth under Section 4 of these rules.

f. For a simple or non-controversial case, an acceptable draft of this document may be available to the Council at the time of the public hearing. When this is applicable, the Council will take final action on the application at the close of the public hearing.

g. For a complex or controversial case, the Council at the close of the hearing may or may not be ready to make a decision. If the decision is already clear, the Council may pass a motion instructing a specific official or employee to prepare a document in support of the decision for consideration at the next Council meeting. If the decision is not clear, the Council will defer action to its next meeting, but no additional information will be received or considered in addition to the testimony and information obtained during the course of the public hearing and constituting the record of same.

h. The City Council, on each permit granted, shall specify a time period, of not more than two years, within which substantial use thereof must commence, or in the case of construction, that the construction must commence, except for good cause, including such time required to pursue or await appeals proceedings as provided for in state law.

i. The successful applicant shall be required to provide documentary evidence to the City Council proving that any and all conditions specified by the Council in the Special Council Permit issued have been complied with and there upon, the Council will issue a "Certificate of Conditions Complete" or Occupancy Permit for the premises until the City Council has issued said certification of completion.

Modification of Application of Rules

In a specific case the Council may find it necessary or desirable to depart from the letter of one or other or these rules. If or when this is done, the departure will be noted in the record together with the reason for it.

APPENDIX B - INTERIM ORDINANCES

I. WEST GLOUCESTER INTERIM PLANNING OVERLAY DISTRICT (Adopted 5/30/00)

A. Intent and Purpose

This Section is adopted pursuant to the provisions of M.G.L. C. 40A and the Home Rule Amendment, Article 89 of the Massachusetts Constitution. This Section is in anticipation of the City of Gloucester and the Town of Essex entering into an intermunicipal agreement to install sewer lines in West Gloucester and the completion of the sewer construction required by the agreement that threatens the City's current capacity to service and keep pace with subsequent increased demands upon municipal infrastructure, environmental quality and services necessary to accommodate growth and preserve quality of life, including fire protection, water, sewer, schools, transportation, recreation, and/or police protection, preservation of open space, water quality, wildlife habitat and prevention of congestion and sprawl.

This Section therefore has the following purposes:

- (1) to ensure that growth within this district occurs in an orderly and planned manner, consistent with recent average growth rates, while avoiding large year-to-year variations in the development rate;
- (2) to provide the City with time to study the effects of this sewerage on residential growth and on the municipality's infrastructure, including as well community character, natural environment and municipal services, to prepare a comprehensive plan to address those effects and to implement such a plan;
- (3) to relate the timing of residential development to the city's ability to provide adequate public safety, schools, roads and municipal infrastructure, and human services at the level of quality which citizens expect, and within the City's ability to pay under the financial limitations of Proposition 2-1/2;
- (4) to preserve and enhance the existing community character and value of property;
- (5) to allow the city time to determine which areas other than those specifically referenced in the intermunicipal agreement will need sewer construction and develop a plan for that construction;
- (6) to provide the City with time to study the environmental impacts of any additional sewer construction on environmentally sensitive areas and provide environmental safeguards for them, including but not limited to the Essex Bay/Parker River Area of Critical Environmental Concern;
- (7) to implement the recommendations of the comprehensive plan developed for the area.

B. Interim Planning Overlay District Boundaries

The interim planning district to be created is located within Ward 5-2 and is approximately bounded as follows: From the intersection of the R-RB and R-3 zoning districts located approximately 800 feet southwest of the intersection of Essex Avenue and the Essex Town line northeast on a line 2.8 miles to the Gloucester section of Castle Neck, southeast approximately one mile along Coffin and Wingersheek Beaches to the Annisquam River, southwesterly 3.8 miles on a line extending to the northeast end of Lily Pond and including the southeast side of Laurel Street plus a two hundred foot buffer, northeast on a line approximately 200 feet northwest of Laurel Street to Essex Avenue, then west along the boundary between the R-2 and R-2A Zoning Districts, roughly parallel to Essex Avenue, and further west along the northern boundary of the R-RB Zoning District and the southern boundary of the R-3 Zoning District to the Essex Town Line.

A Gloucester Zoning Map, dated October 12, 1999, showing the boundaries of the Interim Planning Overlay District will be on display at the Community Development Office, 22 Poplar Street and the City Clerk's office, City Hall, and will be incorporated into this ordinance.

Public and Private Ways located in the West Gloucester Interim Planning Overlay District including all or parts of the following:

Abbey Road, Anderson Way, Andrews Court, Atlantic Avenue, Atlantic Street, Bayberry Lane, Bayle Lane, Becker Circle, Becker Lane, Biskie Head Point, Boynton Island, Bray Street, Brookfield Drive, Brooks Lane, Brooks Road, Bungalow Road, Cabot Lane, Castle Hill Road, Castle View Drive, Causeway Street, Cedarwood Road, Chickadee Road, Clover Lane, Cole's Island Road, Concord Street, Cove Way, Crafts Road, Crane Way, Digby Lane, Dune Circle, Dune Lane, Elmo Lane, Elva Road, Essex Avenue, Eveleth Road, Fenley Road, Fernald Street, Forest Lane, Great Hill Road, Great Ledge Lane, Gull Lane, Hidden Way, Hilltop Road, Hunter Road, Jebeka Lane, Jer Jean Circle, Jones River Road, Julie Court, Kent Road, Keystone Road, Landing Road, Larose Avenue, Laurel Street, Lawrence Court, Lawrence Mountain Road, Leaman Drive, Lily Road, Lincoln Street, Longview Road, Longview Terrace, Massachusetts Avenue, Mathieu Hill Road, New Way Lane, North Landing Way, old Bray Street, Overlook Avenue, Pebble Path, Point Road, Presson Point Road, Ram Island, Ridgewood Lane, Roberts Court, Russ Road, Rust Island Road, Salt Marsh Lane, Sand Dollar Circle, Sandy Way, Saville Road, Schooner Ridge Lane, Sea Fox Lane, Sea Rule Lane, Skipper Way, Skipper Way Terrace, Sleepy Hollow Road, Sumner Street, Thompson Street, Totten Lane, Two Penny Lane, Valley Road, Walker Court, Walker Street, Waterman Road, Wauketa Road, Welch Lane, West Wingersheek Road, Winterhaven Road, Woodman Street, Wyoma Road, Ye Olde County Road.

C. Regulations and Use Restrictions

To accomplish the intents and purposes of Section "A" as enumerated in Sections One through Seven (1-7),

1) For five (5) years from the date of enactment, and no later than July 1, 2005 (unless extended), all applications for:

a) Approval Not Required parcels resulting in the creation of four or more lots within the interim overlay district; and

b) any divisions of a parcel of land within the interim overlay district which would cumulatively result in the development of four (4) or more lots, within the interim overlay district, shall require a Special Permit from the Planning Board. Any extension of this five (5) year period shall require a two thirds (2/3) vote of the City Council and shall be for no more than one year (July 1, 2006).

2) During the period that the overlay district is in effect, no approval shall be granted and no building permit issued unless each resulting lot can be permitted under the provisions of the requirements of the Gloucester Board of Health for a Title V system and 310 CMR 15.00. The Planning Board shall note this requirement on all approved plans which are subject to this section.

3) The issuance of a Special Permit for subdivisions of four (4) or more lots and cluster developments of four (4) or more units shall be subject to the Subdivision Rules and Regulations of the Gloucester Planning Board and Section 5.9 of the Gloucester Zoning Ordinance for cluster developments. The Special Permit may also include but not be limited to conditions as to the layout of lots, the design and location of public improvements, and the establishment of permitted building envelopes, so as to minimize potentially adverse effects on the environment and its scenic integrity.

4) Construction of private sewer lines is prohibited in the overlay district until such time as this ordinance is amended by a two-thirds (2/3) vote of the City Council to specifically allow private sewage lines and treatment facilities within the overlay district or until such time as this ordinance section expires.

5) The effective period of the Interim Overlay District may be extended or reduced by a two-thirds (2/3) vote of the City Council following the procedures established in Section 1.5 of the Gloucester Zoning Ordinance, but under no circumstances may the total extension period exceed one (1) year (July 1, 2006).

II. THE COMMONWEALTH OF MASSACHUSETTS: AN ACT RELATIVE TO CERTAIN SUBDIVISIONS OF LAND IN THE CITY OF GLOUCESTER.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Notwithstanding any general or special law to the contrary, the city of Gloucester may adopt an ordinance providing that no subdivision of more than 3 lots shall be approved in an overlay district in the city until July 1, 2005, provided that each resulting lot can be permitted under the provisions of the requirements of the board of health of the city for a Title V system and 310 CMR 15.00. The issuance of a special permit for subdivisions and cluster developments greater than 3 lots or units shall be subject to the subdivision rules and regulations of the planning board of the city. The special permit may also include, but not be limited to, conditions as to the layout of lots, the design and location of public improvements, environment and its scenic integrity.

(1) Private sewer lines are prohibited in the overlay district until such time as this ordinance is amended by a 2/3 vote of the city council specifically to allow private sewage treatment facilities within the overlay district.

(2) During the period that the interim planning district is in effect all applications for approval not required parcels resulting in the creation of 3 or more buildable lots within the interim overlay district and 1 or more divisions of a parcel of land within the interim overlay district which would cumulatively result in the development of more than 3 lots, or cluster developments within the interim overlay district greater than 3 units, shall require a special permit from the planning board.

(3) The interim planning district to be created is located within Ward 5-2 and is approximately bounded as follows: From the intersection of the R-RB and R-3 zoning districts located approximately 800 feet southwest of the intersection 3 of Essex Avenue and the Essex Town line northeast on a line 2.8 miles to the Gloucester section of Castle Neck, southeast approximately 200 feet northwest of Laurel Street to Essex Avenue, then west along the boundary between the R-2 and R-2A Zoning districts, roughly parallel to Essex Avenue, and further west along the northern boundary of the R-RB Zoning District and the southern boundary of the R-3 Zoning District to the Essex Town Line. Public and Private Ways located in the West Gloucester Interim Planning District and including all or parts of the following: Abbey Road, Anderson Way, Andrews Court, Atlantic Avenue, Atlantic Street, Bayberry Lane, Bayle Lane, Becker Lane, Biskie Head Point, Boynton Island, Bray Street, Brookfield Drive, Brooks Lane, Brooks Road, Bungalow Road, Cabot Lane, Castle Hill Road, Causeway Street, Chickadee Road, Clover Lane, Cole's Island Road, Concord Street, Cove Way, Crafts Road, Crane Way, Digby Lane, Dune Circle, Duane Lane, Elmo Lane, Elva Road, Essex Avenue, Eveleth Road, Fenley Road, Fernald Street, Forest Lane, Great Hill Road, Great Ledge Lane, Gull Lane, Hidden Way, Hilltop Road, Hunter Road, Jebeka Lane, Jer Jean Circle, Jones River Road, Julie Court, Kent Road, Keystone Road, Landing Road, Larose Avenue, Laurel Street, Lawrence Court, Lawrence Mountain Road, Leaman Drive, Lily Road, Lincoln Street, Longview road, Longview Terrace, Massachusetts Avenue, Mathieu Hill Road, New Way Lane, North Landing Way, Old Bray Street, Overlook Avenue, Pebble Path, Point Road, Presson Point Road, Ridgewood Lane, Russ Road, Rust Island Road, Sand Dollar Circle, Sandy Way, Servile Road, Skipper Way, Skipper Way Terrace, Sleepy Hollow Road, Sumner Street, Totten Lane, Two Penny Lane, Valley Road, Walker Court, Walker Street, Waterman Road, Wauketa Road, West Parish Lane, Whale Rocks Road, Whipple Woods Road, Wyoma Road, Ye Ole County Road, Castle View Drive, Cedarwood Road, Ram Rule Lane, Thompson Street, Becker Circle, and Welch Lane.

SECTION 2. The provisions of this act shall expire on July 1, 2005. The effective period of the interim overlay district may be extended by 2/3 vote of the city council of the city of Gloucester following the procedures established in section 1.5 of the zoning ordinances of the city, but under no circumstances may the total extension period exceed 1 year.

SECTION 3. This act shall take effect upon its passage.

House of Representatives, December 10, 2001.

III. MORATORIUMS IN ALL WARDS, 1998 and 1999

A. Adopted November 10, 1998: To declare a one-year building moratorium for new residential subdivisions of three or more lots including Special Permits for cluster developments of three units or greater, in Wards Four and Five only.

B. Adopted May 25, 1999: To declare a one-year building moratorium on the issuance of building permits for Wards One and Three for all residential subdivisions of three or more lots, including Special Permits for cluster developments of three units or greater.

C. Adopted August 10, 1999: To institute a one-year building moratorium on the issuance of building permits for Ward Two for all residential subdivisions of three or more lots, including Special Permits for cluster developments of three units or greater.

APPENDIX C - REZONED AREAS

1. Adopted March 9, 1999: To rezone the area of land Northwest of the Goose Cove Watershed from Low Density Residential R-2 (20,000 SF) to Rural Residential R-RA (40,000 SF). (Refer to Zoning Map numbers 25,32,33,42 for the above 500+/- acres.)
2. Adopted March 9, 1999: To rezone the Medium Density Residential R-3 (10,000 SF) corridor along Washington Street between Goose Cove and Folly Cove to Low Density Residential R-2 (20,000 SF). (Refer to Zoning Map numbers 25,32,33,34,35,43 for the above 547 +/- acres.)
3. Adopted March 9, 1999: To rezone Area 39, Special Study District #5, Medium Density Residential (R-3) (10,000 SF) corridor district along Concord and Atlantic Streets to Low Density Residential R-2 (20,000 SF). (Refer to Zoning Map numbers 13,14,15,16,24,25 for the above 694 +/- acres.)
4. Adopted March 9, 1999: To rezone Area 46, Special Study District #6, South and West of Concord Street from Low Density Residential R-2 (20,000 SF) to Rural Residential R-RA (40,000 SF). (Refer to Zoning Map numbers 9,10,11,14,15,16 for the above 1241+/- acres.)
5. Adopted March 9, 1999: To rezone Area 40, Special Study District #8, the non-urbanized area of Magnolia (excluding Village Business, Neighborhood Business, Extensive Business) currently zoned Medium Density Residential R-3 (10,000 SF) to Low Density Residential R-2 (20,000 SF) which are not within the Watershed. (Refer to Zoning Map numbers 6,7,16,18,19,20,21,22 for the above 1234+/- acres.)
6. Adopted April 27, 1999: To amend by changing the residential zoning for the Little River Sections of the City, Special Study Districts #3 and #4 in the 1998 Buildout Analysis, from R-3, Medium Density Residential 10,000 sq. Ft. Lot size, to R-2, Low-Density Residential, 20,000 sq. ft. Lot.
7. Adopted July 20, 1999: To rezone the area of 18 Biskie Head Point, Charles and Susan Kelly Owners, Assessor's Map 232, Lot 3 from EB (Extensive Business) to R-3 Medium Density Residential.
8. Adopted October 12, 1999: To rezone a section of land with boundaries as shown on the 1998 Metropolitan Area Planning Council's Buildout Analysis Map of Gloucester as Special Study District #7, including an extension of its southerly boundary to Englewood Road then east to Magnolia Woods Park and north to along the northerly side of Western Avenue to its intersection with Bond Street, all currently zoned R-2, to R-2A, 30,000 sq. Ft. Minimum lot size. In addition, all single and two-family houses within the R-2A district that were in existence or for which a building permit was issued before March 9, 1999, are allowed to be altered, reconstructed, or extended providing they maintain a minimum front yard setback of 20 feet, side yard setback of 10 feet and a rear yard setback of 20 feet.
9. Adopted December 7, 1999: To rezone lots in the Woodbury Street area of North Gloucester from Low Density Residential, (R-2) 20,000 square foot minimum lot size to Rural Residential-B (RR-B), 80,000 square foot minimum lot size on the following City Assessors' Maps and Lots: Map 150: Lots 1, 2, 3, 6, 7, 8, 9, 11, 12, 16 ; Map 149: Lots 3, 4, 5, 6, 7, 10, 11, 12, 14, 15, 16; Map 148: Lots 4, 8, 20, 22, 23, 24.

10. Adopted August 21, 2001: To remove 20,040 square feet from the General Industrial (GI) Zoning District and then add the exact same area and location to the High Density Residential (R-4) District. As referenced on Assessor's Map 32 (Map dated August 28, 1986, last revised June 12, 1990) the zoning change encompasses Lots 20, 21, 24 and 25.
11. Adopted October 29, 2002: To remove 7,953 square feet at 30 Sadler Street from General Industrial (GI) and then add the exact same area and location to the High Density Residential District (R-4), as referenced on Assessor's Map 262 (Map dated January 1990, last revised May 14, 1998), Lot 9.
12. Adopted March 18, 2003: To rezone 147 Essex Avenue as referenced on Assessor's Map 218, Lot 32 from General Industrial (GI) to Village Business (VB).
13. Adopted April 15, 2003: To rezone 27 Railroad Avenue as referenced on Assessor's Map 24, Lot 59 from General Industrial (GI) to Neighborhood Business (NB).

APPENDIX D - INDEX OF RECENT ADOPTIONS/AMENDMENTS

<u>Year</u>	<u>Date</u>	<u>Section</u>	<u>Adoption/Amendment</u>
1998	04/14	1.4.2.2(a)	City Council Special Permit Procedures
	04/14	1.4.2.2(b)4	City Council Special Permit: Personal Wireless Service
	04/14	5.13.5	Personal Wireless Service Facility
	09/01	1.4.2.2(b)5	City Council Special Permit: Protein Recovery Plant
	09/01	2.3.4, #41A	Protein Recovery Plant
	11/10	Appendix B, II	One year building moratorium - Wards 4 and 5
	12/08	2.3, 2.3.1	Use Regulations Schedule-One Family to Two
	12/08	3.4, 3.4.1	Pork Chop Lots: Conditions for Issuance-Minimum Lot Area
1999	03/02	4.1, 4.1.1 (c)	Off-Street Parking
	03/09	Appendix C	Rezone: Goose Cove Watershed
	03/09	Appendix C	Rezone: Washington St. corridor between Goose & Folly Cove
	03/09	Appendix C	Rezone: Concord and Atlantic Streets
	03/09	Appendix C	Rezone: South and West of Concord Street
	03/09	Appendix C	Rezone: Non-Urbanized area of Magnolia
	03/09	Section VI	Definitions: Lot Area
	03/09	5.13.3.3g (1)	Dimensional requirements for Personal Wireless
	04/27	Appendix C	Rezone: Little River-Districts #3 and #4
	05/25	Appendix B, II	One year building moratorium-Wards 1 and 3
	06/22	2.4.3(a)	Use Regulations-Minimum Setbacks, R-RA & R-2
	06/22	3.2 Footnote 1	Dimensional Regulations-Yard Setbacks
	07/06	2.3.3 - Para. 29	Open Uses-Permitted Use Area-Casino Boats
	07/06	2.3.3 - Ftnote (2)	Definition: Cruise Ship/Casino Ship
	07/06	Section VI	Definition: Cruise Ship/Casino Ship
	07/06	4.1, 4.1.2	Off-Street Parking-Casino Boat Water Uses
	07/20	Appendix C	Rezone: Biskie Head Point
	08/10	Appendix B, II	One year building moratorium - Ward 2
	10/12	Appendix C	Rezone: District #7 - Magnolia
	10/12	Section VI	Definitions: Building Height
10/26	5.5.4	Lowland Requirements	
12/07	Appendix C	Rezone: Woodbury Street area	
2000	05/03	Appendix B, I	West Gloucester Interim Planning Overlay District
	06/20	5.14	Assisted Living Facilities
	06/20	5.7	Major Projects
	06/20	2.3.1	Residential Use
	08/29	1.3.3 (a)	Procedures to Obtain Permits
	08/29	1.3.4	Drainage and Grading Requirements
2001	08/21	Appendix C	Rezone: District-GI to R-4, Map 32, Lots 20, 21, 24, 25
	10/09	1.4.2.2(b)	City Council Special Permits
	11/27	3.1.8	Term usage - "building", MGL Ch. 41, Sec. 81L
	12/11	Section VI	Definitions: Dwelling: Two-Family

City of Gloucester Zoning Ordinance Issued June 2005

<u>Year</u>	<u>Date</u>	<u>Section</u>	<u>Adoption/Amendment</u>
2002	01/22	2.4.3 (a & b)	Non-Conforming User
	01/22	3.2 ftnotes (k & l)	Intensity of Use Schedule Footnotes
	08/20	5.15	Open Space Residential Development
	10/29	Appendix C	Rezone 30 Sadler Street (7,953 sf) from GI to R-4
2003	02/04	5.16	Village Development Overlay District
	03/18	Appendix C	Rezone 147 Essex Avenue (Map 218, Lot 32) from GI to VB
	04/15	Appendix C	Rezone 27 Railroad Avenue (Map 24, Lot 59) from GI to NB
	06/24	1.3.6; 1.4.2.1(a); 1.4.2.2(a)	Fee changes
	09/16	3.2 Footnote (e); 3.2.1(4); 3.2.2(3)	Building Height
2004	07/13	5.17	Drive-Through Facilities