

TOWN OF EASTHAM ZONING BYLAWS



TOWN OF EASTHAM ZONING BYLAWS¹

REVISIONS THROUGH MAY 2, 2022

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SECTION 1.0 - PURPOSE, VALIDITY AND SEVERABILITY

1.1 PURPOSE

The purpose of this By-law is to promote the health, safety and general welfare of the inhabitants of the Town of Eastham, by dividing the Town into districts with a view towards conserving the best qualities of the Town as they now exist.

1.2 VALIDITY

1.2.1 **VALIDITY** – The invalidity of any sentence, provision, or section of this By-law shall not be construed to invalidate any other part thereof.

1.2.2 **AMENDMENTS** – This By-law may be altered, repealed, or amended in accordance with the law.

1.3 SEVERABILITY

If any provision of this Bylaw is held invalid by a court of competent jurisdiction, the validity of the remaining portions of the Bylaw shall not be affected thereby.

SECTION 2.0 - ZONING DISTRICTS

The Town of Eastham is hereby divided into the following zoning districts

2.1 RESIDENTIAL DISTRICT A – A Residential area of one (1) and two (2) family dwellings.

2.1.1 USES

One family dwellings and duplex dwellings; accessory buildings and shelters for the uses of the resident occupants of such dwellings for garaging their own motor vehicles, stock and equipment;

1. the storage of campers or trailers on the resident occupant's property by permit of the Selectmen;
2. home occupations, service trades, and bed and breakfast, as defined in Section 21.0 of this By-law;
3. agricultural farming, gardening, and greenhouses for the resident occupants' use;
4. the keeping of non-commercial livestock, animals and poultry, excluding piggeries and the raising of mink or fox, on parcels of less than five acres, by residents or owner occupants, provided such use is not injurious, noxious or offensive to the neighborhood. No building shall be used to house animals, livestock or poultry without a special permit from the special permit granting authority.
5. and agricultural, horticultural and floricultural uses on parcels of five (5) acres or more providing said use is the primary use and that all buildings and structures, except fences of less than five (5) feet in height, shall not be less than thirty (30) feet from the sidelines of any lot nor less than one hundred (100) feet from the sideline of any street or highway.
6. those uses listed as allowed in District E, except for hotels, on those parcels abutting Route 6 to the east or west bounded by Assessors' Map 2, Parcel 62 and Map 5, Parcel 124 that were in lawful commercial use before April 18, 1988 and are operating as a commercial use as of May 1, 2006³

2.1.2 USES – HOME OCCUPATIONS

An occupation or profession which is conducted in a residential zone and which:

1. Is carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and
2. Is carried on by member of the family residing in the dwelling unit for residential purposes, and
3. Is secondary to the use of the dwelling unit for residential purposes, and
4. Conforms to the following additional conditions:
 1. No more than one (1) non-family member shall be employed in the home occupation.
 2. The floor area used by the home occupation shall not exceed thirty percent (30%) of the total livable floor area of the principal building;

3. There shall be no exterior display, no exterior sign, except as permitted under the Sign Code, no exterior indication of the home occupation or variation from the residential character of the principal building;
4. No offensive noise (as defined in the Eastham Noise By-Law), offense due to hours of operation, vibration, smoke, dust, gas, odors, heat or glare beyond a reasonable judgment shall be produced;
5. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises;
6. No outside storage of materials and equipment shall be permitted unless concealed from view of neighbors and street by a concealing fence enclosing said materials and equipment;
7. All parking shall be off-street, and long term parking (more than six (6) hours) shall be limited to two (2) vehicles, excluding the resident's vehicle (s);
8. Any merchandise offered for retail sale must be manufactured or assembled on the premises;
9. The occupation of repairing gas, gasoline or diesel engines is specifically excluded; and
10. The physical presence of non-family member employees or the public shall be limited to the hours between 7:30 AM and 10:00 PM.
11. Except by Special Permit, there shall be no food preparation on premises

2.1.3 USES – SERVICE TRADES

Such service trades may be operated out of the provider's residence subject to the following restrictions:

1. The business is secondary to the use of the dwelling unit for residential purposes;
2. No more than two (2) employees may report to the provider's residence;
3. No outdoor storage of service-related materials or equipment is permitted on the provider's premises unless concealed from view of neighbors and street by a concealing fence enclosing said materials and equipment;
4. No more than two (2) motor vehicles (as that term is defined by the Massachusetts General Laws, Chapter 90, Section 1, but containing no more than six (6) wheels) which are used in the service trade may be kept on the provider's premises;
5. Deliveries may be made to the provider's premises no more frequently than an average of five (5) times a week;
6. There shall be no exterior sign or other display except as permitted under the Sign Code for a residential district, and no exterior indication of the service trade which detracts from or is in conflict with the residential character of the principal building and area;
7. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas smoke, dust, noise, electrical disturbances, or in any other way. In the case of electrical disturbances, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
8. The floor area used shall not exceed thirty percent (30%) of the total livable floor space in the principal building; and

9. All parking shall be off-street, and long term parking (more than six (6) hours) shall be limited to two (2) vehicles, excluding the resident's vehicles.

2.1.4 NON-CONFORMING USES
See Section 4.0 Non-Conforming Uses

2.1.5 ACCESSORY USES
See Section 5.0 Accessory Uses, subsections 5.1, 5.2

2.1.6 ACCESSORY DWELLING UNIT
See Section 5.0 Accessory Uses, subsection 5.3

2.1.7 PROHIBITED USES
See Section 6.0 Prohibited Uses

2.1.8 LOT SIZE
See Section 7.0 Intensity Regulations, subsections 7.1.1, 7.1.2, 7.1.4, 7.1.7, 7.1.8

2.1.9 RESIDENTIAL LOT INTENSITY
See Section 7.0 Intensity Regulations, subsections 7.4.1, 7.4.2, 7.4.3, 7.4.5 - Residential Lot Intensity

2.1.10 SETBACK REQUIREMENTS
See Section 7.0 Intensity Regulations, subsections 7.2.1, 7.2.4, 7.2.5, 7.2.6

2.2 **MARINA DISTRICT B** - An area for marina-related uses to accommodate the boating and fishing needs of the town residents and guests.

2.2.1 USES
Docks; wharves; party boat businesses; renting of row boats, motor boats, sail boats and fishing gear; boat building, storage and repair; sale of fish, fish bait, and fishing gear. No residences shall be allowed.

2.2.2 NON-CONFORMING USES
See Section 4.0 Non-Conforming Uses

2.2.3 ACCESSORY USES
See Section 5.0 Accessory Uses

2.2.4 ACCESSORY DWELLING UNIT
See Section 5.0 Accessory Uses

2.2.5 PROHIBITED USES
See Section 6.0 Prohibited Uses

2.2.6 LOT SIZE

See Section 7.0 Intensity Regulations subsection 7.1.3, 7.1.4, 7.1.7, 7.1.8

2.2.7 SETBACK REQUIREMENTS

See Section 7.0 Intensity Regulations, subsections 7.2.1, 7.2.2, 7.2.6

2.2.8 LANDSCAPING REQUIREMENTS

See Section 9.0 Landscaping Requirements

[Districts C and D were re-zoned per Article 22 of the May 2018 Annual Town Meeting and no longer exist.]

2.3 **RESIDENTIAL AND LIMITED COMMERCIAL DISTRICT E** - An area of limited commercial development that is compatible with the residential character of the neighborhood.

2.3.1 USES

Banks, professional offices, real estate offices, gift and craft shops, antique shops, furniture repair shops, and residences. Residential apartments are allowed above business of a permitted nature provided such residences occupy no more than 50% of the structure.⁴

2.3.2 NON-CONFORMING USES

See Section 4.0 Non-Conforming Uses

2.3.3 ACCESSORY USES

See Section 5.0 Accessory Uses

2.3.4 ACCESSORY DWELLING UNIT

See Section 5.0 Accessory Uses

2.3.5 PROHIBITED USES

See Section 6.0 Prohibited Uses

2.3.6 LOT SIZE

See Section 7.0 Intensity Regulations, subsections 7.1.1, 7.1.2, 7.1.4, 7.1.4, 7.1.7, 7.1.8

2.3.7 SETBACK REQUIREMENTS

See Section 7.0 Intensity Regulations, subsections 7.2.1, 7.2.2, 7.2.6

2.3.8 LANDSCAPING REQUIREMENTS

See Section 9.0 Landscaping Requirements

2.4 **SEASHORE DISTRICT F** – An area of one (1) family dwellings located within the boundaries of the Cape Cod National Seashore Park to further the preservation and development of the Cape Cod National Seashore in accordance with the purposes of the Act of Congress of August 7, 1961 (75 Stat. 284, 291); to prohibit commercial and industrial uses therein, to preserve and increase the amenities of the Town; and to conserve natural conditions, wildlife and open spaces for the education, recreation and general welfare of the public.

2.4.1 **USES - DISTRICT F** – Seashore Permitted Uses:
Conservation of land, water wildlife, vegetation, and other natural features and values.

1. Facilities deemed by the Secretary of the Interior to be necessary for the administration and public use and enjoyment of the Cape Cod National Seashore or deemed to be necessary by the Town of Eastham.
2. Recreation, including but not limited to, hunting, fishing, swimming and boating.
3. Gardening and traditional agricultural uses of cleared land, but excluding such objectionable uses as a piggery or the commercial raising of livestock, fur-bearing animals and poultry, or other uses injurious, noxious or offensive to the neighborhood.
4. Traditional commercial fishing activities, the opening of shellfish, and storage and use of fishing equipment.
5. Uses of existing dwellings as residences and accessory uses customarily incidental to the principal residential use on the same premises, provided such uses are not detrimental to a residential neighborhood and do not alter the essential character of the dwelling as a residence. Residential uses of dwellings may include the renting of rooms and furnishing of board by residents of the premises to overnight guests, if such uses do not alter the essential character of the dwellings as residences.
6. Customary home occupations as defined in the Town of Eastham Zoning By-Law, but this shall not include the use of accessory structures as stores or for the display of goods to the passing public.
7. Moving, alteration, enlargement, maintenance, or repairs of existing one-family residential dwellings or the erection of customary structures which will be accessory to the existing principal residential use provided that such improvements to existing dwellings and the erection of accessory structures will not increase the habitable space by more than fifty percent (50%) of the habitable space existing on September 1, 1959, nor the accessory space by more than 50% of the total habitable space, will afford not less than a fifty (50) foot setback from all streets measured at right angle with the line of the streets and a twenty-five (25) foot distance from abutters' property lines, and further do not alter the essential character of the dwellings as a residence.

8. Religious and educational use.
9. Municipal use and public facilities.
10. Detached, one-family dwellings and accessory structures, provided that no lot may be used for their construction which has a frontage of less than 150 feet, and an area of less than three (3) acres, and no dwelling or building may be located in such a manner as to provide less than a 50-foot setback from all streets measured at a right angle with the street line and a 25-foot distance from abutters' property lines.

Except as provided above, there shall be in the Seashore District F:

1. No burning of cover unless determined by the Fire Chief to be necessary for the welfare and safety of the Town and such burning shall be in accordance with the requirements of M.G.L., C.48, Section 13.
2. No filling of land, dumping, or removal of soil, loam, sand, or gravel in excess of five (5) cubic yards.
3. No cutting of timber except: (a) by an owner for the purpose of reasonably controlling brush or trees; (b) maintenance cutting in pastures; and (c) cutting for clearance or maintenance on rights of way including those pertaining to public utilities or public highways.
4. No buildings or structures.
5. No commercial or industrial venture or activities.
6. No drainage, damming or relocation of any water course except by a publicly authorized agency for the purpose of pest control.
7. No continuous storage of materials or equipment.

Applicants for variances or exceptions shall be promptly notified by the Board of Appeals that the Secretary of the Interior is authorized to withdraw the suspension of his authority to acquire, by condemnation, property which is made the subject of a variance or exception that, in his opinion, fails to conform or is in any manner opposed to or inconsistent with the purposes of the Cape Cod National Seashore. The Secretary of the Interior shall be given notice by the Board of Appeals, of all applications or petitions made for variances or exceptions to the By-Laws for the Seashore District and he shall be provided notice by the Building Inspector of all applications for building permits involving the Seashore District within seven (7) days of receipt of the applications or petitions. The Secretary may be consulted at any time by zoning authorities or by the owner of 'improved property' regarding the effect of a proposed variance or exception upon the status of the affected property with regard to the suspension of the suspension of the Secretary's authority to condemn. The Secretary, within sixty (60) days of the receipt of a request for such determination, or as soon thereafter as is reasonably possible, shall advise the owner or zoning authorities whether or not the intended use will subject the property to acquisition by condemnation. Subsequently, to meet the requirements of the Act of Congress on August 7, 1961, the Secretary shall be given notice by the appropriate board of any variance, or exception, or building permit, granted or denied for the area within the Seashore District. Approved by the Secretary of the Interior subject to

an amendment to Article VIII which will specify a fifty (50) foot setback.

2.4.2 NON-CONFORMING USES

See Section 4.0 Non-Conforming Uses

2.4.3 ACCESSORY USES

See Section 5.0 Accessory Uses

2.4.4 ACCESSORY DWELLING UNIT

See Section 5.0 Accessory Uses

2.4.5 PROHIBITED USES

See Section 6.0 Prohibited Uses

2.4.6 LOT SIZE

See Section 7.0 Intensity Regulations, subsections 7.1.5, 7.1.7, 7.1.8

2.4.7 RESIDENTIAL LOT INTENSITY

See Section 7.0 Intensity Regulations, subsection 7.4.4 - Residential Lot Intensity

2.4.8 SETBACK REQUIREMENTS

See Section 7.0 Intensity Regulations, subsections 7.1.5, 7.2.1, 7.2.5

2.5 **WATER RESOURCES PROTECTION DISTRICT G⁵** – An open space area or residential area of one or two family dwellings; the Water Resource Protection District is designed to protect the public health by preventing contamination of the ground and surface water resources providing a portion of the potential public water supply for the Town of Eastham.

2.5.1 USES

DISTRICT G – Water Resource Protection District

1. One family dwellings and duplex dwellings, accessory buildings and shelters for the uses of the resident occupants of such dwellings for garaging their own motor vehicles and equipment; the keeping of stock and the storage of campers or trailers on the resident occupants' property by permit of the Selectmen.
2. The above ground storage, for domestic residential use only, of the following:
 1. Fuel oil, not to exceed 300 gallons (nominal 275 gallons);
 2. Diesel fuel and/or gasoline, not to exceed two (2) ten (10) gallon tanks;
 3. Compressed gas tanks, not to exceed one 500 gallon tank.
3. The domestic use of pesticides, herbicides, fungicides, rodenticides, and/or nitrate fertilizers on single or duplex residential parcels is allowed provided that:
 1. The products before mentioned shall be acquired in commonly available retail package amounts only;
 2. The products before mentioned shall be used and stored according to guidelines printed on or in the retail package by the product manufacturer;
 3. The area of use and/or application of the products before mentioned on lawns, gardens, foundation plantings, and so forth, shall not exceed a total of ten thousand (10,000) square feet per residential parcel.

2.5.2 NON-CONFORMING USES
See Section 4.0 Non-Conforming Uses

2.5.3 ACCESSORY USES
See Section 5.0 Accessory Uses

2.5.4 ACCESSORY DWELLING UNIT
See Section 5.0 Accessory Uses

2.5.5 PROHIBITED USES
See Section 6.0 Prohibited Uses, subsection 6.8

2.5.6 LOT SIZE
See Section 7.0 Intensity Regulations, subsections 7.1.6, 7.1.7, 7.1.8

2.5.7 RESIDENTIAL LOT INTENSITY
See Section 7.0 Intensity Regulations, subsections 7.4.1, 7.4.2, 7.4.3, 7.4.5 - Residential Lot Intensity

2.5.8 SETBACK REQUIREMENTS
See Section 7.0 Intensity Regulations, subsections 7.2.1, 7.2.4, 7.2.5, 7.2.6

2.6 **WELLFIELD PROTECTION DISTRICT H⁶** – An open space area designed to protect the public health by preventing the contamination of the ground and surface water resources in a test wellfield area demonstrated to be capable of providing a portion of the potential public water supply for the Town of Eastham.

2.6.1 USES
DISTRICT H – Wellfield Protection District

1. Construction, operation and maintenance of municipal water supply wells.
2. Protection of soil, water, plants and wildlife and other natural features and values.
3. Passive recreation.
4. Ocean Beach subject to Site Plan – Special Permit⁷
5. Non-Commercial camping on town-owned land by permission of the Board of Selectmen under such regulations as the Board of Selectmen shall adopt for this purpose.⁸

2.6.2 NON-CONFORMING USES
See Section 4.0 Non-Conforming Uses

2.6.3 ACCESSORY USES
See Section 5.0 Accessory Uses

2.6.4 ACCESSORY DWELLING UNIT
See Section 5.0 Accessory Uses

2.6.5 PROHIBITED USES
See Section 6.0 Prohibited Uses, subsection 6.9

2.6.6 LOT SIZE
See Section 7.0 Intensity Regulations

2.6.7 RESIDENTIAL LOT INTENSITY
See Section 7.0 Intensity Regulations, subsections 7.4.1, 7.4.2, 7.4.3, 7.4.5 - Residential Lot Intensity

2.6.8 SETBACK REQUIREMENTS
See Section 7.0 Intensity Regulations, subsections 7.2.1, 7.2.4, 7.2.5, 7.2.6

2.7 **EASTHAM CORRIDOR SPECIAL DISTRICT I⁹** – The purpose of the Eastham Corridor Special District (ECSD), as designated in Barnstable County Ordinance 17-12, is to enhance and protect the character of Eastham’s commercial areas, encourage mixed-use development, support and enhance the economy in North Eastham, improve bicyclist and pedestrian safety and access along the Route 6 corridor, minimize traffic conflicts and improve access management throughout the District, expand opportunities for creation of affordable housing, and adopt best management practices to manage nutrients discharged through stormwater within the District. *For a description of the ECSD neighborhood sub-districts see section 3.8.3.2 Neighborhood Districts*

2.8 **GROUNDWATER PROTECTION OVERLAY DISTRICT J¹⁰** – The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Groundwater Protection District must additionally comply with the requirements of this bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

2.8.1 USES
PERMITTED USES
All uses permitted in the underlying zoning districts are permitted in the Ground Water Protection District except those specifically prohibited in Section 6 of this bylaw.

All property used for municipal purposes by or on behalf of the Town of Eastham are exempt the regulations of this bylaw.

2.8.2 NON-CONFORMING USES
See Section 4.0 Non-Conforming Uses

2.8.3 ACCESSORY USES
See Section 5.0 Accessory Uses

2.8.4 ACCESSORY DWELLING UNIT

See Section 5.0 Accessory Uses

2.8.5 PROHIBITED USES

See Section 3.0 Uses, subsection 3.11.8

2.8.6 LOT SIZE

See Section 7.0 Intensity Regulations

2.8.7 RESIDENTIAL LOT INTENSITY

See Section 7.0 Intensity Regulations, subsections 7.4.1, 7.4.2, 7.4.3, 7.4.5 - Residential Lot Intensity

2.8.8 SETBACK REQUIREMENTS

See Section 7.0 Intensity Regulations, subsections 7.2.1, 7.2.4, 7.2.5, 7.2.6

2.9 FLOOD PLAIN ZONING

2.9.1 USES

USE REGULATIONS

Flood plain District I is established as an overlay district to all other districts. All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in floodplains. Additionally any required federal permits must be obtained prior to the issuance of a development permit in the Flood plain District as follows:

1. Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
2. Prohibit man-made alteration of sand dunes and salt marshes within Zone VE which would increase potential flood damage.
3. Provide that all new construction within Zone VE be located landward of the reach of mean high tide.
4. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
5. There shall be established a “routing procedure” which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Department of Public Works, Building Inspector, Board of Appeals and Fire Department for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.
6. The Building Inspector shall (a) review all proposed development within the flood district to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution and Control Act Amendments of 1972, U.S.C. 1334, and (b) obtain and maintain records of elevation and

floodproofing levels for new construction or substantial alteration within the flood district.

7. In accordance with the Code of Federal Regulations (44 CFR §60.3(b)(5)(iii)), the lowest floor of any new construction or substantial improvement must be documented and maintained on record with the town. The most recent Elevation Certificate from the Federal Emergency Management Agency must be used to document elevations for all new construction and substantial improvements in the Special Flood Hazard Area.

PERMITTED USES

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and comply with other requirements:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

2.9.2 NON-CONFORMING USES

See Section 4.0 Non-Conforming Uses

2.9.3 ACCESSORY USES

See Section 5.0 Accessory Uses

2.9.4 ACCESSORY DWELLING UNIT

See Section 5.0 Accessory Uses

2.9.5 PROHIBITED USES

See Section 3.0 Uses, subsection 3.11.8

2.9.6 LOT SIZE

See Section 7.0 Intensity Regulations

2.9.7 RESIDENTIAL LOT INTENSITY

See Section 7.0 Intensity Regulations, subsections 7.4.1, 7.4.2, 7.4.3, 7.4.5 - Residential Lot Intensity

2.9.8 SETBACK REQUIREMENTS

See Section 7.0 Intensity Regulations, subsections 7.2.1, 7.2.4, 7.2.5, 7.2.6

All shown on a map entitled “ZONING MAP OF THE TOWN OF EASTHAM, MASSACHUSETTS dated May 7, 2018”¹¹ which is on file with the Town Clerk and which has been duly adopted as the official zoning map for the Town. For a written description of zoning district boundaries, see Appendix – Zoning District Boundaries

2.10 DETERMINATION OF DISTRICT BOUNDARIES

- 2.10.1 Zoning Boundary Lines: Zoning districts shall extend to the full territorial limits of the Town of Eastham and shall extend into adjoining water bodies and include the lands thereunder.
- 2.10.2 The district boundaries shall be as shown on the Zoning Map. The scale of the map and the figures entered thereon are to serve as guides.
- 2.10.3 Where the boundary line divides any lot existing at the time such line is adopted, which has street frontage in the less restricted area, a use authorized on the less restricted portion of such lot may be extended into the more restricted portion for a distance of not more than thirty (30) feet.
- 2.10.4 Where a street divides two (2) zoning districts, the districts shall be deemed to abut each other.

SECTION 3.0 - USES¹²

In each zoning district, premises and buildings may be used for the following purposes only:

- 3.1 **ALL DISTRICTS** – Municipal uses are allowed by-right¹³. Commercial Communications Towers are allowed only on Town owned land¹⁴. Special permits may be granted for any use not specifically permitted but which is consistent with the intent of the zoning district characteristics as expressed in Section 3 of this By-Law.
- 3.2 **DISTRICT A** – See Section 2.0 Zoning Districts, subsection 2.1.1 Uses
- 3.3 **DISTRICT B** – Docks; wharves; party boat businesses; renting of row boats, motor boats, sail boats and fishing gear; boat building, storage and repair; sale of fish, fish bait, and fishing gear. No residences shall be allowed.

[Districts C and D were re-zoned per Article 22 of the May 2018 Annual Town Meeting and no longer exist.]

- 3.4 **DISTRICT E** – Banks, professional offices, real estate offices, gift and craft shops, antique shops, furniture repair shops, and residences. Residential apartments are allowed above business of a permitted nature provided such residences occupy no more than 50% of the structure.
- 3.5 **DISTRICT F** – See Section 2.0 Zoning Districts, subsection 2.4.1 Uses
- 3.6 **DISTRICT G** – Water Resource Protection District
 - 3.6.1 One family dwellings and duplex dwellings, accessory buildings and shelters for the uses of the resident occupants of such dwellings for garaging their own motor vehicles and equipment; the keeping of stock and the storage of campers or trailers on the resident occupants' property by permit of the Selectmen.
 - 3.6.2 The above ground storage, for domestic residential use only, of the following:
 - 1. Fuel oil, not to exceed 300 gallons (nominal 275 gallons);
 - 2. Diesel fuel and/or gasoline, not to exceed two (2) ten (10) gallon tanks;
 - 3. Compressed gas tanks, not to exceed one 500 gallon tank.
 - 3.6.3 The domestic use of pesticides, herbicides, fungicides, rodenticides, and/or nitrate fertilizers on single or duplex residential parcels is allowed provided that:
 - 1. The products before mentioned shall be acquired in commonly available retail package amounts only;
 - 2. The products before mentioned shall be used and stored according to guidelines printed on or in the retail package by the product manufacturer;
 - 3. The area of use and/or application of the products before mentioned on lawns, gardens, foundation plantings, and so forth, shall not exceed a total of ten thousand (10,000) square feet per residential parcel.

- 3.7 **DISTRICT H – Wellfield Protection District**
- 3.7.1 Construction, operation and maintenance of municipal water supply wells.
 - 3.7.2 Protection of soil, water, plants and wildlife and other natural features and values.
 - 3.7.3 Passive recreation.
 - 3.7.4 Ocean Beach subject to Site Plan – Special Permit
 - 3.7.5 Non-Commercial camping on town-owned land by permission of the Board of Selectmen under such regulations as the Board of Selectmen shall adopt for this purpose.

3.8 **DISTRICT I¹⁵ – Eastham Corridor Special District**

3.8.1 **STATUTORY AUTHORITY**

On November 1, 2017, the Barnstable County Assembly of Delegates adopted Barnstable Ordinance 17-12 and designated the district shown on a map labeled “Town of Eastham – Proposed DCPC August 2017” (“DCPC Map”) as District of Critical Planning Concern (“DCPC”), pursuant to Section 11 of the Cape Cod Commission Act (St. 1989, c.716, as amended)(“CCCA”) and pursuant to CCCA Section 11(d), the Town adopted these implementing regulations to regulate the DCPC which shall be known as the Eastham Corridor Special District.

3.8.2 **PURPOSE**

The purpose of the Eastham Corridor Special District (ECSD), as designated in Barnstable County Ordinance 17-12, is to enhance and protect the character of Eastham’s commercial areas, encourage mixed-use development, support and enhance the economy in North Eastham, improve bicyclist and pedestrian safety and access along the Route 6 corridor, minimize traffic conflicts and improve access management throughout the District, expand opportunities for creation of affordable housing, and adopt best management practices to manage nutrients discharged through stormwater within the District.

3.8.3 **APPLICABILITY**

3.8.3.1 **District Boundaries**

The provisions of this Section shall apply within the Eastham Corridor Special District (ECSD), as shown on the DCPD Map [and as shown in more detail on a map entitled “Eastham Corridor Special District” Map dated May 7, 2018.

- Accessory Outdoor Dining Service Areas are exempt from the provisions of subsection 3.8.5.3 for change, alteration, expansion of non-conforming structures and uses.
- Accessory Outdoor Dining Service Areas are exempt from the ECSD District Wide Development Standards subsections 3.8.5.5.2, 3.8.5.5.3, 3.8.5.5.4, 3.8.5.5.5, 3.8.5.5.7, 3.8.5.5.8, 3.8.5.5.9 and 3.8.5.5.10.
- Accessory Outdoor Dining Service Areas are exempt from the ECSD Review Procedures under subsection 3.9.6, 3.9.7, 3.9.8, and 3.9.9.
- Accessory Outdoor Dining Service Areas shall be regulated under Eastham Zoning Bylaw Section 5.0 - Accessory Uses, subsection 5.5 - Outdoor Dining Service Areas.

- Accessory Outdoor Dining Service Areas shall comply with ECSD subsections 3.8.5.3.5.1 Dimensional Standards and 3.8.5.5.6 Drainage and Storm Water Management Standards.¹⁶

3.8.3.2 Neighborhood Districts

For the purpose of this zoning bylaw, the Eastham Corridor Special District is divided into the following neighborhood zoning districts

Core Commercial District (CC)

The purpose of the Core Commercial District is to create a compact, vibrant commercial center at Route 6 and Brackett Road that contains small-scale commercial uses consistent with the neighborhood character and with interconnections between properties to facilitate convenient pedestrian and bicycle access and circulation. Buildings shall have small setbacks to the street, and no parking shall be allowed in front yards. The Core Commercial District has a commercial focus but also allows for accessory residential units.

Office/Residential District (O/R)

The purpose of the Office/Residential District is to allow a mix of residential and compatible low intensity commercial uses in a walkable, residential scale neighborhood. All development will follow traditional residential patterns. No direct access to Route 6 shall be allowed from lots in Office/Residential District in order to improve safety and to limit curb cuts on the highway.

Transition Commercial District (TC)

The purpose of the Transition Commercial District is to allow for small-scale commercial and residential uses on the Route 6 corridor outside of the Core Commercial area, with greater setbacks from Route 6, landscape treatments, and minimal visibility of parked cars, while maintaining pedestrian scale development and accessibility. A single curb cut shall provide access to Route 6 from lots in the Transition Commercial District in order to improve safety and limit curb cuts on the highway.

Limited Commercial District (LC)

The purpose of the Limited Commercial District is to allow for a predominantly residential area with low-intensity commercial uses on Route 6 well outside the Commercial Core, maintaining pedestrian scale development and accessibility, and avoiding creation of hazards or congestion. A single curb cut access to Route 6 shall provide access to Route 6 from lots in the Limited Commercial District in order to improve safety and limit curb cuts on the highway.

Trade Park (TP)

The purpose of the Trade Park District is to support the industrial and trade needs of the community, providing an appropriate location off of Route 6 for businesses in the building trades and similar industries.

District A (Residential Uses)

A residential district of single-family and two-family dwellings. A portion of District A is located within the ECSD and pre-dates establishment of the ECSD. This Section does not establish new zoning for District A. *(For District A zoning regulation see Sections 3 and 7. Site Plan Approval for residential uses within the*

ECSD, where required under Section 7, shall fall under Eastham Zoning Bylaw Section 10.3 Site Plan Approval Residential).

3.8.3.3 Relationship to Other Regulations

The provisions in this Section (Section 3 District I – Eastham Corridor Special District) apply to all development within the Eastham Corridor Special District. Other sections of the Town of Eastham Zoning Bylaw also apply within this special district, except that where this Section conflicts with or differs from other sections of the Eastham Zoning Bylaw, this Section shall control.

3.8.4 SPECIAL PERMIT GRANTING AUTHORITY AND SITE PLAN REVIEW

3.8.4.1 The Planning Board shall be the Special Permit Granting Authority (SPGA) for Special Permits within the Eastham Corridor Special District.

3.8.4.2 The Town Planner shall be the Planning Board’s designee for conducting Minor Site Plan Approval within the Eastham Corridor Special District. The Planning Board shall be responsible for conducting Major Site Plan Approval in the Eastham Corridor Special District.



3.8.5 ECSD USE REGULATIONS

3.8.5.1 Allowed Uses

In the following ECSD Table of Use Regulations, uses that are permitted by right in the district are designated by the letter (Y). Uses that may be permitted by special permit in the district are designated by the letter (SP). Uses designated (X) are not permitted in the district.

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
PRINCIPAL USES					
AGRICULTURE					
Farm	X	Y	Y	Y	Y
Plant nursery, other horticulture or floriculture	X	Y	Y	Y	Y
RESIDENTIAL					
Assisted living residence, with or without independent living	X	X	Y	Y	Y
Single-family dwelling	X	X	X	Y	Y
Two-family or duplex dwelling	X	X	Y ¹⁷	Y	Y
Apartments and townhouses	X	X	Y	Y	Y
COMMERCIAL					
Antique, Craft, and Gift shops	Y	X	Y	Y	Y
Adult entertainment	X	SP	X	X	X
Animal hospital or veterinary office	X	X	Y	Y	X
Art gallery	Y	X	Y	Y	Y
Auction house	X	Y	X	X	X
Automotive repair, service	X	Y	X	X	X
Bakery, wholesale	Y	Y	Y	X	X
Bank	Y	X	Y	Y	Y
Barber shop, beauty salon	Y	X	Y	Y	Y
Boat building, repair, storage	X	Y	X	X	X
Cinema, movie theater	SP	X	Y	X	X
Contractor's yard	X	Y	X	X	X
Dry cleaning, laundromat	Y	X	Y	X	X
Fitness center, gym	Y	X	Y	X	Y

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
PRINCIPAL USES					
COMMERCIAL					
Food Truck	SP	SP	SP	SP	SP
Formula Business	SP	X	SP	X	X
Hospice care facility	X	X	Y	SP	Y
Hotel, Inn, Motel, Hostel	X	X	X	X	X
Industry, light	X	Y	X	X	X
Junk Yard	X	SP	X	X	X
Kennel, commercial (not defined)	X	X	Y	Y	Y
Nursing or convalescent facility	X	X	Y	Y	Y
Professional offices	Y	X	Y	Y	Y
Publishing and/or printing establishment	X	Y	X	X	X
Rental, automobile, truck, trailer	X	Y	X	X	X
Rental, boat, fishing gear	X	Y	X	X	X
Restaurant ≤3,000 sf GFA	Y	X	Y	SP	SP
Restaurant >3,000 sf GFA	SP	X	SP	X	X
Retail sales/service, ≤3,000 sf GFA	Y	X	Y	Y	X
Retail sales/service, >3,000 sf GFA	SP	X	SP	X	X
Resort and conference center	X	X	X	X	X
Service and repair, non-automotive (carpentry, electrical, plumbing, etc.)	X	Y	X	X	SP
Spa resort	X	X	X	X	Y
Studio, artist dance, photography	Y	Y	Y	Y	Y
INDUSTRIAL					
Concrete batching plant	X	SP	X	X	X
Manufacturing, assembling, processing, packaging	X	Y	X	X	X
Plumbing, electrical, carpentry	X	Y	X	X	X
Warehousing, Rental, and bulk storage	X	Y	X	X	X
Wastewater Effluent disposal	X	SP	X	X	X
Wind, Solar, Energy Facility (other than private)	X	SP	X	X	X
GOVERNMENT, CULTURAL, INSTITUTIONAL					
Conservation, open space land	X	X	Y	Y	Y
Municipal use	Y	X	Y	Y	Y
Museum	Y	Y	Y	X	X
Public use, other	Y	X	Y	X	Y
Recreation, passive	Y	X	Y	Y	Y
ACCESSORY USES					
COMMERCIAL					
Antique, craft, and gift shops	Y	Y	Y	Y	Y
Barber shop, beauty salon	Y	X	Y	Y	Y
Office	Y	X	Y	Y	Y
Outdoor Dining Service Area ¹⁸	Y	Y	Y	Y	Y
Retail complementary to	Y	Y	Y	X	Y

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
principal use					
ACCESSORY USES					
COMMERCIAL					
Service trades	X	Y	X	X	X
ACCESSORY USES					
RESIDENTIAL					
Affordable Dwelling unit	Y	Y	Y	Y	Y
Apartment located above permitted commercial use	Y	X	Y	Y	Y
Single-family	Y	X	Y	Y	Y
Two-family or duplex dwelling	Y	X	Y	Y	Y
Apartments and townhouses	Y	X	Y	Y	Y
Bed and breakfast	X	X	X	Y	Y
Family daycare, licensed per G. L. c. 15D, §1A.	Y	X	Y	Y	Y
Farm stand, non-exempt per G. L. c. 40A, §3Y.	SP	X	Y	SP	SP
Home Occupation	Y	X	Y	Y	Y

3.8.5.2 Continuation

Any lawfully established lot, structure or use existing at the time of the adoption of this Section that does not conform to the provisions of the Eastham Corridor Special District shall be allowed to continue.

3.8.5.3 Change, Alteration, Expansion of Non-Conforming Structures and Uses

Notwithstanding the provisions of G.L Chapter 40A, and Section 4 of the Eastham Zoning Bylaw, lawfully established structures and uses in existence as of May 7, 2018 that do not conform to the ECSD District Wide Development Standards may be changed, altered or expanded in accordance the following procedures:

3.8.5.3.1 Minor Site Plan Review

A pre-existing, non-conforming structure or use may change or expand up to 250 square feet of building footprint or exterior of building or site area through Minor Site Plan Review in accordance with Section 3, District I, subsection 3.9.6.3.1 Minor Site Plan Review, provided that the following criteria are determined to be met:

1. The property shall have no more than one defined curb cut onto Route 6 and shall not propose additional Route 6 curb cuts;
2. A landscaped area of at least 20 feet in depth exists and shall be maintained on the subject property along its road frontage;
3. No additional parking or pavement shall be proposed in the lot's Front Yard area. The specific change or expansion shall comply with all dimensional standards in the ECSD.

Pre-existing non-conforming structures and/or uses unable to comply with the criteria 1-4 listed above may apply for Major Site Plan Review approval under 3.8.5.3.2

3.8.5.3.2 Major Site Plan Review

A pre-existing, non-conforming structure or use may change or expand up to 1000 square feet of the building footprint or exterior of building or site area or undergo a change of use in accordance with Section 3, District I, subsection 3.9.6.3.2 , Major Site Plan Review, provided that the following criteria are determined to be met:

1. The property shall have no more than one defined curb cut onto Route 6 or shall provide an interconnection to an adjacent property to limit future curb cuts onto Route 6;
2. A landscaped area of at least 20 feet in depth wide exists or will be provided and shall be maintained on the subject property along its road frontage; or, for pre-existing non-conforming sites where the building is within 30 feet of the road Right of Way a landscaped area of at least 12 feet shall be required
3. The amount of parking in the Front Yard area shall be reduced; and
4. The specific change or expansion shall comply with all dimensional standards in the ECSD

3.8.5.3.3 Special Permit

A pre-existing, non-conforming structure or use that proposes to change or expand more than 1,000 square feet of building footprint or of exterior building area or site area require a Special Permit in accordance with Section 3, District I, subsection 3.9.9, ECSD Site Plan Special Permit. The specific change or expansion shall comply with all dimensional standards in the ECSD, including building setback, parking location, maximum building footprint, façade variation, landscaping, and Route 6 access.

3.8.5.3.4 Use Limitations

1. Special Permits may be granted for uses not specifically permitted but which is consistent with the intent of the zoning district characteristics as expressed in Section 3.(I) of this bylaw.
2. Drive-throughs are prohibited, except for banks.

3.8.5.3.5 ECSD District Wide Development Standards

The following standards shall apply to all development within the district. The Planning Board (SPGA) or in the case of Minor Site Plan Approval, the Planning Board's designee, shall use the standards as criteria for consideration of Major and Minor Site Plan Approvals and Special Permit approval.

1. Dimensional Standards

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
Minimum Lot Size	20,000 sf	40,000 sf	40,000 sf	40,000 sf	40,000 sf
Minimum Frontage Building Setback	20' on Route 6 5' on Brackett Rd	25'	25'	25'	25'
Maximum Frontage Building Setback	30' on Route 6 15' on Brackett Rd	NA	50'	50'	
Side Setback	10' on Route 6 0'-15' on Brackett Rd	10'	10'	10'	10'
Rear Setback	10'	10'	10'	10'	10'
Parking Setback	At least 20' behind front building façade	10'	At least 20' behind front Building facade	At least 20' behind front Building facade	At least 20' behind front Building facade
Maximum Individual Building Footprint	3,000 sf in front of lot; 8,000 sf if located behind frontage buildings	10,000 sf	3,000 sf in front of lot; 8,000 sf if located behind frontage buildings	2,000 sf in front of lot; 5,000 sf if located behind frontage buildings	3,000 sf in front of lot; 8,000 sf if located behind frontage buildings
Maximum Total Building Coverage	50%	50%	30%	30%	30%
Maximum Lot Coverage	80%	80%	80%	65%	65%
Maximum Building Height	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.	2 stories or 30' for pitched roofs at least 7/12; 20' for flat-roofed buildings or for roofs with a slope less than 7/12.
Gross Floor Area on 2 nd Floor	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area	Less than or equal to 40% of a building's total gross floor area
Façade Variation	5' setback or projection every 40'		5' setback or projection every 40'	5' setback or projection every 40'	5' setback or projection every 40'
Pocket Park/Pedestrian Plaza	50 sf per development site				

	CORE COMMERCIAL	TRADE PARK	TRANSITION COMMERCIAL	OFFICE/ RESIDENTIAL	LIMITED COMMERCIAL
Landscaping	Street trees 1 every 35' 4" min. caliper; landscaping required in front yard area	Minimum 10' wide landscaped area	Street trees 1 every 35' 4" min. caliper; Minimum 25' wide landscaped area	Minimum 25' wide landscaped area	Minimum 25' wide landscaped area
Parking Lot Landscaping	100 sf between every 10 spaces	100 sf between every 10 spaces	100 sf between every 10 spaces	100 sf between every 10 spaces	100 sf between every 10 spaces
Route 6 Access	Maximum curb cut width: 12' feet per lane Only one Route 6 curb cut allowed		Maximum curb cut width: 12' feet per lane Only one Route 6 curb cut allowed	No Route 6 access allowed; must use secondary road access	Maximum curb cut width: 12' feet per lane Only one Route 6 curb cut allowed

3.8.5.5.2 Parking, Driveway, Vehicular and Pedestrian Access Standards

1. All driveway and parking areas shall be visually buffered from all streets by placing them behind frontage buildings and/or through the use of berms or natural features and/or plantings, using materials that shall maintain a minimum of 50% of their effectiveness year-round. All driveway and parking areas shall be visually buffered from adjoining residential uses by one or more of the following; earthen berms, fencing, and plantings, using materials that shall maintain a minimum of 75% of their effectiveness year-round. Visual buffers shall be designed, placed and maintained to reduce light from vehicular headlights from reaching onto adjoining streets and other properties.
2. A portion of the required parking may be accommodated on access drives within the project area, provided such parking does not interfere with sight lines to pedestrian or vehicular access routes, directional signage, or interfere with vehicular access/egress in any area.
3. Landscaped islands shall be designed with consideration given to the need for shade, pedestrian access where appropriate, snow storage, and the need to soften the appearance of large paved areas.
4. Parking areas may consist of either pervious hard surfaces or impervious surfaces, provided that provisions acceptable to the Planning Board to manage surface water runoff are provided. The Planning Board may allow up to 10% of the required parking to be constructed in an alternative paver which incorporates the use of grass or a "grass on gravel" system to allow for greater permeability and an appearance more characteristic of open space/courtyard features, to be used exclusively for overflow parking beyond that normally needed to service the uses on site. The location of such spaces should be in peripheral areas of the parking facility where they can enhance the appearance of adjoining open space and not be in a location where they would be in daily use or overlap with pedestrian activity.

5. Parking areas shall be lighted to provide adequate visibility for use in the dark without adversely impacting adjacent uses or parcels and shall conform to Lighting Standards in subsection 3.8.5.5.9
6. Off-street parking spaces may be laid out in a perpendicular, angled, or parallel alignment provided adequate access is provided for vehicles to enter and leave the spaces; pedestrians to enter and leave the vehicles, and service and emergency vehicles to access the drives, parking areas, and buildings.
7. Perpendicular or angled parking spaces shall not be less than 9 feet wide by 18 feet in depth. However, at the discretion of the Planning Board, up to 5% of the required parking spaces may be accommodated using a layout of an 8-foot width by a 17-foot depth. Such spaces shall be identified by a sign mounted at a height of not less than 5 feet or more than 8 feet indicating the space is for a subcompact car only. In no case shall parallel parking spaces be less than 8 feet in width (depth) and 22 feet in length.
8. Driveways which can be shared for more than one use are encouraged, provided the Planning Board determines that sharing does not limit adequate service or emergency access at any time or serve as the only route of vehicular access to a project.
9. Customer and residential pedestrian access areas shall include a combination of walkways and landscaping. Such pedestrian access shall be provided from the streets providing frontage and/or access for the project as well as the drives and parking areas within the project. Pedestrian access routes shall be laid out to minimize conflict with vehicular routes, and where the two cross, the pedestrian route shall be clearly marked on the vehicular surface and when appropriate, with signage. Pedestrian access routes shall be lighted to provide adequate visibility for use in the dark without adversely impacting adjacent uses or parcels.

3.8.5.5.3

General Parking Requirements

Off-street parking spaces in the amounts specified in Table of Parking Requirements shall be provided for each use, unless an alternate amount is approved through Site Plan Review or by Special Permit, in accordance with subsections 3.9.7, 3.9.8 and 3.9.9, Minor and Major Site Plan Review Procedures, and Special Permit Review Procedures.

TABLE OF PARKING REQUIREMENTS		
Spaces per 1,000 sf		
Land Use	Maximum	Minimum
Residential - Single Family/Two Family/Duplex	2 per unit	1 per unit
Residential- Apartments/Townhouses/Accessory Units/Other	1.5 per unit	1 per unit
Retail	3	2
General Office	4	2
Hotel, Motel, Lodgings	1 space per sleeping room	1 space per sleeping room
Medical Office	4	3
Restaurant	1 space per 4 seats	1 space per 4 seats
Coffee shop/cafe	1 space per 2 seats	1 space per 3 seats
Personal Services Establishment	3	2
Industrial	2.5	1.5
Social, Fraternal Organizations	4	3
Churches, places of worship	1 space per 3 seats	1 space per 5 seats
All other uses	3 or other amount, as determined by the Planning Board based on the character of the use proposed	2 or other amount, as determined by the Planning Board based on the character of the use proposed

1. Waiver Requests

Applicants may seek a waiver from the Planning Board and the Planning Board shall have the authority through Site Plan Review to reduce the minimum number of parking spaces required or to exceed the maximum amount by up to 10%. Applicants seeking to exceed the maximum amount by more than 10% of the requirement shall obtain Special Permit approval from the Planning Board.

2. Shared Parking

The number of parking spaces required may be reduced for shared parking at the discretion of the Planning Board provided such reduction does not shift a demand for parking onto public streets or any areas not equipped to handle such activity.

1. Shared On-Site Parking

To implement shared on-site parking between two or more uses, the applicant shall provide expert analyses as part of Site Plan Review to demonstrate that proposed uses are either competing or non-competing and the applicant shall pay for peer review, as and if required by the Planning Board.

2. Non-competing Uses
In mixed-use developments, applicants may propose a reduction in parking requirements based on an analysis of peak demands for non-competing uses. Up to 50% of the requirements for the predominant use may be waived by the Planning Board if the applicant can demonstrate that the peak demands for two uses do not overlap. An applicant may use the latest peak demand analyses published by the Institute of Traffic Engineers (ITE) or other source acceptable to the Planning Board and the Board may require peer review of the information provided.
3. Competing Uses
In a mixed-use development, an applicant may propose a reduction in parking requirements where peak demands do overlap. In these cases, the Planning Board shall have the authority, but not the obligation, to reduce the parking requirements of the predominant use by up to 30%.
4. In consideration of a request to share parking, the Planning Board shall require that an applicant shall provide evidence that satisfies the Board that the following conditions are satisfied:
 1. The shared parking is sufficient to adequately service the adjoining uses without leaving either in a deficit of spaces needed;
 2. The shared parking has well defined pedestrian access to both uses;
 3. There is a legally binding and permanent agreement, executed by all parties to be served and recorded, which permits vehicular and pedestrian access to and from all the parcels involved; this agreement must be in place, and a copy provided to the Building Inspector before issuance of an Occupancy Permit.

3.8.5.5.4 Building Design Standards

1. Variation in the overall architectural design, including set-backs and projections in the building facades, changes in roof ridge and eave height, and incorporation of porches, display windows and entrances that are pedestrian-scale and compatible with the small-scale character of Eastham shall be included in all new construction. All building facades that abut public streets should have characteristics similar to the primary façade. Applicants may refer to the Cape Cod Commission's Technical Bulletins "Designing the Future to Honor the Past: Design Guidelines for Cape Cod" and "Contextual Design on Cape Cod: Design Guidelines for Large Scale Development" for design guidance.
2. All roof mounted mechanical equipment must be enclosed to reduce the noise of operation and eliminate visibility of such equipment from the equivalent of an adjoining second floor level. In no case shall roof mounted equipment or the accompanying enclosures exceed a height of 6 feet above, or occupy, with the exception of photovoltaic and associated solar energy systems more than 30% of the area of the roof surface.
3. Buildings with traditionally sloped roofs are preferred, and those with a pitch of at least 7/12 are allowed greater maximum building height than flat-roofed structures.

4. Exterior building facades shall incorporate traditional building materials such as wood shingle or clapboard siding or shall use composite materials that approximate or reference traditional siding materials. Building orientation, layout, and configuration shall be designed to provide adequate light and air for the proposed and adjoining buildings.

3.8.5.5.5 Internal Roadways, Walkways, Paths and Parking Area Standards

1. Internal roadways shall be designed to provide for safety; visual appeal; separation of vehicular, bicycle and pedestrian traffic; convenient connectivity within and without the site; and maximum access to the various amenities and facilities on the site and to pathways on adjacent sites. All internal roadways, walkways, paths and parking areas shall be maintained by the owner or an association of unit owners, as applicable.

3.8.5.5.6 Drainage and Storm Water Management Standards

1. Stormwater for all roadways, driveways and parking areas shall be managed and infiltrated on site, close to the source, to minimize runoff and maximize water quality treatment. Stormwater water quality treatment shall be consistent with 310 CMR 10.00 and the Massachusetts Stormwater Management Handbook to attain 80-percent total suspended solids removal and to reduce nutrients. All designs shall provide for at least 44-percent total suspended solids removal prior to discharge into structured infiltration systems.
2. Stormwater design for the first inch of storm water flow from all roadways, driveways and parking areas shall use biofiltration practices including, but not limited to, vegetated swales and filter strips, constructed wetlands, tree box filters, bio-retention areas and rain gardens for treatment of stormwater runoff. Bioretention areas shall be constructed in accordance with the Massachusetts Storm Water Management Volume One: Stormwater Policy Handbook March 1997.

3.8.5.5.7 Landscape Plan and Buffering Standards

1. No clear-cutting shall be permitted, except as necessary and incidental to development activities under an approved site plan. Required buffers shall maintain existing vegetation and topography to the greatest extent possible. Where additional planting is required to meet the landscaping standards in the ECSD Dimensional Table, new landscaped areas shall consist of mixed hardwood and evergreen trees, with associated shrubs perennials and groundcovers as appropriate to the site. All development shall submit a maintenance agreement for a minimum of three growing seasons to insure vegetation is properly established. Any planting that does not survive for three years, shall be replaced. Where, appropriate, pedestrian and bicycle accommodations may be installed within the landscaped area. Applicants may refer to the Cape Cod Commission's website for guidance in meeting these standards.

3.8.5.5.8

Service Access, Including Deliveries and Trash Removal Standards

1. Provisions shall be made for service vehicles to access the site and building so as not to obstruct pedestrian and vehicular access by residents, commercial patrons and emergency providers. All trash receptacles and areas to be used by service and delivery vehicles shall be visually and, to the extent reasonably practicable, acoustically buffered from adjoining residences by one or more of the following: earthen berms, fencing, and/or planting. Any relief granted shall be conditioned to require trash removal at sufficient frequency, especially during summer months, so as to mitigate odor and pest control issues. Any visual screening shall maintain a minimum of 75% of its effectiveness year-round. No service vehicle shall be allowed to have an engine idling for more than ten minutes unless it is necessary for the service being provided (for example: tree trimming, power washing, refrigeration, etc.).

3.8.5.5.9

Lighting Standards

1. Lighting shall be shielded such that peak candle power is at an angle of 75 degrees or less from vertical, and have a maximum luminaire mounting height of 30 feet, and a maximum off-site overspill of 1.0 foot-candles.

3.8.5.5.10

Formula Business Review Criteria

The purpose and intent of the Formula Business review criteria shall be to regulate the visual features and address the adverse aesthetic impact of nationwide, standardized businesses on the visual character of Eastham. The visual impact of formula-based businesses would have a negative impact on the Town's distinctive Cape Cod character, which is critical to the Town's tourist-based economy and its status as a "Cape Cod vacation destination" and enhances the quality of life for residents. Formula Businesses which are identifiable through exterior arrangements (signs/colors/symbols and design and arrangement of structures and similar arrangements that visually identify the business as a chain or formula business) shall require Special Permit authorization from the Planning Board to ensure that the exterior arrangements in the ECSD shall not detract from Eastham's individuality and community character. In addition to Special Permit approval criteria provided in Subsection K.4 of this bylaw, the Planning Board shall take the following additional criteria into consideration when reviewing an application for Formula Business:

1. The extent to which the exterior arrangements of the Formula Business would be compatible with and reflect the aesthetic appearance and individuality of the ECSD;
2. The extent to which the exterior arrangements of the Formula Business that are typically used for the business at other locations outside of the ECSD have been proposed to be modified.

3.9.6

ECSD REVIEW PROCEDURES

3.9.6.1

Purpose

1. Minor and Major Site Plan Review

The purpose of Site Plan Review is to provide for comprehensive review of proposed development in the ECSD that could impact the visual character, natural resources, and traffic circulation of the area. Site Plan Review shall be a process that allows the Planning Board or its designee to ensure that proposed development satisfies the requirements of Section 3.0, District I.

2. Special Permit Site Plan Review

The purpose of Special Permit review is to ensure that new development and redevelopment which may have significant impacts upon ECSD or the Town of Eastham is designed in a manner that minimizes adverse impacts, in accordance with Chapter 40A of the Massachusetts General Laws.

3.9.6.2

Types of Review

1. Residential uses within the ECSD shall fall under Eastham Zoning Bylaw Section 10.3 Site Plan Approval Residential.

2. The following types of new development require approval by the Planning Board or its designee prior to issuance of a building permit. **For changes, alterations, expansion of pre-existing non-conforming structures and uses also reference Section 3, District I, subsection 3.8.5.3**

Table of Regulatory Review for New Development

MINOR SITE PLAN Planning Board Designee Approval	MAJOR SITE PLAN Planning Board Approval	SITE PLAN SPECIAL PERMIT Planning Board Approval
<ul style="list-style-type: none"> Exterior construction, expansion or alteration of structure(s) less than or equal to 500 sf of the building footprint or exterior of building or site area. OR Additional Site Coverage of less than or equal to 500 sf, OR 	<ul style="list-style-type: none"> Exterior construction or expansion of structure(s) resulting in an increase between 501 – 3000 sf. of the building footprint or exterior of building or site area. OR Increase greater than 500 sf of additional site coverage, OR Change of Use, OR 	<ul style="list-style-type: none"> Exterior construction or expansion of structure(s) resulting in an increase greater than 3000 sf of the building footprint or exterior of building or site area. OR Use requiring a Special Permit per Table of Uses, OR Formula Business OR
<ul style="list-style-type: none"> Creation of 1- 4 additional parking spaces, and the parking is not located in front of lot, OR 	<ul style="list-style-type: none"> Creation of 5 -10 additional parking spaces, OR Changes to site access, pattern of pedestrian and/or vehicular movement within the site or in relation to adjacent properties or streets, including interconnection(s) between adjacent lots, OR 	<ul style="list-style-type: none"> New curb cut onto Route 6, OR Creation of greater than 10 additional parking spaces, OR Creation of new or change to existing Route 6 access, OR
<ul style="list-style-type: none"> 1 new interior Accessory Dwelling Unit 	<ul style="list-style-type: none"> 2-3 new interior Accessory Dwelling Units (no change to building footprint), OR 1-3 new dwelling units, principal or accessory use. 	<ul style="list-style-type: none"> 4 or more new dwelling units, principal or accessory use, OR
		<ul style="list-style-type: none"> Outside display of devices, goods or other objects for sale, rent or for the promotion of the business outside, if kept in place after daily business hours

3.9.6.3 Site Plan Approval

1. Minor Site Plan Approval

The Planning Board's designee, without a public hearing, shall issue a written determination for Minor Site Plan approval upon a determination that all of the requirements listed in Section 3.0, District I, subsection 3.8.5.3.5, ECSD District Wide Development Standards, have been satisfied.

2. Major Site Plan Approval

Major Site Plan approval shall be granted upon a favorable vote of a majority of the Planning Board upon a determination that all of the requirements listed in Section 3.0, District I, subsection 3.8.5.3.5, ECSD District Wide Development Standards, have been satisfied and a public hearing shall be required.

3. Site Plan Special Permit Approval. Approval shall be granted only upon a favorable vote of a super-majority of the Planning Board upon a determination that all of the requirements listed in Section 3.0, District I, subsection 3.8.5.3.5, ECSD District Wide Development Standards, have been satisfied following a public hearing.

4. In granting Major Site Plan Review Approval, or Special Permit Approval, the Planning Board may impose reasonable conditions as may be necessary or appropriate to:

1. Enforce compliance with substantive requirements of the Eastham Zoning Bylaw, unless waived.
2. Protect the health, safety, convenience, and general welfare of the inhabitants of the Town of Eastham.

3.9.6.4 Disapproval

The Planning Board or its designee in the case of a Minor Site Plan review may deny approval of a site plan for a use allowed by right only on the grounds that the application materials or plan contents required under this Section 3.0, District I, 3.9.7.2, 3.9.8.3, 3.9.9.2 have not been submitted and/or were not submitted at the appropriate time.

3.9.6.5 Conditions

Among its conditions, the Board or in the case of Minor Site Plan, its designee may require the provision of adequate security by the applicant, in such form and amount as may be determined by the Board. This security is to ensure the satisfactory completion of all improvements required by site plan approval. The Planning Board may also require a formal commitment to future compliance, including a monitoring program post-permit issuance for compliance purposes for a time specified in the site plan approval, including restrictive covenants which shall be recorded before any building permit issues.

3.9.6.6 Approval Lapse

Site Plan and Special Permit Approval shall lapse three (3) years from the date of issuance unless construction or operation under the approval has commenced.

3.9.7 ECSD MINOR SITE PLAN PROCEDURES

3.9.7.1 Preliminary Meeting

Applicants are encouraged to schedule a preliminary meeting with Town Staff at which time the level of review may be determined. Such preliminary reviews may help identify general approaches and allow for exploration of potential problems at an early stage. Sketches, which need not be professionally prepared, are intended to initiate the discussion and do not need to show all of the information required for a formal site plan application. The applicant should contact the Town Planner to schedule a preliminary review with Town staff.

3.9.7.2 Minor Site Plan Application Filing

Each application for Minor Site Plan Approval shall be filed by the petitioner with the Planning Department.

1. Each application shall be accompanied by the required fee:
 1. The fee schedule is listed in the Planning Board Regulations.
 2. The applicant will bear the costs of any outside planning or engineering consultant requested by the Planning Board or its designee.
2. A complete filing for Minor Site Plan Approval shall include the following items:
 1. A completed application for Minor Site Plan Review.
 2. A letter of denial and/or zoning determination from the Building Commissioner.
 3. A checklist showing compliance with the design standards and/or dimensional requirements.
 4. A site plan which may be prepared by the applicant. However, the Planning Board or designee may require the submission of additional information and/or may require information be prepared by a licensed professional if it is determined that such information is necessary to make an informed decision. All site plans shall be prepared using an appropriate scale and be based upon reliable datum, suitable for the content of the topic covered on the sheet and shall include the following:
 1. The location and boundaries of the lot, adjacent street/ways,
 2. Existing and proposed structures,
 3. The existing and proposed location of loading areas, driveways, walkways, access and egress points, and the location and number of parking spaces,
 4. The location for exterior components on the site such as refuse containers, benches, mechanical components etc.
 5. The location and description of existing signs and the location and a sketch of proposed signs with dimensions.

3.9.7.3 Minor Site Plan Decision

The Planning Board or its designee, after completing review of the minor site plan, shall file a written decision not later than 45 days of receipt of a completed application in the office of the Town Clerk, and notify the applicant of the decision. The required time limits for the filing of such decision may be extended by written agreement of the applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk. Failure by the designee to act in the 45-day period shall be considered approval of the minor site plan. The applicant who seeks such approval because of the

failure of the designee to act in the time prescribed shall notify the Town Clerk, in writing, within 14 days from the expiration of said 45 days or extended time.

Appeal of Minor Site Plan Decision

- Any person aggrieved by a decision of the designee on a minor site plan may appeal said decision to the Town of Eastham Planning Board. Such appeal must be filed with the Board within 20 days of the filing of the designee's decision with the Town Clerk.
- Any person aggrieved by a decision of the Planning Board on a Minor Site Plan may appeal said decision to the Town of Eastham Zoning Board of Appeals. Such appeal must be filed with the Zoning Board of Appeals within 20 days of the filing of the Planning Board's decision with the Town Clerk, and, only thereafter to a court of competent jurisdiction under MGL c. 40A, Section 17.

3.9.8 **ECSD MAJOR SITE PLAN PROCEDURES**

3.9.8.1 Preliminary Meeting

Applicants are encouraged to schedule a preliminary meeting with the Planning Board prior to a formal filing. Such preliminary reviews may help identify general approaches and allow for exploration of potential problems at an early stage. Sketches, which need not be professionally prepared, are intended to initiate the discussion and do not need to show all of the information required for a formal site plan application.

3.9.8.2 Waiver of Major Site Plan Review

When meeting with the Planning Board for a preliminary review, the Board may vote to waive the applicant's need to submit an application for site plan review and/or waive certain submission requirements. The applicant must contact the Town Planner to schedule a preliminary review with the Planning Board.

3.9.8.3 Major Site Plan Application Filing

Each application for Major Site Plan shall be filed by the petitioner with the Town Clerk including the date and time of filing certified by the Town Clerk.

1. Each application shall be accompanied by the required fee:
 1. The fee schedule is listed in the Planning Board Regulations.
 2. The applicant will bear the costs of any outside planning or engineering consultant requested by the Planning Board.
2. A complete filing for Major Site Plan Approval shall include the following items:
 1. A completed application for Major Site Plan Approval/Special Permit
 2. A letter of denial and/or zoning determination from the Building Commissioner.
 3. A checklist showing compliance with the design standards and/or dimensional requirements.
 4. Site plan(s) prepared by a Registered Professional Land Surveyor or Registered Professional Civil Engineer or both if required. All site plans shall be prepared at a defined scale suitable for the content of the topic covered on the sheet and shall include the following:

1. The location and boundaries of the lot, adjacent street/ways and a list showing names and addresses of direct abutters and abutters to the abutters within 300 feet,
 2. Existing and proposed topography showing 2-foot contours, identifying the datum (i.e., “benchmark”) used and significant land features, natural and man-made, including, but not limited to, the location of wetlands, streams, bodies of water, drainage swales and areas subject to flooding,
 3. Existing and proposed structures, including dimensions and all elevations,
 4. The existing and proposed location of loading areas, driveways, walkways, access and egress points, and the location and number of parking spaces,
 5. The location and description of all proposed on site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems,
 6. Proposed landscape plan showing the location and description of screening, fencing, plantings, significant trees and finished grade contours,
 7. The location and description of existing signs and the location and a sketch of proposed signs,
 8. The location and description of existing and proposed open space or recreation areas,
 9. A lighting plan showing existing and proposed exterior lighting, including building and ground lighting,
 10. A plan for the control of sedimentation and erosion if applicable,
 11. All easements, restrictions and covenants,
 12. A traffic study if required by the Planning Board.
3. The Planning Board or designee may require additional information prepared by a licensed professional if it is determined that such information is necessary to make an informed decision.
 4. Major Site Plan Application Review
 1. The Planning Board shall forward any application for Major Site Plan or Special Permit to the Health Agent, DPW Director, Building Commissioner, Conservation Agent, Police Chief and Fire Chief for their advisory review and written comments. Failure to respond within 30 days shall indicate presume approval by said agency. All recommendations to the Planning Board must be in writing. Failure of Boards to make recommendations prior to the date of the scheduled hearing shall be deemed to be acceptance of the plan.
 2. The Planning Board shall consolidate its site plan review and special permit procedures for proposals that require both Site Plan Approval and Special Permit authorizations.
 3. An application for a building permit to perform any of the activities listed under Section 3.9.6.2, ECSO Review Procedures allowed as-of-right shall be accompanied by an approved site plan.
 4. No deviation from an approved Major Site Plan shall be permitted without a modification thereof by site plan amendment, which shall be reviewed and approved by a majority vote of the Planning Board, unless waived.
 5. No building permit or certificate of occupancy shall be issued by the Building Commissioner without written approval of the Major Site Plan from the Planning

Board, or unless sixty-five (65) days lapse after the date of submittal of the Major Site Plan without a public hearing or within 90 days elapse from the close of the public hearing with action by the Planning board or unless evidence of a waiver by the Planning Board is provided A site plan application for a use allowed by right may only be denied if the Planning Board finds that it does not comply with the provisions of Section 3.0.I or other applicable provisions of the Zoning Bylaw or that it lacks sufficient information to make such a finding.

5. Major Site Plan Decisions

The Planning Board, under the standards set forth here, reviews Major Site Plans and Special Permits. The Planning Board shall hold a public hearing including notice to all abutters, within sixty-five (65) days of receipt of the completed submission and shall make a decision within ninety (90) days of the opening of the public hearing. The required time limits for the filing of such decision may be extended by written agreement of the applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk. Failure by the designee to act in the sixty-five-day period is considered approval of the Major Site Plan. The applicant who seeks such approval because of the failure of the designee to act in the time prescribed must notify the Town Clerk, in writing, within 14 days from the expiration of said 65 days or extended time.

6. Appeal of Major Site Plan Decision

Any person aggrieved by the decision of the Planning Board on a Major Site Plan may appeal said decision to the Town of Eastham Zoning Board of Appeals within 20 days of filing the decision with the Town Clerk, and only thereafter to a court of competent jurisdiction under MGL c. 40A, Section 17.

3.9.9 ECSD SITE PLAN SPECIAL PERMIT PROCEDURES

3.9.9.1 Applicability

Development that requires a Site Plan Review Special Permit authorization in accordance with ECSD Use Table of this bylaw shall submit an application for Site Plan Special Permit approval. Special Permit authorization requires a vote of approval by a super majority of the Planning Board following a public hearing.

3.9.9.2 Application Filing and Contents

An application for Site Plan Review Special Permit shall follow the procedures provided in Section 3.9.8.3.

3.9.9.3 Special Permit Application Review

The Planning Board shall conduct review of Site Plan Review Special Permit applications in accordance with General Law Chapter 40A, Section 9 and shall follow the procedures provided in subsection J.3 (a)-(f) of this bylaw, which require a public hearing, with notice, and approval only upon supermajority vote.

3.9.9.4 Special Permit Approval Criteria

The Planning Board shall grant a Special Permit upon the written determination, as applicable, that the adverse effects of the proposed use shall not outweigh its beneficial impacts to the public interest, the town and the neighborhood, in view of the particular

characteristics of the site, and of the proposal in relation to that site. In addition to any other specific factors that may be set forth in this Bylaw, the determination shall include consideration of each of the following:

1. Impacts on economic or community needs;
2. Traffic flow and safety concerns, including Route 6 access limitations and preference for shared curb cuts with adjacent uses, including provision of sidewalks and pedestrian amenities, and including no parking in front yard setback area;
3. Adequacy of utilities and other public services;
4. Impacts on neighborhood character, including all dimensional requirements and including landscape buffers along Route 6;
5. Impacts on the natural environment; and
6. Fiscal impacts, including impacts on town services, the tax base and employment.
7. Compliance with all standards and requirements of the ECSD

The Planning Board shall also make such further findings as may be otherwise required by this Bylaw and may impose such additional reasonable conditions, safeguards and limitations as it deems appropriate to protect the surrounding neighborhood including, but not limited to, imposition of reasonable requirements greater than the minimums set forth in this Bylaw to address specific facts and circumstances identified in the decision and provided that the increase in minimums shall not exceed 15% (e.g., 15% increase in parking or landscaping buffer). A Special Permit shall lapse if a substantial use thereof has not sooner commenced, or, in the case of a permit for construction, if construction has not commenced (except for good cause) within three (3) years from the date of grant thereof.

3.9.9.5 Special Permit Final Action

The Planning Board's final action shall consist of either:

1. A written denial of the application stating the reasons for such denial when filed with the Town Clerk's Office; or
2. The issuance of the Site Plan Special Permit subject to any conditions, modifications, and restrictions as the Planning Board may deem necessary, in accordance with subsection 3.9.9.4, when filed with the Town Clerk's Office.

3.9.9.6 Special Permit Appeals

Any person aggrieved by a decision of the Planning Board on a Site Plan Review Special Permit may appeal said decision to a court of competent jurisdiction under MGL c. 40A, Section 17.

3.10 **DISTRICT J¹⁹ – Groundwater Protection Overlay**
INTRODUCTION AND PURPOSE OF DISTRICT

3.10.1 The Groundwater Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities and uses in a portion of one of the underlying zoning districts that fall within the Groundwater Protection District must additionally comply with the requirements of this bylaw. Uses prohibited in the underlying zoning districts shall not be permitted in the Groundwater Protection District.

3.10.2 The purpose of this Groundwater Protection District is to:

1. promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the Town of Eastham;
2. preserve and protect existing and potential sources of drinking water;
3. conserve natural resources in the Town of Eastham; and
4. prevent temporary and permanent contamination of the environment.

ESTABLISHMENT AND DELINEATION OF GROUNDWATER PROTECTION DISTRICT

3.10.3 For the purposes of this bylaw, there is hereby established within the Town of Eastham a Groundwater Protection Overlay District. This area is delineated on a map entitled Town of Eastham Groundwater Protection Overlay District dated January 7, 2016 which is hereby made part of the Groundwater Protection District Bylaw and is on file in the office of the Town Clerk.

SPECIAL PERMIT

3.10.4 The Planning Board may issue a special permit for any use prohibited within the Groundwater Protection District, as set forth in Section 6 hereof, if the applicant can adequately demonstrate to the Planning Board that the groundwater beneath the parcel and the water runoff from the parcel does not contribute to existing or potential sources of drinking water. Any application for a special permit for this purpose shall be accompanied by adequate documentation.

3.10.5 The burden of proof shall be upon the applicant to demonstrate that the groundwater beneath the parcel and the water runoff from the parcel does not contribute to existing or potential sources of drinking water. The Town may engage professional engineers, hydrologists, geologists, or soil scientists to determine more accurately the boundaries of the groundwater watershed with respect to a particular parcel(s) of land, and may charge the owner for the cost of the investigation in accordance with Eastham Zoning Bylaw Section 19.3. If determined that a particular parcel does not in fact contribute to an existing or potential source of drinking water, a special permit may be granted subject to such conditions as the Planning Board deems necessary and appropriate. The grant of a special permit does not alter the boundary of the Groundwater Protection District. Changes to the boundaries of the Groundwater Protection District require town meeting approval.

3.10.6 Where the boundary line of the Groundwater Protection District divides a lot or parcel, the requirements established by this bylaw shall apply to the entire lot or parcel.

PERMITTED USES

3.10.7 All uses permitted in the underlying zoning districts are permitted in the Ground Water Protection District except those specifically prohibited in Section 5 of this bylaw.

PROHIBITED USES

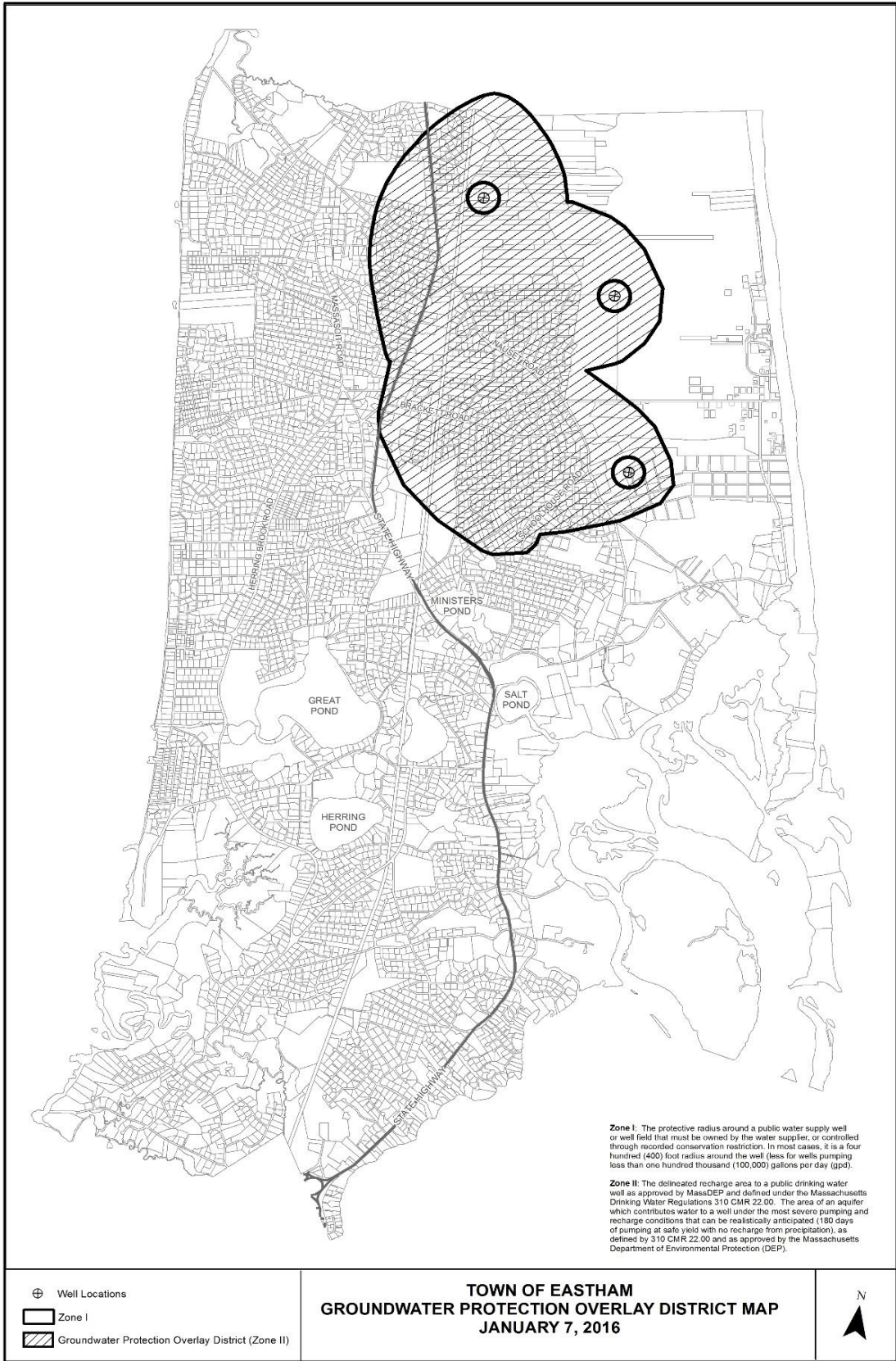
3.10.8 The following land uses and activities are prohibited unless such uses and activities comply with the specified conditions provided herein:

- 3.10.8.1 Landfills and open dumps;
- 3.10.8.2 Automobile graveyards and junkyards;
- 3.10.8.3 facilities that generate, treat, store, or dispose of hazardous waste that are subject To MGL c.21C and 310 CMR 30.000, except for:
 - 1. very small quantity generators as defined under 310 CMR 30.000;
 - 2. household hazardous waste centers and events under 310 CMR 30.390;
 - 3. waste oil retention facilities required by MGL c. 21, s.52A;
 - 4. water remediation treatment works approved by MassDEP for the treatment of contaminated waters.
- 3.10.8.4 Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under North American Industry Classification System (NAICS) Codes 424710 and 454311, except for liquefied petroleum gas.
- 3.10.8.5 Storage of liquid hazardous materials and/or liquid petroleum products unless such storage is above ground level and on an impervious surface and either:
 - 1. in container(s) or above ground tank(s) within a building; or
 - 2. outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either; 10% of the total possible storage capacity of all containers or 110% of the largest container's storage capacity, whichever is greater.however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing or storing of gasoline provided the replacement is performed in a manner consistent with state and local requirements;
- 3.10.8.6 Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- 3.10.8.7 Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- 3.10.8.8 Storage of animal manure unless contained within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- 3.10.8.9 Storage of commercial fertilizers unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- 3.10.8.10 Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the Groundwater Protection District;
- 3.10.8.11 Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, utility works or wetland restoration work conducted in accordance with a valid Order of Condition issued pursuant to MGL c. 131, s.40; and

- 3.10.8.12 Treatment or disposal works subject to 314 CMR 5.00, for non-sanitary wastewater, including those activities listed under 310 CMR 15.004(6), except for:
1. treatment works approved by MassDEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
 2. publicly owned treatment works.
- 3.10.8.13 The use, generation, storage, treatment or disposal of toxic or hazardous materials or wastes, including but not limited to: pesticides, herbicides, fungicides, rodenticides, nitrate fertilizers in quantities greater than those associated with normal household use or as regulated in the underlying zoning district.
- 3.10.8.14 Rendering impervious any lot or parcel more than 15% or 2,500 square feet, whichever is greater; unless artificial recharge, that will not degrade water quality, is provided using methods demonstrated to be capable of removing contaminants from storm water and which are consistent with methods described in MassDEP's Stormwater Handbook, Vol. I, II and III, as amended.

3.10.9 **ENFORCEMENT**

- 3.10.9.1 Written notice of any violations of this bylaw shall be given by the Building Commissioner to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance.
- 3.10.9.2 A copy of such notice shall be submitted to the Town of Eastham Water Commissioners, the Eastham Board of Health and the Eastham Planning Board. The cost of containment, clean-up, or other action of compliance shall be borne by the owner/operator of the premises.
- 3.10.9.3 A person aggrieved by a notice of violation may appeal said notice to the Eastham Zoning Board of Appeals. All appeals shall be brought within thirty (30) days from the date of the notice which is being appealed.



SECTION 4.0 - NON-CONFORMING USES

- 4.1 Any lawful building, or any lawful use of a building or premises, or part thereof, existing or lawfully begun at the time the Zoning By-Law was originally adopted in the area in which such building or use is located, may be continued, subject to the provisions of this section.
- 4.2 Discontinuance of any non-conforming use for a period of two (2) years shall extinguish any rights as a non-conforming use. Change of use from a non-conforming to a conforming use shall be considered abandonment of the non-conforming use and shall immediately extinguish any right to the non-conforming use.²⁰
- 4.3 A non-conforming single or two family residential structure may be altered if the Inspector of Buildings determines that the alteration will not increase the existing non-conforming nature of the structure. In making such determination, the Inspector of Buildings, after identifying the particular respect or respects in which the structure does not presently conform to the By-Law, shall consider whether the proposed alteration will either intensify any existing nonconformities or result in additional nonconformities.²¹

If the Inspector of Buildings determines that a proposed alteration to a single or two family residential structure will increase the existing non-conforming nature of the structure, the applicant may seek a new determination from the Zoning Board of Appeals. If the Board of Appeals determines that the alteration will increase the non-conforming nature of the structure, no such alteration may occur unless the Zoning Board of Appeals issues a special permit for the alteration after finding that the alteration will not be substantially more detrimental to the neighborhood than the existing nonconformity and will not be detrimental to the public welfare.

The following types of alterations do not result in an increase in non-conformancy:²²

1. Alteration to a non-conforming structure where the alteration will comply with all applicable sections of the Zoning By-law in effect at the time of the application.
 2. Alteration to a non-conforming structure on a lot which when created contained at least the minimum square footage required within the zoning district in which the lot is located, where the alteration will comply with all applicable sections of the Zoning By-law, in effect at the time of the application, including but not limited to yard setback, lot coverage and height requirements.
- 4.4 Other non-conforming uses and buildings or structures may be altered, extended or enlarged by a Special Permit from the Special Permit Granting Authority upon a determination that such change, extension or alteration is not more detrimental than the existing non-conforming use, building or structure is to the neighborhood and that it will not be detrimental to the public welfare.²³

Special Permits are granted when the Special Permit Granting Authority determines that the structure or use involved will not be detrimental to the established or future character of the neighborhood and the Town and when it has been found that the structure or use involved will be in harmony with the general purpose and intent of the Zoning By-law and zoning District.

It shall be the responsibility of the applicant for any Special Permit to demonstrate, to the satisfaction of the Special Permit Granting Authority, that criteria including, but not limited to, the following are met:

1. Adequacy of the site, in terms of size, for the proposed structure or use;
2. Suitability of the site for the proposed structure or use with regard to the purpose and intent of the zoning district;
3. Adequacy of traffic flow management within the site as well as in relation to adjoining streets and properties so as to minimize unsafe and harmful impacts;
4. Compatibility of the proposed structure or use with surrounding land uses so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values;
5. Adequacy of the method of sewage disposal, source of potable water and site drainage;
6. Protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies;
7. Adequacy of provision of utilities and other necessary or desirable public services;
8. Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and the neighborhood;
9. Protection from degradation and alteration of the natural environment, including, but not limited to, slopes and other topographical features, vegetation, wetlands, and wildlife habitat.
10. For alteration, extension, or enlargement of a commercial structure or use, including any structure or group of structures on one lot containing a total of three or more dwelling units, the applicant must, in addition,
 1. Obtain a finding and certification from the Eastham Board of Health that the septic system and the water supply system for said premises complies with Eastham's current health code requirements and/or as set forth in Title 5 of the Massachusetts Sanitary Code or any amendments thereto as it relates to new construction, and
 2. Obtain Site Plan Approval Special Permit under Section XIII of the Zoning By Law from the Planning Board.²⁴

- 4.5 Any non-conforming building or structure which has been damaged by fire or other cause to any extent, may be repaired or rebuilt to its original dimensions, provided the owner shall apply for a building permit and start operations for restoring or rebuilding of said premises within twelve (12) months after such catastrophe and further that said reconstruction comply with all other applicable State laws and regulations and that such construction is continued through to completion as continuously and expeditiously as is reasonable.

- 4.6 Regardless of common ownership, any lot lawfully laid out by plan or deed duly recorded in the Barnstable County Registry of Deeds prior to the day of Zoning Change regarding minimum lot size, dated April 19, 1988, which is not protected by the Eastham Zoning By-law, Section 7.0, and which contains at least twenty thousand (20,000) square feet for a one family dwelling and at least thirty thousand (30,000) square feet for a two family dwelling shall be exempt from said Zoning Change enacted April 19, 1988.
- 4.7 ²⁵Conversion of an existing cottage colony, motel, hotel or inn to a single-family, two-family, multi-family or seasonal workforce housing use under any type of ownership including, but not limited to, condominium ownership, cooperative ownership, or other forms of ownership where a structure or portion thereof is held in different ownership from the remainder of the structure or the land on which it is situated is permitted provided the owner of any such property prior to the creation of or conversion to any single-family, two-family, multi-family or seasonal workforce use under the aforementioned types of ownership does the following:
1. Obtains a special permit approval from the Board of Appeals of the Town of Eastham in compliance with applicable provisions of Section 19.2 of this bylaw, and also obtain all necessary approvals from the Town of Eastham Planning Board in compliance with applicable provisions of Section 3.8 District I – Eastham Corridor Special District or Section 10.2 Site Plan Approval Commercial of the Town of Eastham Zoning Bylaw and Massachusetts General Laws Chapter 40A, or any amendments thereto, and
 2. Obtains a finding and certification from the Eastham Board of Health that the septic system and the water supply system for said premises complies with Eastham’s current health code requirements and/or as set forth in Title V of the Massachusetts Sanitary Code or any amendments thereto as it relates to new construction, and
 3. Executes a covenant with the Town of Eastham, in a form acceptable to Town of Eastham to be recorded by the applicant/owner at the Barnstable County Registry of Deeds, covenanting and guaranteeing that Those units converted to single-family, two-family or multi-family use shall be rented and/or leased for a period of not less than twelve (12) consecutive months or that the units shall be owner occupied. Units converted to seasonal workforce housing use shall be rented and/or leased for the purpose of housing seasonal employees for not more than six (6) consecutive months.
 - All rental units created under this bylaw shall require the filing of a Certificate of Registration with the Eastham Health Department. The owner shall thereafter renew the rental registration annually with the Eastham health Department.
 - Mixed use conversions consisting of year-round and seasonal workforce uses are not permitted under this bylaw.

Definitions

Multi-family housing - A building with 3 or more residential dwelling units or 2 or more buildings on the same lot with more than 1 residential dwelling unit in each building.

Seasonal Workforce Housing - A temporary use or occupancy on an intermittent or short-term basis, for the purpose of housing seasonal employees for not more than six months during any twelve (12) month period.

SECTION 5.0 - ACCESSORY USES

5.1 Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with the principal use, may be permitted upon the issuance of a Special Permit provided the granting authority finds that the proposed accessory use does not substantially derogate from the public good.

5.2 **Accessory Dwelling Units²⁶**

5.2.1 Purpose

1. To diversify the types of housing available in the community and broaden housing opportunities for households of all income levels, ages and sizes.
2. To encourage and support a stable and diverse year round community and a robust local workforce.
3. To prevent the displacement of current Eastham residents and encourage the influx of new residents.
4. To encourage a more efficient use of the Town’s housing supply and building stock while maintaining the character of the areas in which the Accessory Dwelling Units (ADUs) are located.

5.2.2 **Use Regulations**

Y = Permitted Use SP = Special Permit X = Prohibited Use

	District A Residential	District B Marina	District E Residential/ Limited Commercial	District F Seashore	District G Water Resource Protection	District H Wellhead Protection
ADU located on residential lot	Y	X	Y	SP	Y	X
ADU Located on commercial lot	SP	X	Y	SP	SP	X

EASTHAM CORRIDOR SPECIAL DISTRICT (DCPC)					
	Core Commercial	Transition Commercial	Trade Park	Office Residential	Limited Commercial
ADU Located on residential lot	Y	Y	X	Y	Y
ADU Located on commercial lot	Y	Y	X	Y	Y

1. An Accessory Dwelling Unit (ADU) that conforms to the dimensional requirements of the Eastham Zoning Bylaw shall be permitted as a by right use accessory to a lawful single family dwelling.
2. Nothing in this bylaw shall be construed as altering or preempting the provisions of District F (Seashore District). Owners of property located within Seashore District are advised to consult with representatives from Cape Cod National Seashore before seeking permits.

5.2.3 Conditions and Requirements

1. For residential properties, only one Accessory Dwelling Unit (ADU) is permitted for each principal dwelling unit. The creation of an ADU in addition to an existing guest house located on the site is prohibited.
2. The Accessory Dwelling Unit (ADU) shall be a separate housekeeping unit containing independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
3. An Accessory Dwelling Unit (ADU) shall be clearly subordinate in use, size and design to the principal structure on the site. An ADU shall be designed so that, to the maximum extent feasible, the appearance of the property on which it is to be located remains consistent with the principal structure/use on the site and the privacy of abutting properties is maintained.
4. An Accessory Dwelling Unit (ADU) does not require a minimum acreage of buildable upland.
5. The Accessory Dwelling Unit (ADU) shall contain no more than two bedrooms.
6. The total number of bedrooms allowed on the subject site shall be limited to the number permitted under Eastham Board of Health regulations and 310 CMR 15.00 - The State Environmental Code, Title 5.
7. Accessory Dwelling Units shall not be larger than 1200 square feet or fifty percent of the site coverage of the principal dwelling, whichever is smaller. The Zoning Board

of Appeals may grant a Special Permit for an Accessory Dwelling Unit exceeding fifty percent of the site coverage of the principal dwelling unit where such unit will not exceed 1200 square feet.

8. At least one (1) off-street parking space in addition to that required for the principal structure/use is required for each Accessory Dwelling Unit (ADU).
9. An Accessory Dwelling Unit (ADU) may not be conveyed separate and apart from principal dwelling on the lot, nor shall the principal dwelling and the ADU be converted to condominium form of ownership.
10. Either the accessory dwelling unit or the principal dwelling to which it is accessory shall be rented and/or leased on a year-round basis. At no time shall both the principal dwelling and the accessory dwelling be rented and/or leased

5.2.4 Regulatory Review Requirements

5.2.4.1 Zoning Board of Appeals Approval

1. Special Permits

A Special Permit from the Zoning Board of Appeals is required in the following instances:

1. The subject property is preexisting non-conforming to the use, lot size or dimensional setback requirements of the Eastham Zoning Bylaw.
2. The proposed Accessory Dwelling Unit (ADU) will result in the increase to a pre-existing non-conformity.
3. The proposed Accessory Dwelling Unit will exceed fifty percent of the site coverage of the principal dwelling unit.
4. The subject property is located within the Seashore District.

The Zoning Board of Appeals shall review the proposed Accessory Dwelling Unit (ADU) utilizing the criteria listed under Zoning Bylaw Section 4.4 – Non-Conforming Uses.

2. Variances

- Accessory Dwelling Unit (ADU)s shall not be eligible for zoning use variances, or for dimensional variance relief proposing to increase the allowable number of Accessory Dwelling Unit (ADU)s on a lot.

5.2.4.2 Planning Board Approval

1. Site Plan Approval – Residential (Residential properties all zoning districts)

Site Plan Approval is required if the proposed Accessory Dwelling Unit (ADU) meets the criteria under Zoning Bylaw Section 7.4 – Residential Lot Intensity.

- The Planning Board shall review the proposed Accessory Dwelling Unit (ADU) utilizing the standards and criteria listed under Zoning Bylaw Section XIV.F – Site Plan Approval – Residential.

2. Site Plan Approval – Special Permit (Commercial properties in District E)

Site Plan Approval - Special Permit is required if the proposed Accessory Dwelling Unit (ADU) meets the criteria under Section 10.2– Projects Requiring Site Plan Approval – Special Permit.

- The Planning Board shall review the proposed Accessory Dwelling Unit (ADU) utilizing the standards and criteria listed under Zoning Bylaw Section 10 – Site Plan Approval – Special Permit.

3. Accessory Dwelling Units within the Eastham Corridor Special District:

Minor Site Plan, Major Site Plan or Special Permit approval is required if the proposed Accessory Dwelling Unit (ADU) meets the criteria under Section 3.8 - Eastham Corridor Special District.

- The Planning Board or in the case of Minor Site Plan Approval, its designee shall review the proposed Accessory Dwelling Unit (ADU) utilizing the standards and criteria listed under Section 3.8 – Eastham Corridor Special District.

5.2.5 Building and Health Compliance

5.2.5.1 The construction of an accessory dwelling unit must be in conformity with the Massachusetts State Building Code, the Eastham Board of Health Regulations, including Section III. A. - Rental of Premises to be Used for Human Habitation, the State Environmental Code 310 CMR 15.0 and Massachusetts Housing Code 105 CMR 400 and must be lawful under all other provisions of applicable federal, state and local laws and regulations.

5.2.6 Monitoring and Enforcement:

5.2.6.1 Prior to the issuance of a Building Permit or a Special Permit, a certificate in the form of a notarized affidavit to verify that either the principal dwelling or the accessory dwelling unit will be rented and/or leased for a period of not less than twelve (12) consecutive months shall be submitted to the Building Commissioner.

5.2.6.2 Use of an ADU shall require the filing of a Certificate of Registration with the Eastham Health Department. The owner shall thereafter renew the rental registration annually with the Eastham Health Department.

5.2.6.3 A determination that the owner failed to comply with the provisions of this Bylaw shall be evidence that the rights and benefits conferred under the Building Permit, Special Permit, Site Plan Approval or Rental Registration were abandoned or otherwise surrendered and discontinued by the owner and all such rights and benefits shall lapse and the elements that make the accessory dwelling unit a separate dwelling unit shall be removed from the property within 90 days of said final determination, with the owner to comply with all requirements of the Massachusetts State Building Code, the Eastham Board of Health Regulations, the State Environmental Code 310 CMR 15.00 and Massachusetts Housing Code 105 CMR 410.00 and must be lawful under all other provisions of applicable state and local laws and regulations in removing all elements determined to be unpermitted. In addition, failure of the owner to comply with the provisions of this Bylaw shall be punishable by fine as established under Section 20.4 of the Eastham Zoning Bylaw which states that the penalty for violation of any provision hereof shall be a fine of not more than \$300.00 for each offense. Each violation and each day of violation shall constitute a separate offense, punishable by fine.

5.2.7 Amnesty:

5.2.7.1 In an effort to meet local housing needs, real property containing an accessory dwelling unit, as described in this Section, for which a validly-issued Variance, Special Permit, Building Permit, Occupancy Permit or Rental Certificate does not exist, may apply to the Building Department for an Occupancy Permit or the Special Permit Granting Authority for a Special Permit or to the Health Department for a Rental Certificate to continue legal use as an accessory dwelling unit. Amnesty shall not be granted unless the septic loading capacity for existing structure(s) and the existing approved septic flow for the property, both comply with the requirements of the Eastham Board of Health regulations and 310 CMR 15.00 – The State Environmental Code, Title 5. Failure to comply with all pertinent State and local rules and regulations shall result in forfeiture of the accessory dwelling unit and/or the removal of the bedroom(s) causing exceedance to the approved septic flow capacity of the property.

5.2.7.2 To qualify for amnesty under this Section, the unlawful accessory dwelling unit must be a single accessory dwelling unit that is accessory to a single-family dwelling or detached accessory structure and must have been in existence prior to the date of adoption of this bylaw. It shall be the burden of the applicant to prove to the Building Department in the case of by right and to Special Permit Granting Authority in the case of a Special Permit and/or the Board of Health for issues within the purview of the Board of Health that the unlawful apartment was in existence before that date.

5.2.7.3 The amnesty provisions of this bylaw shall expire on and shall no longer be available after five years from the passage of this bylaw.

5.3 Accessory Outdoor Dining Areas²⁷

5.3.1 Purpose

1. To support resiliency and adaptability of local businesses through a set of dedicated regulations for table service in an outdoor dining area;
2. To ensure safety and health standards for outdoor dining service areas;
3. To provide guidance for regulatory and design-related requirements for outdoor dining materials, equipment, and spaces.

5.3.2 Applicability

1. An Accessory Outdoor Dining Area that conforms to the requirements of the Eastham Zoning Bylaw shall be permitted as a by right accessory to an authorized principal restaurant.
2. Accessory Outdoor Dining Areas are subject to Minor or Major Site Plan Review, as outlined in this Bylaw.
3. Temporary, mobile/transient, or freestanding food service providers or vendors are not included under these regulations.
4. Accessory Outdoor Dining Areas of any size must comply with Eastham's Local Licensing Authority and State ABCC to extend the licensed premises for alcohol service into an Outdoor Dining Area.
5. Accessory Outdoor Dining Areas shall be located on the same parcel as the principal restaurant to which it is accessory.

5.3.3 Conditions and Requirements

1. Limitation
 - Only one Accessory Outdoor Dining Area is permitted per principal restaurant.
2. Occupancy
 - Addition of an Accessory Outdoor Dining Area may not exceed the total approved occupancy and/or seat count of the principal restaurant. For proposed alteration, extension, or enlargement of occupancy, the applicant must obtain a finding and certification from the Eastham Board of Health that the septic system and the water supply system for said premises complies with Eastham's current health code requirements and/or as set forth in Title 5 of the Massachusetts Sanitary Code or any amendments thereto as it relates to new construction.

3. Design Standards
 - An Accessory Outdoor Dining Area shall be clearly subordinate in use, size, and design to the principal restaurant to which it is accessory.
 - An Outdoor Dining Area shall be designed so that, to the maximum extent feasible, its appearance remains visually consistent with the principal restaurant, including paint, décor, and any barriers or enclosures. Applicants are advised to reference Eastham’s “*Outdoor Dining Design Guidelines*” manual for all design requirements.
4. Accessibility
 - Outdoor Dining Areas shall comply with accessibility requirements to ensure areas are accessible to, functional for, and are safe for use by persons with disabilities, as outlined in the rules and regulations of the Massachusetts Architectural Access Board (MAAB), Massachusetts’ State Building Code 521 CMR 17.00.
 - Applicants are advised to reference Eastham’s “*Outdoor Dining Design Guidelines*” for specific requirements related to accessible routes, surfaces, tables and seating.
5. Pedestrian Sidewalk Access
 - An Outdoor Dining Area located on, or adjacent to, a sidewalk or pedestrian pathway must provide for pedestrian access to the sidewalk or pathway.
 - Applicants are advised to reference Eastham’s “*Outdoor Dining Design Guidelines*” manual for specific requirements related to pedestrian pathways.
6. Protective and Separation Barriers.
 - An Outdoor Dining Area located on, or adjacent to, motor vehicle space, such as a parking lot or street, must include barriers around the Outdoor Dining Area to protect against moving traffic.
 - Applicants are advised to reference Eastham’s “*Outdoor Dining Design Guidelines*” manual for specific requirements related to protective and separation barriers.
7. Tents and Enclosures
 - Proposed use of a tent or enclosure may be subject to permitting by the Eastham Building Commissioner, depending on the size of the tent or enclosure, as per the Massachusetts State Building Code.
8. Heat and Ventilation
 - Any proposed use of heating equipment in an Outdoor Dining Area is subject to review and/or permitting by the Eastham Fire Department.
 - Applicants are advised to reference Eastham’s “*Outdoor Dining Design Guidelines*” manual for specific requirements related to heat and ventilation.
9. Noise and Nuisance
 - Complaints of noise and/or nuisance (*as defined by applicable sections of the Eastham General Bylaw and Eastham Board of Health Regulations*) related to an Outdoor Dining Area must be addressed by the Applicant or Owner/Operator in cooperation with the Eastham Police Department, Board of Health, Planning Board, and/or their designees. Failure to respond to complaints may result in enforcement action as per the Eastham General Bylaw and/or Board of Health Regulations.

5.3.4 Regulatory Review Requirements

MINOR SITE PLAN Planning Board Designee Approval	MAJOR SITE PLAN Planning Board Approval
<ul style="list-style-type: none"> • Accessory Outdoor Dining Area comprising up to 40% of the floor area occupied by the principal restaurant to which the Outdoor Dining Area is an accessory OR up to 50% of the lot area occupied by the principal restaurant. 	<ul style="list-style-type: none"> • Accessory Outdoor Dining Area of any size that proposes reductions in parking to below the minimum requirement. • Accessory Outdoor Dining Service Area of any size that proposes changes to site access, patterns of vehicular movement, or interconnection(s) between adjacent lots.

5.3.5 Application Filing for Accessory Outdoor Dining Area

1. An application fee, as applicable per the fee schedule of the Planning Board Regulations, shall accompany each application.
2. The Applicant will bear the cost of any outside planning or engineering consultant requested by the Planning Board or its designee.
3. A complete filing for Accessory Outdoor Dining Site Plan Review shall include the following:
 1. A completed checklist showing compliance with the requirements of section 5.3.2 and compliance with the Eastham “*Outdoor Dining Design Guidelines*” manual;
 2. A completed application for creation of an Accessory Outdoor Dining Area;
 3. Certificate of Occupancy for the principal restaurant. If the Applicant does not own the property where the Outdoor Dining Area is proposed, a letter is required from the property owner granting the right to utilize the space;
 4. A letter of zoning determination from the Building Commissioner;
 5. Documentation of a current Business License and most recent annual inspection(s) from the Town of Eastham;
 6. Health and Safety Plan including the following information:
 - Description of proposed service (*including staffing levels, days of the week, hours/months of operation*);
 - Overview of how the Outdoor Dining Area will be separated from any non-licensed area and supervised;
 - Structures and/or barriers separating patrons from traffic
 - ADA accessibility;
 - Maintenance and storage plan for outdoor dining components, such as tables and chairs;
 7. A site plan showing the proposed Outdoor Dining Area. The Applicant may prepare the site plan. However, the Planning Board or its designee may require additional information prepared by a licensed professional if it is determined that such information is necessary to make an informed decision.

Required Site Plan Contents:

- Proposed Outdoor Dining Area, including total square footage;
- Location and boundaries of the lot and any adjacent streets or parking areas;
- Principal restaurant location and square footage;
- Location and dimensions of accessible routes to and from the principal restaurant and Outdoor Dining Area;
- Location and dimensions of adjacent sidewalks or pedestrian pathways;
- Location and number of tables and chairs, with location and dimensions of accessible routes to access;
- Location of protective barriers;
- Location of handwashing stations or sinks;
- Location of bathrooms, with location and dimensions of accessible routes to access;
- Location of any other components of the Outdoor Dining Area, including refuse containers, benches, mechanical components, etc.

5.3.6 Minor Site Plan Approval

Following a complete filing by the Applicant, an administrative review and site visit will be conducted to determine compliance with all regulatory and design standards. Review and approval of Accessory Outdoor Dining Areas under Minor Site Plan Review shall be administrative, carried out by a designee of the Planning Board without a public hearing. A written determination for Minor Site Plan Approval shall be issued upon a determination that all of the requirements listed in subsection 3.8.5.3.5, 3.8.5.5.6 of the Eastham Corridor Special District and 5.3.2, 5.3.3 and 5.3.5 of the Accessory Outdoor Dining bylaw have been satisfied.

5.3.7 Minor Site Plan Decision

The Planning Board or its designee, after completing review of the minor site plan, shall file a written decision no later than 45 days after receipt of a completed application in the office of the Town Clerk, and notify the Applicant of the decision. The required time limits for the filing of such decision may be extended by written agreement of the Applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk. Failure by the designee to act in the 45-day period shall be considered approval of the minor site plan. The Applicant who seeks such approval because of the failure of the designee to act in the time prescribed shall notify the Town Clerk, in writing, within 14 days from the expiration of said 45 days or extended time.

5.3.8 Appeal of Minor Site Plan Decision

Any person aggrieved by a decision on a minor site plan may appeal said decision to the Town of Eastham Planning Board. Such appeal must be filed with the Board within 20 days of the filing of the designee's decision with the Town Clerk.

5.3.9 Major Site Plan Approval

Major Site Plan approval shall be granted upon a favorable vote of a majority of the Planning Board upon a determination that all of the requirements listed in Section 3.8.5.3.5, 3.8.5.5.6 of the Eastham Corridor Special District and 5.3.2, 5.3.3 and 5.3.5 of the Accessory Outdoor Dining bylaw have been satisfied.

5.3.10 Major Site Plan Decision

The Planning Board, under the standards set forth here, shall carry out review and approval of Accessory Outdoor Dining Areas under Major Site Plan review.

1. The Planning Board shall hold a public hearing including notice to all abutters, within sixty-five (65) days of receipt of the completed application and shall make a decision within ninety (90) days of the opening of the public hearing.
2. The required time limits for the filing of such decision may be extended by written agreement of the Applicant and the designee, and a copy of such agreement must be filed in the office of the Town Clerk.
3. Failure by the Planning Board to act in the sixty-five day period is considered approval of the major site plan. The Applicant who seeks such approval because of the failure of the designee to act in the time prescribed must notify the Town Clerk, in writing, within 14 days from the expiration of said 65 days or extended time.

5.3.11 Any person aggrieved by a decision on a major site plan may appeal said decision to the Town of Eastham Planning Board. Such appeal must be filed with the Board within 20 days of the filing of the decision with the Town Clerk.

5.3.12 Disapproval

The Planning Board may deny approval of an application for Accessory Outdoor Dining Area on the grounds that the requirements listed in Section 3.8.5.3.5, 3.8.5.5.6 of the Eastham Corridor Special District and/or 5.3.2, 5.3.3 and 5.3.5 of the Accessory Outdoor Dining bylaw have not been satisfied, and/or the application materials or plan contents required under this subsection 5.3.5 have not been submitted and/or were not submitted at the appropriate time.

5.3.13 Conditions

In granting Major Site Plan Approval, the Planning Board may impose reasonable conditions as may be necessary or appropriate to:

- Enforce compliance with applicable requirements of the Eastham Zoning Bylaw
- Protect the health, safety, convenience, and general welfare of the inhabitants of the Town of Eastham
- Among its conditions, the Planning Board may require the provision of adequate security by the Applicant, in such form and amount as may be determined. This security is to ensure the satisfactory completion of all improvements required by site plan approval. The Planning Board may also require a formal commitment to future compliance, including a monitoring program post-permit issuance for compliance purposes for a time specified in the site plan approval, including restrictive covenants, which shall be recorded before any building permit is issued

5.3.14 Approval Lapse

Minor and/or Major Site Plan Approval shall lapse three (3) years from the date of issuance unless construction or operation under the approval has commenced.

5.3.15 Effective Date

The effective date of this bylaw shall be the date that outdoor dining, as approved by the General Court pursuant to Section 19 of Chapter 20 of the Acts of 2021 expires, or the date of any further extension approved by the General Court, whichever is later.

SECTION 6.0 - PROHIBITED USES

The following uses shall be prohibited in the Town of Eastham in Districts A, B, E, F, G and H:

- 6.1 On-shore commercial facilities to service or support or accommodate off-shore exploration or drilling for fossil fuels, including oil and gas storage tanks, pipelines, warehouses, or dockside or heliports, airports, airstrips and all air support facilities whose purpose or intention or principal business is to accommodate, or service, or support the onshore use of the Town of Eastham for off-shore exploration, drilling and transportation of fossil fuels including but not limited to oil and gas.
- 6.2 Temporary Structures
 - 6.2.1 Residential: Use of the following structures or units for human habitation except on issuance of a temporary permit by the Building Inspector under conditions hereafter specified: tents, house trailers, campers, Quonset huts, portable or semi-portable buildings, or similar structures whether equipped with wheels or not; houseboats or equivalents on fresh water. The Building Inspector may issue a permit for the temporary use of any of the prohibited items for use during the period of construction of a dwelling or cottage. This permit shall not be valid for over six months and shall not be renewable. All applicable regulations as to setback from lot lines must be complied with when locating any of these items. Sanitary facilities must receive approval from the Board of Health. All such items must be located on the lot on which construction is being done and must be removed prior to the granting of a Certificate of Occupancy for the permanent structure.
 - 6.2.2 Commercial: Use of the following structures or units for existing commercial uses except on issuance of a temporary permit by the Building Inspector under conditions hereafter specified: trailers, portable or semi-portable buildings, or similar structures whether equipped with wheels or not. The Building Inspector may issue a permit for the temporary use of any of the prohibited items for use during the period of reconstruction or alteration of an existing commercial use. This permit shall be valid for a maximum of twelve (12) months and shall not be renewable. All applicable regulations as to setbacks from lot lines and parking requirements must be complied with when locating these items. In the case of pre-existing non-conforming buildings, the location of the temporary structure shall be no more non-conforming than the existing structure. Sanitary facilities must be designed in accordance with State and local regulations and approved by the Board of Health. All such items must be located on the lot on which construction is being done and must be removed prior to the granting of a Certificate of Occupancy for The permanent structure.²⁸

- 6.3 Junkyards
- 6.4 Gambling establishments (except those permitted by the State or Special Permit Granting Authority).
- 6.5 Hotels, Motels, Inns, and Resort and Conference Centers²⁹
- 6.6 Restaurant, Drive In; Restaurant, Fast Food³⁰
- 6.7 Camps or campgrounds.
- 6.8 A Filling Station shall not conduct body work or the painting of vehicles or other activities other than minor repair work.
- 6.9 The following additional uses are prohibited in District G:
 - 6.9.1 Commercial/industrial/business uses are prohibited in District G, including but not limited to: sanitary landfills; junkyards; septage or sewage treatment facilities, except those for single or duplex family residential use; car washes; gasoline stations; airplane, boat or motor vehicle repair shops; road salt stockpiles; dry- cleaning establishments; laundromats; photo processing establishments; metal plating or finishing shops; chemical laboratories; painting shops; wood finishing, refinishing or stripping shops; and any other use which involves the manufacture, storage, use, transportation or disposal of toxic and/or hazardous materials/waste and the storage of fuel oil, diesel oil and/or gasoline, for whatever use, except as allowed in Section V of this By-law.
 - 6.9.2 Any use which creates impervious surfaces, including, but not limited to, building foot prints, paved drives, etc., which total more than ten percent (10%) of the lot area.³¹
 - 6.9.3 Underground storage tanks.
- 6.10 The following additional uses are prohibited in District H:
 - 6.10.1 Commercial/industrial/business uses, including but not limited to: sanitary landfills; septage or sewage treatment facilities, except those for single or duplex family residential use; car washes; gasoline stations; airplane, boat or motor vehicle repair shops; road salt stockpiles; dry cleaning establishments; metal plating or finishing shops; chemical laboratories; painting shops; wood finishing, refinishing or stripping shops; junk and salvage yards; and any other use which involves the manufacture, storage, use, transportation or disposal of toxic and/or hazardous materials/waste, and the storage of fuel oil, compressed gas, diesel fuel and/or gasoline, for whatever use, except as allowed in Section V of this by-law.
 - 6.10.2 The creation of impervious surfaces, including but not limited to building foot prints, paved drives, etc.
 - 6.10.3 The removal of natural vegetation except as required for forest management or the creation of pathways for passive recreation.
 - 6.10.4 Underground storage tanks.
 - 6.10.5 The use or storage of toxic/hazardous material/waste for whatever purpose.³²

The following uses shall be prohibited in Districts A, B, F, G³³ and H in the Town of Eastham:

the operation of any business for the transporting, hauling, or storage or containerization of hazardous materials or wastes, refuse, septage, or fuels; or the keeping of any vehicle for those uses.

SECTION 7.0 - INTENSITY REGULATIONS

See also **SECTION 3 - DISTRICT I** for setback requirements for properties located within the Eastham Corridor Special District. ³⁴

7.1 LOT SIZE

7.1.1 In District A and E, no single-family dwelling or two (2) family dwelling³⁵ shall be built on a lot with an area of less than 40,000 square feet. Any lot lawfully laid out by plan or deed, duly recorded in the Barnstable Registry of Deeds prior to April 19, 1988, or shown on a subdivision of land approved by the Planning Board prior to April 19, 1988 which is not protected by the Eastham Zoning By-Law, Section 7 shall contain at least 20,000 square feet for a one (1) family dwelling and 30,000 square feet for a two (2) family dwelling, except for any lot lawfully laid out by plan or deed, duly recorded in the Barnstable Registry of Deeds between May 7, 1987 and April 18, 1988 or any subdivision of land approved by the Planning Board between May 7, 1987 and April 18, 1988 shall contain at least 30,000 square feet for a one (1) family dwelling and 45,000 square feet for a two (2) family dwelling. ³⁶

(See Section 7.1.2.1 below for applicable restrictions on two-family dwellings)

7.1.2 In Districts A and E, a year-round two-family dwelling may be allowed on a lot containing 40,000 square feet or more after consideration under Site Plan Review Residential Section 11 the Eastham Zoning By Laws, and further subject to the standards and conditions listed below:

7.1.2.1 All units within Two-family dwellings allowed under this by-law shall be rented and/or leased on a year-round basis unless said unit(s) is/are owner occupied, said owner being a named individual or trustee on the Assessor's record. The requirements of this section shall not apply to lots protected under Section 7.1.1 of this bylaw.

A covenant with the Town of Eastham, in a form acceptable to the Town of Eastham shall be recorded by the owner at the Barnstable County Registry of Deeds, covenanting and guaranteeing that in the case of rental units, that the unit(s) will be rented and/or leased for a period of not less than twelve (12) consecutive months or in the case of owner occupied units that the unit(s) will be occupied by named individual(s) or trustee(s) as listed on the Town of Eastham's Assessing records. Copies of covenant documents shall be submitted to the Building Commissioner prior to any unit(s) being occupied. All rental units created under this bylaw shall require the filing of a Certificate of Registration with the Eastham Health

Department. The owner shall thereafter renew the rental registration annually with the Eastham health Department.

- 7.1.2.2 Septic systems are required to meet the then current Title 5 standards and shall be reviewed and approved by the Health Agent.³⁷
- 7.1.3 In Districts B and E, no business structure shall be built on a lot with an area of less than 40,000 square feet.
- 7.1.4 All lots in Districts A, B, and E shall have frontage of at least 50 feet on an accepted public way, a way shown on a plan approved or endorsed in accordance with the subdivision control regulations or a way in existence when the subdivision control law became effective having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed land use. Panhandle lots shall have frontage of at least 40 feet on an accepted public way or private way as described above.³⁸
- 7.1.5 In the Seashore District F, no dwelling shall be built upon a lot with an area of less than three (3) acres. All lots in the Seashore District F shall have frontage of at least 150 feet and all dwellings and buildings shall be located to provide at least a 50 foot setback from all streets measured at a right angle with the street line and a 25 foot distance from abutters' property lines.
- 7.1.6 In District G, no single family dwelling shall be built on a lot with an area of less than three (3) acres, nor any two family dwelling on a lot with an area of less than six (6) acres. Setback requirements shall conform to Section 7.2.1 of this By-law. Additionally, the total residential building floor area shall not exceed five thousand (5,000) square feet, and the total floor area for all accessory buildings shall not exceed two thousand (2,000) square feet. All new lots within District G shall have frontage of at least one hundred fifty (150) feet on an accepted public way or private way, which meets current Planning Board requirements for road layouts.³⁹
- 7.1.7 In order to comply with the minimum lot size requirement, a lot must be a closed plot of land having a definite area and perimeter, and having a shape number not exceeding a value of 22. A lot may have a shape number greater than 22 provided that the lot has within it a plot 100% of which is buildable upland, containing at least the minimum lot area required for the district in which the lot is located and having a shape number not exceeding 22, within which the site intended for building is located. The shape number shall be calculated by dividing the square of the perimeter of the lot or plot by the square foot area of same. Except as otherwise provided in Sections 7.1.3. and 7.1.4 . Each lot shall have a minimum of fifty (50) feet of frontage on an approved street or way. For the purpose of this Zoning By-Law change, all lots approved since May 1, 1989 which meet the shape number required above, are deemed to be in compliance of the By-Law.⁴⁰

7.1.8 Section 7⁴¹ requirements shall not apply to lots established prior to the adoption of this By-law provided such lots met all requirements of the Zoning By-Law in force at the time of adoption of this By-law. Furthermore, these requirements shall not apply to lots in single ownership at the time of adoption of the Zoning By-Law by the Town of Eastham at the annual Town Meeting held on February 16, 1952 provided these lots are identified by deeds of record in the Barnstable County Registry of Deeds and that any structures to be placed on such lots can comply with all requirements of the Massachusetts State Building Code and to the Regulations for Disposal of Sewage as adopted by the Board of Health on April 18, 1955, or any amendments thereto.

7.2 SETBACK REQUIREMENTS

7.2.1 The building lines for structures for human habitation shall not be nearer to the nearest boundary of any way than fifty (50) feet, nor nearer to the interior side and rear lot lines than thirty (30) feet; and if on land of single ownership, they shall not be nearer to each other than fifty (50) feet. The building lines of detached buildings which are necessary to structures for human habitation shall not be nearer to the nearest boundary of any way than fifty (50) feet, nor nearer to the interior side and rear lot lines than thirty (30) feet. Additionally, detached buildings shall not be closer than eight (8) feet to any other structure on the lot.⁴²

7.2.2 In Districts B and E, all new construction, including residential, commercial, or other, shall be set back a minimum of 100 feet from all ways. Side and rear setbacks shall not be less than twenty-five (25) feet.⁴³

7.2.3 Pursuant to Massachusetts General Laws, Chapter 40A, Section 6, those pre-existing, non-conforming commercial structures in District A which seek to be altered, renovated, amended, modified, or expanded shall conform to the setback requirements of Section 7.2.2 of this By-law.⁴⁴

7.2.4 Section 7⁴⁵ requirements shall not apply to any lot for single or two family residential use which, at the time of the adoption of this By-law, was lawfully in existence by way of recording or endorsement. Such lot must conform with the setback requirements then in existence at the time of the creation of the lot. For lots subdivided before April 19, 1988, the building lines for structures for human habitation shall not be nearer to the nearest boundary of any way than thirty (30) feet, nor nearer to the interior side or rear lot line than twenty-five (25) feet.⁴⁶

7.2.5 Setback requirements for detached accessory buildings used for any purpose, in Districts A, B, E, G & H, regardless of when the lot was created, shall be

- a minimum separation of eight (8) feet between all buildings; and
- a minimum of twelve (12) feet and at least the maximum height of the accessory structure from the side and rear property lines; and
- thirty (30) from any street or way.⁴⁷

7.3 In any given subdivision, there can be no more than one (1) pan handle lot for every six (6) standard lots. A pan handle lot cannot be adjacent to or abut another pan handle lot.⁴⁸

7.4 RESIDENTIAL LOT INTENSITY

Site Plan Approval under Section 10 of this Zoning By-law shall be required for any addition, expansion or construction on a residential lot that meets the following requirements:

7.4.1 Any lot under 20,000 square feet where a proposed addition or expansion of an existing dwelling exceeds 2.5% of the lot area and/or the site coverage ratio including the addition exceeds 15% and where the site coverage ratio for a new dwelling or the addition of an accessory building causes the site coverage ratio to exceed 15% of the lot area.

7.4.2 Any lot containing 20,000 square feet or more, where the site coverage exceeds 3,000 square feet.

7.4.3 Any lot containing 40,000 square feet or more with a deed restricted two-family dwelling proposed in accordance with Section 7.1.2 of this By-laws.

7.4.4 Any proposed addition to or expansion of an existing dwelling or accessory structure in District F: Seashore District must submit an application to the Eastham Planning Board under Section 11– Site Plan Approval – Residential, if the addition or expansion exceeds 200 square feet.⁴⁹

7.4.5 Any project resulting in an increase of 200 square feet or less of site coverage, as defined in Section 22 of the Eastham Zoning Bylaw, shall be exempt from Site Plan Approval – Residential. No more than one (1) exemption shall be granted within a five (5) year period.⁵⁰

7.4.6 Any interior changes to existing framed structures where alterations will not result in changes to the exterior of the building footprint or visible changes to the site are exempt from site plan review.⁵¹

7.5 USE REQUIREMENTS

7.5.1 Assisted Living Residence (ALR)

Where authorized by a special permit, Assisted Living Residences (ALRs) need not comply with the use restrictions or dimensional requirements generally applicable in the underlying zoning district(s), provided the facility meets all of the following criteria:

1. provides room and board to residents in need of support with one or more activities of daily life; and
2. provides, directly by its employees or through arrangements with another organization which the entity may or may not control or own, Personal Care Services as defined in 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.

7.5.2 Bed and Breakfast

Uses falling under the definition of Bed and Breakfast as defined in Section 21 - Definitions shall conform to the following condition:

- A Bed and Breakfast business shall have no more than two (2) bedrooms offered for rent.

7.5.3 Bulk Storage, Tanks

Structures meeting the definition of Bulk Storage, Tanks, as defined under Section 21 – Definitions shall not be considered as such if they are located upon a farm and employed for farm purposes.

7.5.4 Business Service

Uses falling under the definition of Business Service as defined in Section 21 – Definitions shall not include the sale or service of motor vehicles, trucks or boats.

7.5.5 Home Occupations

Uses falling under the definition of Home Occupation as defined in Section 21 - Definitions shall conform to the following conditions:

1. No more than one (1) non-family member shall be employed in the home occupation.
2. The floor area used by the home occupation shall not exceed thirty percent (30%) of the total livable floor area of the principal building;
3. There shall be no exterior display, no exterior sign, except as permitted under the Sign Code, no exterior indication of the home occupation or variation from the residential character of the principal building;
4. No offensive noise (as defined in the Eastham Noise By-Law), offense due to hours of operation, vibration, smoke, dust, gas, odors, heat or glare beyond a reasonable judgment shall be produced;
5. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises;
6. No outside storage of materials and equipment shall be permitted unless concealed from view of neighbors and street by a concealing fence enclosing said materials and equipment;
7. All parking shall be off-street, and long term parking (more than six (6) hours) shall be limited to two (2) vehicles, excluding the resident's vehicle (s);
8. Any merchandise offered for retail sale must be manufactured or assembled on the premises;
9. The occupation of repairing gas, gasoline or diesel engines is specifically excluded; and
10. The physical presence of non-family member employees or the public shall be limited to the hours between 7:30 AM and 10:00 PM.
11. Except by Special Permit, there shall be no food preparation on premises.⁵²

7.5.6 Service Trades

Uses falling under the definition of Service Trades as defined in Section 21 – Definitions, may be operated out of the provider’s residence subject to the following restrictions:

1. The business is secondary to the use of the dwelling unit for residential purposes;
2. No more than two (2) employees may report to the provider’s residence;
3. No outdoor storage of service-related materials or equipment is permitted on the provider’s premises unless concealed from view of neighbors and street by a concealing fence enclosing said materials and equipment;
4. No more than two (2) motor vehicles (as that term is defined by the Massachusetts General Laws, Chapter 90, Section 1, but containing no more than six (6) wheels) which are used in the service trade may be kept on the provider’s premises;
5. Deliveries may be made to the provider’s premises no more frequently than an average of five (5) times a week;
6. There shall be no exterior sign or other display except as permitted under the Sign Code for a residential district, and no exterior indication of the service trade which detracts from or is in conflict with the residential character of the principal building and area;
7. The buildings or premises occupied shall not be rendered objectionable or detrimental to the residential character of the neighborhood due to the exterior appearance, emission of odor, gas smoke, dust, noise, electrical disturbances, or in any other way. In the case of electrical disturbances, no equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
8. The floor area used shall not exceed thirty percent (30%) of the total livable floor space in the principal building; and
9. All parking shall be off-street, and long term parking (more than six (6) hours) shall be limited to two (2) vehicles, excluding the resident’s vehicles

7.6 BUILDING AND STRUCTURAL DIMENSIONAL REQUIREMENTS

7.6.1 Cupolas

Shall be no more than three (3) feet wide, three (3) feet deep, and no more than four (4) feet tall, measured from and extending above the roof ridge line are exempt from the building height limit.

7.6.2 Motels

Motels shall be one story in height except where the terrain will allow the rear wall to be two stories in height. Rear wall is defined as the wall farthest from the road or roads off which the structure is located and parallel to said road or roads.

When more than one motel structure is erected on one lot, each structure shall be not less than fifty (50) feet from any other structure on the lot. No structure shall be erected nearer than fifty (50) feet from the lot side lines nor nearer than twenty-five (25) feet from the lot rear line

7.6.3 Swimming Pools

Shall conform to all applicable State requirements.

7.6.4 Waste Oil Facilities

Shall be sheltered and have adequate protection to contain a spill, seepage, or discharge of petroleum waste products in accordance with MGL c.21. s.52A.

- 7.6.5 Window Sign
Shall be limited to no more than 30% of the glass area within the frame of display.

7.7 INCLUSIONARY ZONING SPECIAL PERMIT⁵³

7.7.1 Purpose and Intent

The purpose of this bylaw is to encourage development of new housing that is affordable to persons of various age and income levels in accordance with Massachusetts General Law, Chapter 40A, Section 9, which allows municipalities to adopt “incentive” ordinances for the creation of affordable year-round housing, and for the purpose of:

1. Helping people who, because of rising land prices, have been unable to obtain suitable housing at an affordable price; and,
2. Maintaining a stable economy by preventing out-migration of residents who provide essential services.

The intent of this bylaw is to:

3. Diversify the types of housing available in the community and broaden housing opportunities for households of all income levels, ages and sizes.
4. Encourage and support a stable and diverse year-round community and a robust local workforce.
5. Prevent the displacement of current Eastham residents and encourage the influx of new residents.
6. Encourages a more efficient use of the Town’s housing supply and building stock while maintaining the character of the areas in which affordable housing is located.

7.7.2 Applicability

In all zoning districts, the inclusionary zoning provisions of this section shall apply to the following uses:

1. Any project that results in a net increase of five or more dwelling units as part of a single application whether by new construction or by the alteration or rehabilitation of existing structures.
2. Inclusionary Zoning provisions do not apply to seasonal work force housing.

7.7.3 Definitions

Affordable Housing Unit – A dwelling unit reserved in perpetuity for a household earning no more than 80% of area median family income (AMI) for Barnstable County as adjusted by size of household, and otherwise meeting the standards of the Massachusetts Department of Housing and Community Development (DHCD) for inclusion in the DHCD Subsidized Housing Inventory.

Affordability Deed Restriction – An “affordable housing restriction” as described in G.L. c. 184, §31 imposed on the land in perpetuity or for no less than 99 years; or in the case of workforce housing, a restriction in the form of a deed rider, covenant, mortgage condition, easement, and/or other similar instrument limiting the use of all or a portion of the subject land to affordable and/or workforce housing as defined in this Bylaw for a specified time period of at least 99 years, and meeting the following standards:

1. Is in a form acceptable to the Eastham Planning Board, which may establish rules governing its standards for approving such restrictions; and the Massachusetts Department of Housing and Community Development (or its successor agency), in accordance with the standards under MGL c. 40B.
2. Includes provisions for adequate legal monitoring, including:
 - An identified nonprofit housing or government monitoring agency approved by the Eastham Affordable Housing Trust and;
 - A successor nonprofit housing or government monitoring agency (which shall succeed the initial monitoring agency if the initial monitoring agency no longer exists). The Town of Eastham may be used as the successor monitoring agency provided the Town is granted the right to assign its monitoring responsibilities to another agency at its sole discretion.
3. With respect to ownership units, includes a grant of the right of first refusal to the Town of Eastham to purchase said unit in the event an income-eligible family cannot be found by the seller.
4. Includes provisions that the restriction can survive any bankruptcy, insolvency, or foreclosure, other than property tax or government super-lien foreclosure, and shall not otherwise be subject to nullification for any reason.
5. The model deed rider used by the Massachusetts Department of Housing and Community Development for affordable housing I may be adapted for use with workforce units as defined in this bylaw.

Local Initiative Program (LIP) - A state housing program that was established to give cities and towns more flexibility in their efforts to provide low and moderate-income housing. It is administered by the Department of Housing and Community Development (DHCD).

Subsidized Housing Inventory (SHI) - The list compiled by the MA Department of Housing and Community Development (DHCD) containing the count of Low or Moderate Income Housing units by city or town.

Seasonal Workforce Housing - A temporary use or occupancy on an intermittent or short-term basis, primarily during the summer months and/or weekends, the total time of which use shall constitute less than six months during any one calendar year.

Workforce Housing Units - A dwelling unit that is restricted occupancy by households with incomes above 80% of area median income (AMI) and up to 120% AMI

7.7.4 Provision of affordable units

1. As a condition of approval for a special permit, the applicant shall contribute to the local stock of affordable and workforce housing units in accordance with the following requirements.

TOTAL UNITS PROPOSED	MARKET RATE UNITS	AFFORDABLE/ WORKFORCE UNITS REQUIRED	% AFFORDABLE/ WORKFORCE UNITS
1-4	1-4	0	0%
5	4	1	20%
6	5	1	17%
7	6	1	14%
8	7	1	13%
9	7	2	22%
10	8	2	20%
11	9	2	18%
12	10	2	17%
13	10	3	23%
14	11	3	21%
15	12	3	20%
16	13	3	24%
17	13	4	24%
18	14	4	22%
19	15	4	21%
20	16	4	20%
21	17	4	19%
22	17	5	23%
23	18	5	22%
24	19	5	21%
25	20	5	20%

26	21	5	19%
27	22	5	19%
28	23	5	18%
29	23	6	21%
30	24	6	20%
31+	80%	20% <i>Fractional units shall be rounded to nearest whole unit.</i>	

- **Affordable Housing Units:** Are affordable to those earning at or below 80% of the Area Median Income (“AMI”) for the area including Eastham as determined by the Department of Housing and Urban Development (“HUD”). Maximum rents and/or sale price shall be governed by DHCD’s regulations under Chapter 40B of the Massachusetts General Laws, and shall be set at levels that will enable the Town to qualify the Affordable Housing Units created under this bylaw towards the Town’s Subsidized Housing Inventory (SHI).
 - **Workforce Housing Units:** Maximum rents and/or mortgage payments shall not exceed 30% an occupant’s or tenant’s annual income for a household at or below 120% of Barnstable County median income adjusted by household size.
2. All units created shall be for year-round housing. Housing units created under this bylaw shall be established as Affordable Housing Units and/or Workforce Housing Units as defined in this bylaw.
 3. For affordable/workforce units, in no case shall less than fifty percent of the units be affordable to households earning less than 80% of the area median income. Remaining units shall be affordable to those earning no more than 120% AMI.
 4. Developments may not be segmented or phased by a common owner or developer to avoid compliance with this bylaw. For example, the divisions of land that would cumulatively result in an increase by four or more residential lots above the existing on a parcel of land or contiguous parcels in common ownership as of May 2, 2022 shall be subject to this bylaw.

7.7.5 Provisions applicable to affordable/workforce housing units

1. **Siting of affordable and workforce units** All affordable units constructed or rehabilitated under this bylaw shall be distributed equally throughout the development and shall be situated within the development so as to be as conveniently accessible to public amenities, such as open space, as the market-rate units.
2. **Minimum design and construction standards for affordable and workforce units.** Affordable housing units shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units.

Interior features and mechanical systems of affordable units shall conform to the same specifications as apply to market-rate units.

3. **Timing of construction or provision of affordable/workforce units or lots.** Affordable units shall not be the last units to be built in any development covered by this bylaw.
4. **Marketing plan for affordable/workforce units.** Applicants under this bylaw shall submit a marketing plan or other method approved by the Town through its local Comprehensive Plan or other applicable Community planning document to the Planning Board for its approval, which describes how the affordable and/or workforce units will be marketed to potential homebuyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants. The plan shall be in conformance with DHCD rules and regulations and shall be subject to review and approval by DHCD. The property owner shall be responsible for retaining the services of a qualified entity (in compliance with the Massachusetts Department of Housing and Community Development's most recent Affirmative Fair Housing Marketing and Resident Selection Plan Guidelines), subject to the Planning Board's approval, to seek buyers and/or renters for the affordable and/or work force units and shall submit an annual report to the Planning Board detailing compliance with the affordable housing provisions of the housing development approval. Said approved qualified entity shall be responsible for monitoring the long-term affordability of the units and shall report any deviations from these provisions to the Building Inspector and the Planning Board.

7.7.6 Provision of affordable/work force housing units off site

1. As an alternative to providing the required affordable or workforce housing units on the same site as the subject development an applicant may develop, construct or otherwise provide affordable/workforce units equivalent to those required by this bylaw off site. All requirements of this bylaw that apply to on-site provision of affordable/workforce units shall apply to the provision of off-site affordable/workforce units. In addition, the location of the off-site units to be provided shall be approved by the Planning Board as an integral element of the review and approval process. In considering suitability of off site locations, the Planning Board shall consider the following criteria:
 1. That the developer has control of the site.
 2. That the affordable/workplace units can be created whether by new construction and/or rehabilitation of existing structures.
 3. That developer can demonstrate that the alternate site is developable and suitable for the required number of affordable/workforce units and whether site plans will be required for same.
 4. Whether the off-site units can be in the same or different zoning districts than the subject development.
 5. That the off site location shall be subject to the approval of the Planning Board.

6. Whether one or more alternate sites could be considered.
7. The applicant's ability to demonstrate ability to secure financing for the affordable/workforce units.
8. Whether the Board will accept preservation of existing dwelling units and securing deed restrictions for same in lieu of new construction or rehabilitation of units.

7.7.7 Fees-in-lieu of affordable/workforce housing unit provisions

As an alternative to providing the required affordable or workforce housing units on the same site as the subject development and to the extent permitted by law, an applicant may contribute to the Eastham Affordable Housing Trust to be used for the development of affordable and/or workforce housing in-lieu of constructing and offering affordable units within the locus of the proposed development.

1. **Calculation of fee-in-lieu-of units.** The applicant for development subject to this bylaw may pay fees-in-lieu of the construction of affordable/workforce units of equivalent value for the funding or purchase of equivalent housing, and/or housing assistance programs administered by the Town of Eastham and/or Eastham Affordable Housing Trust provided that:
 - (a) the applicant submits a plan acceptable to the Town to expend those funds within the same time frame as the applicant's development, and
 - (b) such proposal will result in an equal or greater number of units or lots than had they been created on site.
2. Equivalent value for ownership and/or rental projects, should be determined through the difference between the affordable sales price(s) and the market sales price(s) of similar bedroom units within the development.
3. The applicant shall pay for all appraisals, and the Town shall approve the applicant's chosen appraiser.
4. The Planning Board shall make the final determination of acceptable value, in accordance with regulations it may adopt and amend from time to time. No building permit shall be issued until the applicant pays at least 5% of the total required fee to the Eastham Affordable Housing Trust. Additionally, no more than 50% of the certificates of occupancy shall be issued until the applicant pays at least 50% of the total required fee to the Eastham Affordable Housing Trust. All payments must be received prior to issuance of final use and occupancy permit.
5. **Creation of Affordable Units.** In lieu of constructing the affordable or workforce units on the same site as the subject development, an applicant may offer cash contributions and/or donations of buildable land and/or buildings to the Eastham Affordable Housing Trust shall be used according to the rules and regulations of said Trust.

6. A contribution of land shall be accompanied by a development plan acceptable to the Town demonstrating that the requisite number of units may be developed on said land by right. No building permits shall be issued until the applicant submits evidence acceptable to the Eastham Planning Board that the land has been conveyed to the receiving organization identified in the Planning Board's special permit and affordable housing restriction has been recorded at the Barnstable County Registry of Deeds.

7.7.8 Preservation of affordability and restrictions

1. Each Affordable Unit and/or Workforce Housing Unit created in accordance with this bylaw shall be subject to an affordable housing or workforce housing deed restriction and regulatory agreement as defined by M.G.L. Ch. 184, Sec. 31 and as approved by the Town, which shall ensure that the housing shall remain affordable to the designated income group in perpetuity or to the maximum period of time allowed by law. In no case shall less than fifty percent of the units be affordable to households earning less than 80% of the area median income. Remaining units shall be affordable to those earning no more than 120% AMI.
2. The applicant shall prepare a deed restriction and regulatory agreement, which shall be reviewed and approved by the Town and DHCD. The deed restriction and regulatory agreement shall be recorded by the applicant at the Barnstable County Registry of Deeds and shall be in force in perpetuity, or for the maximum period of time allowed by law, so as to be binding on and enforceable against any person claiming an interest in the property and shall conform to the following:
 - The deed restriction shall meet the requirements of the Local Initiative Program (LIP), 760 CMR 56.00 Local Initiative Program (LIP) and guidelines promulgated thereunder. The affordable housing restriction shall have seniority to any encumbrance on the property which would put at risk the perpetual nature of this restriction.
 - The developer shall submit to the Town a title search and certification by counsel whose selection shall be approved in advance by the Town that demonstrates the seniority of the affordable housing restriction and regulatory agreement;
 - The applicant shall select qualified purchasers and tenants via a lottery pursuant to an Affirmative Fair Housing Marketing Plan prepared and submitted by the applicant. The marketing plan shall comply with DHCD requirements and guidelines under the Local Initiative Program and in effect on the date of recording the regulatory agreement;
 - Initial sale of an Affordable Housing Unit shall be made to a eligible low- or moderate-income household at a sale price not to exceed the maximum affordable sale price established under the DHCD requirements and guidelines under LIP;

- Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall include the initial discount rate between the sale price and the unit's appraised value at the time of resale. This percentage shall be recorded as part of the restriction on the property noted above.
- Right of first refusal to purchase ownership units. The purchaser of an affordable housing ownership unit developed as a result of this bylaw shall execute a deed rider prepared by the Town, consistent with model riders prepared by DHCD, granting, among other things, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.
- The Building Inspector shall not issue a certificate of occupancy for any affordable unit until the deed restriction is recorded.

7.7.9 Local Preference

The maximum number of affordable and/or workforce units allowed by law and applicable subsidy programs but not more than seventy percent (70%) of the units shall be reserved for present residents of the Town of Eastham, or employees of the Town of Eastham or teacher employed by the school district serving the Eastham. A lottery shall be established in a form approved by the Town of Eastham and/or the subsidizing agency and/or the project's monitoring agent to implement this local preference.

7.7.10 Review and Approval Criteria

The Planning Board shall act as the Special Permit Granting Authority for projects falling under the provisions of this bylaw. Projects shall be reviewed and approved pursuant to the applicable regulatory requirements and review criteria for the zoning district in which the project is located. The Planning Board may grant a special permit under Section 7.7 only if it finds that each of the criteria set forth below are satisfied.

1. Adequacy of the site, in terms of size, for the proposed structure or use;
2. Compliance with all applicable regulatory requirements for the zoning district in which the site is located.
3. Suitability of the site for the proposed structure or use with regard to the purpose and intent of the zoning district;
4. Adequacy of traffic flow management within the site as well as in relation to adjoining streets and properties so as to minimize unsafe and harmful impacts;
5. Compatibility of the proposed structure or use with surrounding land uses so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values;
6. Adequacy of the method of sewage disposal, source of potable water and site drainage;

7. Protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies;
8. Adequacy of provision of utilities and other necessary or desirable public services;
9. Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and the neighborhood;
10. Protection from degradation and alteration of the natural environment, including, but not limited to, slopes and other topographical features, vegetation, wetlands, and wildlife habitat.

7.7.11 Conflict with other laws

The provisions of this bylaw shall be considered supplemental of existing Zoning Bylaw. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

7.7.12 Administration

The Planning Board may adopt regulations for the orderly administration for this bylaw.

SECTION 8.0 - PARKING REQUIREMENTS

See also **SECTION 3 - DISTRICT I** for parking requirements for properties located within the Eastham Corridor Special District. ⁵⁴

- 8.1 Off-street parking shall be provided to service all parking demand created by new construction, whether through new structures or additions to pre-existing structures, or through change of use creating higher parking demand. An area of 300 square feet of appropriate dimensions for the parking of a motor vehicle, including maneuvering area, and aisles, shall be considered as one (1) off-street parking space.
- 8.2 **TABLE OF REQUIREMENTS** – The following minimums must be met unless these are reduced on Special Permit from the Special Permit Granting Authority, upon determination that special circumstances render a lesser provision adequate for all parking needs:
 1. Hotel, Motel, Inn, Guest House, Bed and Breakfast, or Resort and Conference Center: one (1) space per guest unit.
 2. Offices, Stores: one (1) space per 150 square feet floor area accessible to the public. ⁵⁵
 3. Restaurants: one (1) space per four (4) seats.
 4. Coffee Shops: one (1) space per two (2) seats.
 5. Industrial: one (1) space per 1¼ employees per shift, with no on-street parking permitted.
 6. Bank: one (1) space per employee and one (1) space per 150 sq. ft. of public area.
 7. All other uses: five (5) spaces or one (1) space per 350 sq. ft., whichever is greater. ⁵⁶

- 8.3 SURFACING – Required parking areas shall be paved with bituminous concrete according to current Town of Eastham Subdivision Regulations,⁵⁷ unless service a one (1) or two (2) family dwelling, or unless authorized to be paved with an alternative surface on Special Permit by the Special Permit Granting Authority. Such authorization may be granted by the Special Permit Granting Authority upon its determination that drainage, erosion, siltation, dust, and appearance will be satisfactorily controlled. Where an alternative to bituminous concrete is authorized on Special Permit, the following shall be complied with:
1. Access drives shall be paved with bituminous concrete (unless the Special Permit Granting Authority shall grant a Special Permit for alternative surfacing), or other pavement authorized by the Planning Board for at least twenty (20) feet from the edge of the paved street unless the street itself is not paved.
 2. Grading and materials selection shall assure that surface materials will not be carried into the street, and that drainage is positively provided for on- site.
 3. If there are six (6) or more parking spaces, there shall be provisions for identifying individual spaces through use of segmented bumper strips or other similar permanent means.
- 8.4 EGRESS – Parcels with six (6) or more parking spaces shall not have more than two (2) driveway openings onto any street unless each opening is separated from all others on or off the parcel by more than 200 feet measured from center to center. No driveway opening shall exceed 30 feet in width at the property line. Parking areas with six (6) or more parking areas shall be so designed and located that their use does not require backing onto a public way.
- 8.5 OFF-STREET QUEUES – Establishments having drive-in facilities which from time to time have queues of vehicles awaiting service shall have comparably sufficient on-site space for such queues without requiring cars to stand on any public way or across any public sidewalk.
- 8.6 LOADING – Off street loading facilities and space must be provided to service all needs, and so sized and arranged that no trucks need back onto or off a public way, or be parked on a public way while loading, unloading, or waiting to do so.
- 8.7 PARKING AND LOADING AREA SETBACKS – The required distance between off-street parking and loading areas and any street line shall be five percent (5%) of lot depth from the street, but no such requirement shall be greater than 50 feet nor less than 15 feet. Off-street parking servicing non-residential districts shall not be allowed within 30 feet of a residential district.
- 8.8 HANDICAPPED ACCESS – All such parking shall comply with all State and Federal statutes or regulations having Handicapped Access for Parking as its subject matter.

SECTION 9.0 - LANDSCAPING REQUIREMENTS

See also **SECTION 3 - DISTRICT I** for properties located within the Eastham Corridor Special District (ECSD).⁵⁸

In Districts B and E, excluding one (1) and two (2) family dwellings, the following landscaping standards shall be in effect:

- 9.1 **BUILDINGS** – Along the front of the building parallel to the road, there shall be planting for a minimum width of four (4) feet with curbing and/or sidewalk (minimum width four feet) adjacent to parking and driveways. Planting may be in the form of planters or sunken planting beds, shrubs, or ground cover. Outdoor dining areas shall have suitable shrubs or suitable vegetative barrier to create a hedge at least 36" high between these areas and all roads. The outdoor dining areas shall conform to the required setback of buildings from all roads.
- 9.2 **ROAD BOUNDARIES** – Shrubbery and/or grass shall be planted and maintained to a minimum width of twenty (20) feet parallel with road except in the areas required for entrance and exit. Shrubs shall not exceed 18" in height, and shall be planted a maximum of six (6) feet apart. Shrubbery shall be located in such a manner so as to not obstruct vision of any entering or exiting vehicle.
- 9.3 **PARKING LOTS** – Customer parking lots intended for the use of twenty (20) vehicles shall have areas of shrubbery, trees and/or grass containing a minimum of 400 square feet for each twenty (20) vehicles or fraction thereof. These areas are to be suitable dispersed throughout the parking area, and are in addition to the requirements of Section 9.2 above.
- 9.4 **ABUTTING PROPERTY** – There shall be suitable screening from adjacent residential property.

SECTION 10.0 - SITE PLAN APPROVAL

See also **SECTION 3 - DISTRICT I** for properties located within the Eastham Corridor Special District (ECSD).⁵⁹

10.1 GENERAL PROVISIONS

10.1.1 APPLICATION

1. Each application shall be filed by the petitioner with the Town Clerk, and twelve (12) copies of said application, including the date and time of filing certified by the Town Clerk, shall be filed with the Planning Board.⁶⁰
2. Each application shall be accompanied by the required fee:⁶¹
 1. The fee schedule is listed in the Planning Board Regulations.
 2. In addition, the applicant will bear the costs of any outside planning or engineering consultant requested by the Planning Board.

10.1.2 WAIVERS⁶²

The intent of site plan approval is to insure that any development which may have significant impacts upon the abutting land is reviewed for the purpose of assuring compliance with the Zoning By-law as well as to minimize negative effects on abutters and the community at large. When in the opinion of the Planning Board, the alteration or reconstruction of a structure does not substantially change the relationship of the structure to the site and to abutting properties and structures, the Planning Board may determine, without a public hearing, that submission of a site plan for special permit approval is not required. Upon application on a form approved by the Planning Board, such a determination may be made by an affirmative vote of a majority of the Planning Board present, and in no event less than four members, and all abutters must be notified by certified mail, return receipt requested, at least seven days prior to the meeting at which such vote is to be taken. The involved structure shall be as shown on a site plan previously approved under this section or on a plan showing sufficient information as determined by the Planning Board to allow the Planning Board to make a decision. Such plan, with all proposed changes shown thereon, shall be included with the application for waiver. Notice of final action shall be sent to the Inspector of Buildings, Town Clerk and to the applicant. Should an application be denied a waiver of Site Plan Approval requirements, a new application for a special permit must be filed.

10.1.3 REQUIRED SITE PLAN CONTENTS

1. All site plans shall be prepared by a Registered Professional Land Surveyor or Registered Professional Civil Engineer or both if required.⁶³
2. All site plans shall be on standard 11" x 17" sheets, and each sheet shall be prepared at a defined scale suitable for the content of the topic covered on the sheet and shall include the following:⁶⁴
 1. The location and boundaries of the lot, adjacent street/ways and a list showing names and addresses of direct abutters and abutters to the abutters within 300 feet,

2. Existing and proposed topography showing 2 foot contours showing “benchmark” used and significant land features, natural and man made, including, but not limited to, the location of wetlands, streams, bodies of water, drainage swales and areas subject to flooding,
 3. Existing and proposed structures, including dimensions and all elevations,
 4. The existing and proposed location of loading areas, driveways, walkways, access and egress points, and the location and number of parking spaces.
 5. The location and description of all proposed on site wells, water supply systems, storm drainage systems, utilities, sites for enclosed refuse containers and location and capacity of septic systems,
 6. Proposed landscape plan showing the location and description of screening, fencing, plantings, significant trees and finished grade contours,
 7. The location and description of existing signs (a photograph will do) and the location and a sketch of proposed signs,
 8. The location and description of existing and proposed open space or recreation areas,
 9. A lighting plan showing existing and proposed exterior lighting, including building and ground lighting.
 10. A plan for the control of erosion if applicable, and
 11. A traffic study if required by the Planning Board.
3. Upon written request by the Applicant, the Planning Board may waive strict compliance with the requirements of this Section 10.6.1 and 10.6.2 where it determines that not all requirements are necessary for proper review of the application and that the Site Plan Criteria of Section 10.1.4., below, are adequately met. The written request shall specify the item(s) for which waivers are being sought. ⁶⁵

10.1.4 PROCEDURES FOR SITE PLAN REVIEW

1. The Planning Board may request additional information or data it judges to be necessary to render its decision.
2. The Planning Board encourages prospective Site Plan Approval – Residential applicants to schedule a preliminary meeting with the Board prior to the filing of an application. ⁶⁶
3. The Planning Board will transmit one copy of the Site Plan application for review, comments and recommendations to other Town Boards including but not limited to:
 1. Inspector of Buildings
 2. Board of Health
 3. Board of Selectmen
 4. Conservation Commission
 5. Police Department
 6. Fire Department
 7. Department of Public Works
 8. Historical Commission

All recommendations to the Planning Board must be in writing. Failure of Boards to make recommendations prior to the date of the scheduled hearing shall be deemed to be acceptance of the plan.

10.1.5 The Planning Board shall hold a public hearing within 65 days of the receipt of the application, and after due consideration of the evidence and recommendations of other Town Board, shall take final action within 90 days from the date the hearing closes.

10.2 SITE PLAN APPROVAL COMMERCIAL⁶⁷

10.2.1 SITE PLAN APPROVAL IS REQUIRED FOR ANY ADDITION, EXPANSION OR CONSTRUCTION OF COMMERCIAL STRUCTURES⁶⁸

10.2.2 PURPOSE OF SITE PLAN APPROVAL - SPECIAL PERMIT

The purpose of Site Plan Approval - Special Permit is to further the intent of the Zoning By- Laws of the Town of Eastham by reviewing the proposed uses and structures to ensure that new development and/or redevelopment which may have significant impacts upon abutting land, the Town, or any neighborhood, are designed in a manner which complies with the zoning By-Laws and addresses other community needs such as the protection of abutting landowners from unnecessary noise, glare or other inconvenience and provides for adequate parking and traffic management and sound waste disposal, drainage and other environmental protection.

10.2.3 PROJECTS REQUIRING SITE PLAN SPECIAL PERMITS

1. No building permit shall be issued for any of the following uses unless a Site Plan Special Permit has been granted by the Planning Board. The Planning Board shall not issue a special permit until all necessary zoning relief has been granted from the Zoning Board of Appeals.⁶⁹
 1. The construction or exterior alteration of any commercial, retail and/or mixed use structure;
 2. The change, alteration or expansion of use of any commercial, retail and/or mixed use structure;
 3. The change, in whole or in part, of any residential use to a non- residential use, or of any non-residential use to a residential use;
 4. Change of an existing use or structure which constitutes a more intensive use of land, which includes any use which
 1. Changes any pattern of pedestrian or vehicular movement within the site or in relation to adjacent properties or streets including access by emergency vehicles, or creates more pedestrian or vehicular traffic than the existing use,
 2. Requires or will add more parking spaces,
 3. Uses a greater portion of the lot,
 4. Requires a special permit in the district where the existing use is permitted as a matter of right.
5. Outside Displays
 1. Outside display of devices, goods or other objects for sale, rent or for the promotion of the business outside, if kept in place after daily business hours, shall require a Special permit from the Planning Board, subject to conditions.

2. No Special Permit is required for Outside Display limited to the hours of operation of the commercial use to which such Display relates, provided that said display:
 1. Shall be set back a minimum of five (5) feet from all property lines and shall not exceed six (6) feet in height; except for motor vehicles and boats, which may be up to ten (10) feet in height.
 2. Shall not obstruct safe entry, egress and sight lines within or external to the site or access by public safety or emergency vehicles to the property or the building, as determined and enforced by the Police Chief and Fire Chief;
 3. Shall not obstruct the safe or convenient flow of vehicular or pedestrian traffic within or external to the site or abutting properties or other businesses within the same property; and,
 4. Shall not reduce the effective use of the required number of parking spaces or be detrimental to the required landscaping according to the Zoning Bylaws.⁷⁰

10.2.4 SITE PLAN REVIEW CRITERIA

The following criteria shall be considered by the Planning Board in its review of a site plan:

1. GENERAL

1. Compliance with all requirements of the Zoning By-Laws of the Town of Eastham.
2. Integration into the existing terrain and surrounding landscape, and protection of abutting properties and community amenities. Building sites shall, to the extent feasible:
 1. Avoid use of wetlands, steep slopes, flood plains and hilltops;
 2. Minimize obstruction of scenic views from publicly accessible locations;
 3. Preserve unique natural and/or historical features;
 4. Minimize tree, vegetation and soil removal and grade changes;
 5. Maximize open space retention; and
 6. Screen objectionable features from neighboring properties and roadways.

2. ENVIRONMENTAL

1. Protection of unique or significant environmental historic or scenic features.
2. Ability of existing and proposed septic and water supply systems to serve the proposed use of the site.
3. All drainage shall be handled on site based on a calculated 25 year storm and designed so that run-off shall not be increased, groundwater recharge is maximized, pollution impacts are minimized and neighboring properties will not be adversely affected.

3. DESIGN

1. Building sites shall avoid, to the extent feasible, impact on steep slopes, flood plains, scenic views and wetlands.
2. Architectural style shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other design techniques. Variation in detail, form and siting shall be utilized to provide visual interest and to avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air circulation and separation between buildings.
3. Exposed storage areas, machinery, service areas, truck loading areas, utility buildings and structures and other relatively unsightly uses shall be screened to protect neighbors from objectionable features.
4. Electric power, telephone, cable TV and other such utilities shall be installed underground unless specifically waived.

4. TRAFFIC

1. The site plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjacent ways. Curb cuts are to be at an absolute minimum and joint access driveways between adjoining properties shall be encouraged.
2. If a traffic plan is required by the Planning Board, the plan shall describe estimated average daily and peak hour vehicle trips to be generated by the site. The plan shall describe traffic flow patterns for both vehicles and pedestrians, and provide for adequate access to and from the site and adequate circulation within the site. In describing the number of vehicle trips, the plan may use the following documentation but the Planning Board will place heavy emphasis on the impact of seasonal traffic situations as related to the Town of Eastham in considering this requirement:
 1. Institute of Traffic Engineers (ITE) – Trip Generation Report (latest edition) with estimates for seasonal increases.
 2. Actual traffic surveys at similar complexes in a similar seasonal area.

5. CONTROL OF GLARE AND LIGHT TRESPASS⁷¹

1. To the greatest extent feasible, all light fixtures shall be equipped with whatever shielding, lenses, or cutoff devices are necessary to eliminate light trespass onto any street or abutting lot or parcel and to minimize glare to persons on any street or abutting lot or parcel.
2. All light fixtures, regardless of their intended use or mounting configuration, shall be fully shielded and directed downward, except that architectural features such as building sections, spires, American flags, or landscaping features may be up-lit to a limited extent, provided that the applicant demonstrates that glare and light trespass are minimized to the extent reasonably possible and consistent with the purposes of this bylaw.
3. All light fixtures shall also be positioned on the site to direct light into the site, lot or parcel and away from the property boundaries of the site and away from abutting properties.

10.2.5 FINAL ACTION

The Planning Board's final action shall consist of either:

1. A written denial of the application stating the reasons for such denial; or
2. The issuance of a Site Plan Special Permit subject to any conditions modifications, and restrictions as the Planning Board may deem necessary;
3. The Planning Board shall send by certified mail a copy of the Site Plan approval, approval with conditions or denial to the applicant within 14 days of the written decision and a copy shall be filed with the Town Clerk and Building Inspector.

10.2.6 APPEAL

Any person aggrieved by a decision of the Planning Board on a Site Plan Review Special Permit may appeal said decision to a court of competent jurisdiction under MGL c. 40A, Section 17. Within 20 days of filing the decision with the Town Clerk.

10.2.7 ENFORCEMENT

1. Any special permit with site plan approval issued under this section shall lapse within three (3) years if a substantial use thereof has not sooner commenced or, in the case of a permit for construction, if construction has not begun by such date. Such permit may be extended for reasonable cause.⁷²
2. The Developer must file the approved Site Plan Special Permit with the Registry of Deeds and furnish Book & Page Number to the Building Inspector prior to receiving a building permit.
3. Violations of the approved site plan shall be subject to the provisions of Section 19.4. of the Zoning By-Laws.

10.3 SITE PLAN APPROVAL – RESIDENTIAL⁷³

10.3.1 PURPOSE OF SITE PLAN APPROVAL – Residential

The purpose of Site Plan Approval for residential properties is for the rational protection of the legitimate interest of the adjoining property owners; to encourage construction that is reasonably sensitive to the scale, size and massing of buildings; to afford continued public visual access to ponds, rivers, marshes, the ocean and the bay; and to protect environmental needs and concerns of the Town.

10.3.2 STANDARDS AND CRITERIA

The Planning Board shall approve a site plan in the form submitted or with such reasonable conditions relating to the standards and criteria delineated in this section.

1. The landscape shall be preserved in its natural state insofar as practical. The Board shall encourage the applicant to avoid grade changes and the removal of native vegetation and soil.
2. The proposed development shall relate harmoniously to the terrain and to the use, scale and proportions of existing and proposed buildings in the neighborhood.

3. Proposed development shall be in harmony with the prevailing character height and scale of other buildings in the neighborhood and the Town through the use of appropriate scale, massing, building materials, screening, lighting and other architectural techniques.
4. Proposed building sites shall avoid impact on steep slopes, flood plains, hilltops, dunes, scenic views and wetlands.
5. The protection of unique or significant environmental resources including protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies.
6. The site plan shall maximize the convenience and safety of vehicular and pedestrian movement within the site and in relationship to adjacent ways.

10.3.3 FINAL ACTION⁷⁴

The Planning Board's final action shall consist of either written approval of the Site Plan subject to any condition, modifications or restrictions as the Board may impose or a written denial stating the reason for such denial.

The Planning Board shall send by certified mail a copy of the Site Plan approval, approval with conditions or denial to the applicant within 14 days of the written decision and a copy shall be filed with the Town Clerk and Building Inspector.

10.3.4 APPEAL⁷⁵

Any person aggrieved by the denial, approval with conditions, or approval by the Planning Board may appeal the action to the Zoning Board of Appeals within 10 days of filing the decision with the Town Clerk.

The Zoning Board of Appeals shall hear and decide appeals from decisions of the Planning Board under Section 10.3 of these by-laws in accordance with M.G.L. c. 40A, Sec 8.

10.3.5 ENFORCEMENT⁷⁶

1. No building permit or certificate of occupancy shall be issued for any building or structure for which a site plan is required by this by-law until such time as a plan has been approved by the Planning Board.
2. Any decision approving a Site Plan – Residential under this section shall lapse three (3) years if a substantial use thereof has not sooner commenced or, in the case of a permit for construction, if construction has not begun by such date. Such approval may be extended for reasonable cause if substantial completion of the approved site plan has not taken place. The Planning Board for reasonable cause may extend such approval.⁷⁷

SECTION 11.0 - PROCEDURE FOR THE DEMOLITION OF HISTORICALLY OR ARCHITECTURALLY SIGNIFICANT BUILDINGS⁷⁸

11.1 INTENT AND PURPOSE

This By-Law is enacted for the purpose of preserving and protecting significant buildings within the Town of Eastham which reflect distinctive features of the architectural, historical, and cultural heritage of the Town and to encourage owners of such buildings to seek out persons who might be willing to purchase, preserve, rehabilitate or restore such buildings rather than demolish them. To achieve these purposes the Eastham Historical Commission (the “Commission”) is empowered to advise the Building Inspector with respect to the issuance of permits for the demolition of significant buildings. The issuance of demolition permits for significant buildings is regulated as provided for in this By-Law.

11.1.1 HISTORIC DISTRICT ACT

If any provisions of this By-Law conflict with Massachusetts General Laws, Chapter 40C, the Historic District Act, that Act shall prevail.

11.2 PROCEDURES

11.2.1 No permit for the demolition of a “significant” building as defined in Section 2.3 herein shall be issued other than in conformity with the provisions of this By-Law as well as in conformity with provisions of other laws applicable to the demolition of buildings and the issuance of permits generally.

11.2.1.1 Any person who intends to file an application for a permit to demolish a “significant” building shall first file a “Notice of Intent to Demolish a Significant Building” with the Building Inspector. In addition, the applicant shall complete the review process set forth in this Section.

11.2.1.2 The Notice of Intent shall include the following:

1. Name of applicant with address, telephone number and stated interest in the property.
2. Owner name, address and telephone number if different.
3. A map showing location of the building or structure to be demolished on the property and with reference to neighboring properties:
4. A description of the building or structure, or part thereof, to be demolished including photographs;
5. A statement of the reason for the proposed demolition and data supporting said reason, including where applicable, data sufficient to establish any economic justification for demolition.

11.2.2 The Commission shall hold a public hearing on each such Notice of Intent within 45 days after the date it is filed with the Inspector of Buildings. The Commission shall give public notice thereof by publishing notice of the time, place and purpose of the hearing in a local newspaper twice with the first notice being at least fourteen (14) days before said hearing. A copy of said notice shall be mailed to the applicant, to the owners of all abutting property as they appear on the most recent tax list, to the Inspector of Buildings, Planning Board, Conservation Commission and to such other persons as the Commission

shall deem entitled to notice. Commission meeting shall be posted and held in accordance with applicable state law, known as the “open meeting law”. The required forty-eight (48) hour notice of a public meeting shall be filed with the Town Clerk and posted in Town Hall.

- 11.2.3 If, after such hearing, the Commission determines that the demolition of the “significant” building would not be detrimental to the historical or architectural heritage or resources of the Town, the Commission shall so notify the applicant and the Building Inspector within ten (10) days of such determination. Upon receipt of such notification, or upon failure by the Commission to make any determination within forty-five (45) days of the day the “Notice of Intent” was filed with the Inspector of Buildings, the Inspector of Buildings may, subject to the requirements of the State Building Code and any other applicable laws, rules and regulations, issue the demolition permit.
- 11.2.4 If after such a hearing, the Commission determines that the demolition of the significant building would be detrimental to the historical or architectural heritage or resources of the Town, such building shall be considered a “preferably preserved significant building”.
- 11.2.5 Upon determination by the Commission that the “significant building” which is the subject of the Notice of Intent To Demolish is a “preferably preserved significant building”, the Commission shall so advise the Applicant and the Inspector of Buildings, and no demolition permit may be issued until 12 months⁷⁹ after the date of the Commission’s determination. Notwithstanding the preceding sentence, the Building Inspector may issue a demolition permit for a “preferably preserved significant building” at any time after receipt of written advice from the Commission to the effect that the Commission is satisfied that bona fide and reasonable efforts have been made to locate a purchaser willing to preserve, rehabilitate and restore the subject building, and that such efforts have been unsuccessful.
- 11.2.6 No permit for erection of a new structure on the site of an existing “significant building” as defined in Section 21.0 may be issued prior to issuance of a permit for demolition of such existing building.
- 11.2.7 No permit for demolition of a building determined to be a “preferably preserved significant building” under Section 11.2.4 shall be granted until plans for use or development of the site after demolition have been filed with the Inspector of Buildings and found to comply with all laws pertaining to the issuance of a building permit, or if for a parking lot, a certificate of occupancy, for that site. All approvals necessary for the issuance of such a building permit or certificate of occupancy including without limitation any necessary zoning variances or special permit, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this subsection.

11.3 EMERGENCY DEMOLITION

- 11.3.1 Nothing in this By-Law shall restrict the Inspector of Buildings from ordering the demolition of any “significant building” in the event it is determined that the condition of the building or structure poses a serious and imminent threat to public health and safety and there is no reasonable alternative to immediate demolition.

11.3.2 Whenever the Inspector of Buildings issues an emergency demolition permit under this Section he shall prepare a written report with attached photographic evidence describing the condition of said building or structure and the basis of the decision to issue an emergency demolition permit and provide a copy thereof to the Commission.

11.4 ENFORCEMENT AND REMEDIES

11.4.1 Any person(s) who demolishes a building or structure identified in Section 2.3 without first obtaining, and complying fully with, the provisions of a demolition permit shall be subject to a fine of five hundred dollars (\$500.00), each day of non-compliance a separate offense, as provided in Section 19.4 of the Town of Eastham Zoning By-Laws.

11.4.2 The Commission and the Inspector of Buildings are each authorized to institute any and all proceedings in law or equity as they deem necessary and appropriate to obtain compliance with the requirements of this By-Law, or to prevent violation thereof.

11.4.3 No building permit shall be issued with respect to any premises upon which a “significant building” has been voluntarily demolished in violation of this By- Law for a period of two (2) years after the date of the completion of such demolition. As used herein “premises” includes the parcel of land upon which the demolished “significant building” was located.

11.4.4 Upon a determination by the Commission that a building is a “preferably preserved significant building”, the owner shall be responsible for properly securing the building, if vacant, to the satisfaction of the Inspector of Buildings. Should the owner fail to secure said building, the loss of it through fire or other causes shall be considered voluntary demolition for the purposes of Section 11.4.3.

SECTION 12.0 - TOWN OF EASTHAM SIGN CODE⁸⁰

12.1 PURPOSE

This By-law is adopted for the regulation of non-governmental, and non-political signs, displays, and other advertising devices within the Town of Eastham and is intended to protect public safety by regulating the setback, size and manner of display of any sign to serve the interest of the general public by preserving or enhancing the natural setting and architectural expression which characterizes the community.

12.2 ADMINISTRATION

SIGN REGISTRATION – All signs lawfully in existence on the effective date of this bylaw, regardless of permit status, must register with the Inspector of Buildings on or before January 1 of the subsequent year.

12.2.1 NON-CONFORMING SIGNS – It is the intent of this code to allow all previously permitted signs to remain after the adoption of this code. The sign owner will need to submit documentation to substantiate the claim that the existing sign was legally permitted. Several options are available to accomplish this:

12.2.1.1 Provide a copy of the original permit, or

12.2.1.2 Provide vintage photos depicting the sign with some verification as to the date when the photo was taken and evidence that the sign was in conformance with the sign code at that time, or

12.2.1.3 Provide a sworn and notarized affidavit noting as many of the following as possible:

- The date the owner believes the sign was erected
- The dimensions of the sign
- Purchase receipt from the sign manufacturer
- Current picture of the sign
- Approximate sign dimensions and location shown on a copy of the Town Tax Map
- Copy of any previous correspondence from the Town of Eastham relative to the sign

12.2.1.4 In the event that the sign only exceeds the maximum allowable square footage as shown in the tables, and in the event that no proof exists to allow the non-conformity to continue, the following options are available:

- Decrease size of the sign to conform, or
- Have the Building Inspector deny the application and proceed to the Zoning Board of Appeals for a variance, or
- For the case of an owner with multiple signs, remove one or more of the signs in order to gain compliance with the code.

12.2.2 APPLICATION PROCESS – Application for a permit for a display or sign shall be submitted to the Building Department, on the form provided by the Building Inspector, together with the required fee, and shall be accompanied by a sketch and/or photograph showing the material, design and size, type of lettering, colors, and illumination. The exact location of the sign or display shall be indicated on a plot plan. The written

permission of the landowner, if other than the applicant, shall accompany the application, and written permission of any successor owner shall be filed with the Building Department forthwith following any change in ownership.

12.2.3 APPROVAL OF PERMIT – Upon receipt of an application, the Building Inspector shall review the application and may issue or deny a permit in accordance with this Bylaw.

12.2.4 RECORD KEEPING – All permits and records of existing signs and displays shall be maintained as public records by the Building Department and shall be available for public inspection during normal business hours.

12.3 GENERAL REGULATIONS

12.3.1 SIGN MAINTENANCE AND CONFORMANCE – Any sign, whether authorized by permit or exempt pursuant to Section 13.2.1 or 13.2. above, shall be kept clean, neatly painted and free from all hazards.

12.3.2 SAFETY AND LOCATION STANDARDS FOR SIGNS – No sign, whether new or existing, shall be permitted or maintained, which, in the opinion of the Inspector of Buildings, causes a sight, traffic, health or welfare hazard or results in a nuisance due to its illumination, placement, display, or manner of construction. All components of the signs must be set back a minimum of two feet setback from any property line.

12.3.3 EXTERIOR DISPLAY – Exterior display of devices or objects for sale or for the promotion of the business other than during business hours is prohibited, unless authorized by a Site Plan Special Permit from the Planning Board pursuant to Section 10. Exterior display limited to business hours shall not require a Site Plan Special Permit. All exterior display must comply with the following standards:

1. Setback: Merchandise and other items shall be placed a minimum of 15 feet from all property lines.
2. Height: No element of an exterior display shall exceed six (6) feet in height.
3. Internal Placement: No element of an exterior display shall be placed so as to obstruct safe entry, egress or sight lines to, from or within the property, nor obstruct the flow of vehicular or pedestrian traffic within or adjacent to the property.
4. Displays shall not be placed in any area of required parking or landscaping or be arranged to reduce the availability of or access to any required parking space or cause damage to any required landscaping area.

12.3.4 PERMANENT SIGN – Signs must be supported by a frame or post erected for that purpose, and such supports shall not be included in the calculation of the maximum total square footage for a permanent sign.

12.3.5 ADVERTISING FLAGS – Permanent advertising flags will be considered signs and will be included when calculating the total square footage of signage permitted within a given district.

12.3.6 STREET SIGNS⁸¹ – Private street name signs shall be placed in a position clearly visible from the intersecting street and in a position that will not interfere with traffic. Each street intersection shall be marked with the street name and the name of the intersected street, with the technical specifications for the signs set by the Eastham DPW director and will conform to standards contained in the Manual on Uniform Traffic Control Devices (MUTCD). Street Name Signs will follow the MUTCD guidelines and shall consist of a normal guide sign green background color with white lettering and a white border. Lettering shall be composed of a combination of lower-case letters with an initial upper-case letter. Use of supplemental lettering will be limited to indicating private ways on the top right corner of the sign, and dead end roads on the bottom right corner of the sign.

12.3.7 LADDER SIGNS – Regardless of the number of names on the sign, the sign shall be considered as one sign. Ladder signs shall comply with the size regulations for the zoning district in which the sign is erected.

12.3.8 TEMPORARY NON-COMMERCIAL SIGNS – Temporary signs and banners advertising upcoming public events of a civic, philanthropic, educational, charitable or religious nature, or events of a not for profit nature are allowed in all districts, subject to compliance with the following standards:

1. The organization or individual must obtain a temporary sign permit from the Building Department.
2. The organization or individual must have written permission of the owner of the land on which the sign or banner is to be placed, and, in the case of such sign on Town owned and, permission must be obtained from the Board of Selectmen.
3. Ground-mounted signs may not exceed eight (8) square feet per side, excluding the supporting frame, with the overall height not to exceed five (5) feet. Banners, no matter how hung, may not exceed three (3) feet in height or ten (10) feet in width.
4. Signs and banners shall not be displayed earlier than ten (10) days prior to the event and shall be removed no later than twenty-four (24) hours after the event has occurred, except this time period for removal may be extended to forty-eight (48) hours if the day following an event is Sunday or a holiday.
5. No more than two (2) signs and/or banners advertising the same public event shall be allowed throughout the Town, unless permitted after a hearing before the Planning Board.
6. No more than six (6) Temporary Event signs per year are allowed per organization unless permitted by the Board of Selectmen.

12.3.9 REAL ESTATE SIGNS, BUILDING AND PROPERTY RENTAL SIGNS, AND CONTRACTOR SIGNS – The following conditions shall apply:

1. Dimensions are limited to eight (8) SF maximum, per side.
2. Signs offering properties for rent or sale, must only be displayed on the actual individual lot.
3. No more than one (1) real estate sign per house or lot that is for sale.
4. Only freestanding signs shall be permitted.
5. “Open house” signs may be placed at major intersections and on the property for sale and shall be removed at the end of each day.

6. All real estate signs, including “Sold” signs, shall be removed within twenty- four (24) hours after conveyance of the property.
7. Contractor signs shall be removed within twenty-four (24) hours of completion of work or issuance of a Certificate of Occupancy.

12.3.10 LIGHTING – All lighting and related fixtures, regardless of their intended use or mounting configuration, shall be fully shielded and directed only at the sign(s). Signs may be up-lit to a limited extent, provided, however, no glare or light trespass is thereby caused.

12.4 PROHIBITIONS

The following shall be prohibited:

1. Any sign affixed to a utility pole, to a tree or other natural feature.
2. Illuminated signs that, in the opinion of the Building Inspector, will distract or conflict with the ability to see traffic lights or cause hazardous conditions.
3. Flashing, rotating, oscillating signs, or signs with electronically controlled, changing messages or displays.
4. Signs or banners placed upon sidewalks if they obscure the visibility of vehicular traffic or interfere with pedestrian traffic.
5. Human signs or people carrying or wearing signs.
6. Any other sign or display not expressly permitted is prohibited under this By-law.

District A Residential One and Two Family Dwellings

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
A-1	Ladder Sign	3' W x 8' H per side	Permanent	At each street corner listing residents
A-2	Home Occupation Sign	2 SF per side	Permanent	Must be erected on owners property
A-3	Developer's Subdivision Sign	24 SF one side	Temporary	Until developer's lots are sold; not more than 2 years
A-4	Subdivision Name Sign	24 SF per side	Permanent	Maximum 5' tall
A-5	Residential Name Sign	4 SF per side	Permanent	Does not require a permit; 1 or 2 sided

District B Marina

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
B-1	Ladder Sign	3' W x 8' H per side	Permanent	For multiple businesses at same location; may be 2-sided; property identification sign not larger than 6' x 2', per side; each business no more than 5 SF maximum per side; 2 signs allowed if frontage is greater than 250' or property is on a corner
B-2	Sandwich Board Sign	30" W x 42" H per side	Temporary May 15 to October 15	With permit issued by Building Department
B-3	Free Standing Sign (only for a single business on a property)	30 SF per side	Permanent	Two signs allowed if frontage is greater than 250' or property is on a corner
B-4	Building Sign	24 SF per business; one side	Permanent	Each Business Unit is allowed 1 sign on building or roof

District I - Trade Park (TP)

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
C-1	Ladder Sign	6' W x 10' H per side	Permanent	For multiple businesses at same location; may be 2-sided; property identification sign not larger than 6' x 2', per side; each business no more than 5 SF maximum per side; 2 signs allowed if frontage is greater than 250' or property is on a corner.

C-2	Developer's Subdivision Sign	24 SF one side	Temporary	Until developer's lots are sold; not more than 2 years
C-3	Sandwich Board Sign	30" W x 42" H per side	Temporary May 15 to October 15	With permit issued by Building Department
C-4	Free Standing Signs (only for a single business on a property)	50 SF per side, having a vertical dimension no higher than 10 feet	Permanent	Two signs allowed if frontage is greater than 250' or property is on a corner
C-5	Building Sign	24 SF per business; one side	Permanent	Each Business Unit is allowed 1 sign on building or roof

District I - Core Commercial (CC), Transition Commercial (TC), Limited Commercial (LC) and Office Residential (OR)

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
D-1	Ladder Sign	6' W x 10' H per side	Permanent	For multiple businesses at same location; may be 2-sided; property identification not larger than 6' x 2', per side; each business no more than 5 SF maximum per side; 2 signs allowed if frontage is greater than 250' or property is on a corner
D-2	Home Occupation Sign	2 SF per side	Permanent	Must be erected on owners property
D-3	Developer's Subdivision Sign	24 SF one side	Temporary	Until developer's lots are sold; not more than 2 years
D-4	Residential Name Signs	4 SF per side	Permanent	Does not require a permit, 1 or 2 sided
D-5	Sandwich Board Sign	30" W x 42" H per side	Temporary May 15 to October 15	With permit issued by Building Department
D-6	Sandwich Board Sign	30" W x 42" H per side	Temporary October 16 to May 14	One sign allowed per month for 2 weeks surrounding the event with permit issued by Building Department
D-7	Free Standing Signs (only for a single business on a property)	60 SF per side, having a vertical dimension no higher than 10 feet	Permanent	Two signs allowed if frontage is greater than 250' or property is on a corner
D-8	Building Sign	36 SF per business, one side	Permanent	Each business is allowed 1 or more signs on building, roof, and/or windows, not to exceed 36 SF.

District E Limited Business with Residential Areas

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
E-1	Ladder Sign	4' W x 10' H per side	Permanent	For multiple businesses at same location; may be 2-sided; property identification sign not larger than 4' x 2', per side; each business no more than 4 SF maximum per side; 2 signs allowed if frontage is greater than 250' or property is on a corner
E-2	Home Occupation Sign	2 SF per side	Permanent	Must be erected on owners property
E-3	Subdivision Name Sign	24 SF per side	Permanent	Maximum 5' tall
E-4	Developer's Subdivision Sign	12 SF one side	Temporary	Until developer's lots are sold; not more than 2 years
E-5	Residential Name Signs	4 SF per side	Permanent	Does not require a permit, 1 or 2 sided
E-6	Sandwich Board Sign	30" W x 42" H per side	Temporary May 15 to October 15	With permit issued by Building Department
E-7	Free Standing Signs (only for a single business on a property)	50 SF per side, having a vertical dimension no higher than 10 feet	Permanent	Two signs allowed if frontage is greater than 250' or property is on a corner
E-8	Building Sign	24 SF per business; one side	Permanent	Each business is allowed 1 or more signs on building, roof and/or windows, not to exceed a total of 24 SF.

District F Seashore

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
F-1	Ladder Sign	3' W x 8' H per side	Permanent	At each street corner listing residents
F-2	Home Occupation Sign	2 SF per side	Permanent	Must be erected on owners property
F-3	Residential Name Signs	4 SF per side	Permanent	Does not require a permit; 1 or 2 sided

District G Water Resource Protection

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
G-1	Ladder Sign	3' W x 8' H per side	Permanent	At each street corner listing residents
G-2	Home Occupation Sign	2 SF per side	Permanent	Must be erected on owners property
G-3	Subdivision Name Sign	24 SF per side	Permanent	Maximum 5' tall
G-4	Residential Name Signs	4 SF per side	Permanent	Does not require a permit; 1 or 2 sided

District H Well Field Protection

	TYPE OF SIGN	MAXIMUM SIZE	DURATION	COMMENTS
H-1	Ladder Sign	3' W x 8' H per side	Permanent	At each street corner listing residents
H-2	Home Occupation Sign	2 SF per side	Permanent	Must be erected on owners property
H-3	Subdivision Name Sign	24 SF per side	Permanent	Maximum 5' tall
H-4	Residential Name Signs	4 SF per side	Permanent	Does not require a permit; 1 or 2 sided

SECTION 13.0 - OPEN SPACE RESIDENTIAL SUBDIVISION⁸²

13.1 PURPOSE

The purpose of the Open Space Residential Subdivision Development Bylaw (OSRSD) is to offer an alternative development design by special permit for subdivisions, to promote the permanent preservation of open space, wildlife habitat and other natural resources, including the aquifer, ground water recharge areas and wetlands, in a manner that is consistent with the Eastham Local Comprehensive Plan and to minimize sprawl and promote development that conforms to existing topography and natural features more efficiently than conventional subdivisions.

13.2 ELIGIBILITY

13.2.1 Minimum Site Size: To be eligible for consideration as an OSRSD, the tract shall contain a minimum of four (4) acres of buildable uplands producing not less than five (5) lots.

13.2.2⁸³ Zoning Classification: Only those tracts located in one of the following districts shall be eligible for consideration as an OSRSD: District A, District E, District F, District G, and the Transition Commercial, Office Residential, Limited Commercial and Residential A neighborhood districts of the Eastham Corridor Special District.

13.2.3 Contiguous Parcels: To be eligible for consideration as an OSRSD, the tract shall consist of a parcel or set of contiguous parcels held in common ownership.

13.3 SPECIAL PERMIT REQUIRED

The Planning Board may authorize an OSRSD pursuant to a special permit. Such special permit shall be acted upon in accordance with the provisions of this bylaw.

13.4 DESIGN PROCESS

At the time of the application for an OSRSD in conformance with G.L. 40A Section VI, the applicant is required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and a registered Land Surveyor and considered in determining the layout of proposed street, house lots, and open space:

13.4.1 Identifying Conservation Areas: Identify Primary Conservation Areas such as wetlands, waterfront areas and flood plains which may be regulated by state or federal law. Identify Secondary Conservation Areas including but not limited to unprotected elements of the natural landscape such as steep slopes, mature woodlands, meadows, wildlife habitats and cultural features such as historic sites or scenic views. Identify and delineate the Potentially Developable Area (this area shall consist of only buildable uplands) to Developable Area (this area shall consist of only buildable uplands) to coincide with boundaries of the Primary and Secondary Conservation Areas.

13.4.2 Locating House Sites: Locate the approximate sites of individual houses within the Potentially Developable Area and include the delineation of private yards and shared amenities, so as to reflect an integrated community, with emphasis on consistence with the character of the town. The number of homes should be maximized.

13.4.3 Aligning the Streets and Trails: Align streets in order to access the house lots. Additionally, new trails should be laid out in order to facilitate connectivity with existing trails.

13.5 PROCEDURE

- 13.5.1 Pre-Application: The applicant is encouraged but not required to request a pre-application review at a regularly scheduled meeting of the Planning Board. Upon request, the Planning Board shall notify applicable departments such as the Board of Health and Conservation Commission. The pre-application process is used to minimize the applicant's costs of engineering and other technical assistance and to establish a timetable for submittal.
- 13.5.2 Review: Upon receipt of the preliminary plans, the Planning Board shall forward copies to the Board of Health, Open Space Committee, Conservation Commission, Board of Highway Surveyors, Department of Public Works and Fire Chief. Within thirty-five (35) days of receiving the plans, these agencies and officers shall submit any recommendations to the Planning Board. Failure to respond will indicate no opposition to the plan.
- 13.5.3 Decision Criteria: The Planning Board shall approve an OSRSD if the proposed plan complies with the following criteria
1. The open space, wildlife habitat and other natural resources including aquifers, ground water recharge areas and wetlands are permanently preserved in a manner that is consistent with the Eastham Local Comprehensive Plan.
 2. Houses, septic systems and paved areas are significantly set back from any wetland and/or coastal bank to avoid any adverse impacts.
 3. All streets will provide efficient vehicular access to each house and limit adverse impacts on the preserved areas.
 4. The landscape is to be preserved in its natural state insofar as practical. The Board shall encourage the applicant to avoid grade changes, removal of native vegetation and soil, and will promote working within the constraints of the existing topography.
 5. The open space will act as a buffer between streets and other paved surfaces to reduce impacts on water and scenic views.

13.6 DESIGN STANDARDS

- 13.6.1 Housing Type: Single or multi-family dwellings shall be allowed.
- 13.6.2 Lot Area: Each lot shall contain a minimum of 20,000 square feet of buildable upland for each single family dwelling and 40,000 square feet of buildable upland for each duplex dwelling.
- 13.6.3 Setbacks: Minimum residential building setbacks shall be twenty-five (25) feet from the front, side and rear lot lines, except that the front setbacks from preexisting street shall be thirty (30) feet.
- 13.6.4 Improvements: Access, drainage, utilities and road grading shall meet functional standards equivalent to those of the Eastham Subdivision Rules and Regulations. For OSRSD's with the potential for up to four (4) single family dwellings, applicants may seek Rural Road Standards (Section 4.4.10 of the Eastham Subdivision Rules and Regulations) where the Planning Board finds it in the best interest of the town i.e. reducing runoff into environmentally sensitive areas. No runoff is allowed on public roads from private lots. If that determination is made, the Planning Board will make written findings illustrating the reason for the waiver. All other applicable sections of the Eastham Subdivision Rules and Regulations shall apply.

- 13.6.5 Density: The number of dwellings shall not exceed one single family dwelling per 20,000 square feet of buildable upland and one duplex dwelling per 40,000 square feet of buildable upland. Density bonuses will be allocated at the discretion of the Planning Board and only when the applicant proposes to preserve more than thirty five percent (35 percent) of the buildable upland as open space.
- 13.6.6 Wastewater Treatment: For the purposes of wastewater treatment, the area set aside as open space may be allocated to each of the building lots in the subdivision, proportional to the total number of building lots, provided a shared or clustered septic system is proposed.
- 13.6.7 Open Space: Land set aside as open space shall consist of potentially developable area equal to or greater than thirty-five (35) percent of the parcel's buildable upland. This area shall be set aside to be maintained as open space in perpetuity and shall not include land set aside for roads and/or parking uses. Open space shall be planned as continuous areas wherever possible, including buffers around wetlands or boundaries of the parcel. Connectivity with existing open space or recreational opportunities is a priority.
- 13.6.8 Management of Open Space: Designated open space shall be conveyed to one of the following:
1. The Town of Eastham, to be used as a park or open space upon acceptance by the Board of Selectmen and at the Town Meeting;
 2. A non profit corporation, the principal purpose of which is conservation of open space;
 3. A corporation or trust owned or to be owned by the owners of the lots or residential units within the development and shall be passed on to new owners and will never be developed.
- In cases where the designated open space is not conveyed to the town, a conservation restriction enforceable by the town shall be recorded providing that such land be kept in an open or natural state in perpetuity. A management plan shall be submitted describing how the open space will be maintained in accordance with good conservation practices. Also, the management plan shall also authorize the town to enter into and perform maintenance on the open space where the management program has failed, in which case, the owners of the lots will be held responsible for the cost of the maintenance.
- 13.6.9 Dwellings: All dwellings and accessory buildings erected under the provisions of this section shall conform to all other provisions of this bylaw not addressed in this section.

SECTION 14.0 - GENERAL WIND FACILITIES (WFs)⁸⁴

14.1 Purpose and Intent

It is the express purpose of this section to accommodate Wind Facilities (WFs) in appropriate land-based locations, while protecting public health, safety, welfare, the character of neighborhoods, property values, preservation of environmental, historical and scenic resources and minimizing adverse impacts of WF's. All WF's shall require issuance of a special permit by the Planning Board, acting as the Special Permit Granting Authority (SPGA) under Section 10 of the Eastham Zoning By-law. This section is intended to be used in conjunction with other regulations adopted by the Town, including, but not limited to, historic district, special permit, conservation and other applicable by-laws and regulations designed to encourage appropriate land use and environmental protection. Further, it is the express intent of this section that any special permit hereunder granted runs with the land and that any subsequent owner of said land be bound by the terms and conditions of said special permit.

14.2 Use Regulations

WF's shall require a building permit. The construction of any WF may be permitted in all zoning districts, subject to issuance of a special permit by the Planning Board and provided the proposed use complies with provisions of this section and any other applicable provisions of this chapter. Any subsequent change or modification of a WF shall be subject to Planning Board approval of a modification to the original special permit.

14.3 Dimensional Requirements

14.3.1 Type: Tilt-up towers, fixed-guyed towers, free standing towers, or other designs may be considered for approval.

14.3.2 Setback: The base of any WF shall be set back from any property line or road layout line by not less than one-hundred percent (100%) of the proposed height of the WF. Guy wires or any WF-related construction not wholly below grade, as may be required by the proposed design, shall be set back at least twenty (20) feet from property lines, and thirty (30) feet from road layout lines.

14.3.3 Height: No WF may exceed seventy-five (75) feet in height, except in the Trade Park (TP) District⁸⁵ where they may not exceed one-hundred (100) feet.

District	A	B	TP	LC	TC	LC	CC	OR	E	F	G	H
Height	75'	75'	100'	75'	75'	75'	75'	75'	75'	75'	75'	75'

14.4 General Requirements

14.4.1 Proposed WF's shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

14.4.2 Maintenance Plan: Appearance and Operation. A written maintenance plan shall be submitted with the application for a special permit for review and approval by the SPGA and shall be made a condition of said special permit. The maintenance plan shall include:

1. Planned shutdowns: All planned shutdowns for more than three (3) months shall be outlined in the maintenance plan. The WF will not be considered abandoned during these planned shutdown periods.

2. General maintenance: The general maintenance of the WF as recommended by the manufacturer shall be included in the maintenance plan.
 3. Maintenance of appearance of exterior of the WF.
- 14.4.3 Complaints: Upon written notification of a complaint detailing non-compliance with the terms of the special permit or the requirements of this chapter, the Building Inspector or his designee shall record the filing of such complaint and shall promptly investigate the complaint. If the Building Inspector determines that the WF is not in compliance, the owner of the property shall be notified in writing to correct the violation. If the violation is not remedied within thirty (30) days from the date of notification, the Building Inspector may require the WF be rendered inactive and shall remain so until such time as the Building Inspector determines the WF is in compliance.

If, upon investigation of said complaint, the Building Inspector determines that the WF is operating in compliance with the special permit and the requirements of this chapter, notice in writing shall be provided to the person who has filed such complaint and to the owner of the property stating that no further action is required, all within thirty (30) days of the receipt of the written notification of complaint.

- 14.4.4 Professional consulting fees: The SPGA may retain a technical expert / consultant to review and verify information submitted by the applicant. The cost for such a technical expert / consultant shall be at the expense of the applicant pursuant to Section 19.3 of the Eastham Zoning By-laws.
- 14.4.5 All building-mounted turbine applications shall be accompanied by a written certification by a licensed structural engineer that states that the structure to which the turbine is to be fastened is sound and safely able to withstand the installation and continued operation of the turbine.

14.5 Design Standards

- 14.5.1 Visual Impact: The applicant shall demonstrate through project siting, facility design and proposed mitigation that the WF minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering and lighting. All electrical conduits shall be underground.
- 14.5.2 Color: WFs shall be of non-reflective muted colors that blend with the sky, without graphics or other decoration. A single color shall be used on the blades and a single color on the tower.
- 14.5.3 Equipment Shelters: All equipment necessary for monitoring and operation of the WF shall be contained within the turbine tower. If this is infeasible, at the discretion of the SPGA, ancillary equipment may be located outside the tower, provided it is either contained within an underground vault or enclosed within a structure or behind a year-round landscape or vegetated buffer.

14.5.4 Lighting and Signage:

1. Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The applicant shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure.
2. Lighting of equipment, structures and any other facilities on site (including lighting required by the FAA, if possible) shall be shielded from abutting properties.
3. No signage except as allowed by the SPGA.

14.5.5 Guy Wires: Guy wires utilized in the construction of any tower shall be left totally unadorned. Nothing shall be hung from or attached to said wires, except that, in order to prevent unintended contact by persons who may be on the site, they may be wrapped with a colored sleeve only, which shall extend to a height not greater than ten (10) feet above grade.

14.6 Environmental Standards

14.6.1 Sound: The WF and associated equipment shall not generate sound in excess of ten (10) decibels (DB) above ambient sound level at the property line. In order to demonstrate compliance with these sound standards, the applicant shall provide to the SPGA, as part of the special permit application, an analysis which is consistent with Massachusetts Department of Environmental Protection guidance for sound measurement (310 CMR 7.10).

14.6.2 Shadow/Flicker Impact: WF shall be sited in a manner that does not result in significant shadowing or flicker impact. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through shadow/flicker modeling and/or siting and/or landscaping mitigation.

14.7 Safety Standards

14.7.1 No hazardous materials or waste shall be discharged on the site of any WF. If any hazardous materials or waste is to be used on site, there shall be provisions for full containment of such materials or waste. The provisions of this by-law regarding Groundwater Protection Districts shall apply.

14.7.2 Climbing access to any tower shall be limited by placing climbing apparatus no lower than ten (10) feet from the ground.

14.7.3 A Clear Area, being the distance from the lowest point of the blade tip to the ground, shall not be less than fifteen (15) feet.

14.7.4 The wind turbine shall conform to FAA Safety Standards, as amended.

14.7.5 Building mounted turbines may require a safety fence as determined by the SPGA.

14.8 Condemnation

14.8.1 Upon a finding by the Building Inspector that the WF has been abandoned or has been left in disrepair or has not been maintained in accordance with the approved maintenance plan, the owner of said WF shall be notified in writing by certified mail that the WF shall be brought up to standard. If required repairs or maintenance are not accomplished within forty-five (45) days of the date of said notification, the WF shall be deemed condemned and shall be removed from the site within ninety (90) days thereafter. The aforementioned periods of time may be extended at the request of the owner and at the discretion of the Building Inspector. "Removed from site" shall mean:

1. Removal of the wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property;
2. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations and
3. Restoration of the location of the wind energy conversion facility to its natural condition, except that landscaping and grading may remain in the after-condition at the discretion of the SPGA.

14.8.2 If an applicant fails to remove a WF in accordance with the provisions of this section, the Town shall have the authority to enter the subject property and physically remove and dispose of the facility. As a condition of the special permit, the SPGA may require the applicant to provide a cash escrow account or bond at the time of construction to cover the costs of removal from the site, as specified in Subsection 1 above, in the event said removal must be done by the Town. The amount of such escrow or bond shall be equal to one-hundred and fifty percent (150%) of the cost of removal and disposal of the WF and restoration of the site. The applicant shall submit a fully inclusive estimate of said costs as part of the special permit application. The escrow account shall be maintained by the Town until the WF is removed by the applicant to the satisfaction of the Building Inspector or until, after due notice to the applicant pursuant to this by-law, the SPGA determines that the applicant has failed to take appropriate measures to remove and dispose of the WF, whereupon the Town may utilize the sums in said escrow account for the purpose of removing and disposing of the WF and restoring the site by such means as it deems appropriate. Any unexpended balance of the escrow account remaining after the Town has completed dismantling / removal of the WF shall be returned to the applicant or the successor(s) in interest.

SECTION 15.0 - MUNICIPAL WIND FACILITIES (MWFs) ⁸⁶

15.1 Purpose and Intent

It is the express purpose of this section to accommodate Municipal Wind Facilities (MWFs) in appropriate land-based locations owned by the Town of Eastham, while protecting public health, safety, welfare, the character of neighborhoods, property values, preservation of environmental, historical and scenic resources and minimizing adverse impacts of MWFs. All MWFs shall require issuance of a special permit by the Planning Board, acting as the Special Permit Granting Authority (SPGA) under Section 10.2 of the Eastham Zoning By-law. This section is intended to be used in conjunction with other regulations adopted by the Town, including, but not limited to, historic district, special permit, conservation and other applicable by-laws and regulations designed to encourage appropriate land use and environmental protection. Further, it is the express intent of this section that any special permit hereunder granted runs with the land and that any subsequent owner of said land be bound by the terms and conditions of said special permit.

15.2 Use Regulations

MWFs shall require a building permit. The construction of any MWF may be permitted in zoning district H subject to issuance of a special permit by the Planning Board and provided the proposed use complies with provisions of this section and any other applicable provisions of this chapter. Any subsequent change or modification of a MWF shall be subject to Planning Board approval of a modification to the original special permit.

15.3 Dimensional Requirements

15.3.1 Type: Tilt-up towers, fixed-guyed towers, free standing towers, building mounted turbines or other designs may be considered for approval.

15.3.2 Setback: The base of any MWF shall be set back from any property line or road layout line by not less than one-hundred fifty percent (150%) of the proposed height of the MWF. Guy wires or any MWF-related construction not wholly below grade, as may be required by the proposed design, shall be set back at least twenty (20) feet from property lines, and thirty (30) feet from road layout lines.

15.3.3 Height: No MWF may exceed two hundred fifty (250) feet in height.

15.4 General Requirements

15.4.1 Proposed MWFs shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.

15.4.2 Maintenance Plan: Appearance and Operation. A written maintenance plan shall be submitted with the application for a special permit for review and approval by the SPGA and shall be made a condition of said special permit. The maintenance plan shall include:

1. Planned shutdowns. All planned shutdowns for more than three (3) months shall be outlined in the maintenance plan. The MWF will not be considered abandoned during these planned shutdown periods.
2. General maintenance. The general maintenance of the MWF as recommended by the manufacturer shall be included in the maintenance plan.
3. Maintenance of appearance of exterior of the MWF.

15.4.3 Complaints: Upon written notification of a complaint detailing non-compliance with the terms of the special permit or the requirements of this chapter, the Building Inspector or the Inspector's designee shall record the filing of such complaint and shall promptly investigate the complaint. If the Building Inspector determines that the MWF is not in compliance, the owner of the property shall be notified in writing to correct the violation. If the violation is not remedied within thirty (30) days from the date of notification, the Building Inspector may require the MWF be rendered inactive and shall remain so until such time as the Building Inspector determines the MWF is in compliance.

If, upon investigation of said complaint, the Building Inspector determines that the MWF is operating in compliance with the special permit and the requirements of this chapter, notice in writing shall be provided to the person who has filed such complaint and to the owner of the property stating that no further action is required, all within thirty (30) days of the receipt of the written notification of complaint.

15.4.4 Professional Consulting Fees: The SPGA may retain a technical expert/consultant to review and verify information submitted by the applicant and/or successor(s). The cost for such a technical expert / consultant shall be at the expense of the applicant pursuant to Section 19.3 of the Eastham Zoning By-law.

15.4.5 All turbine applications shall be accompanied by a written certification by a licensed structural engineer that states that the turbine structure is sound and safely able to withstand the installation and continued operation of the turbine.

15.5 Design Standards

15.5.1 Visual Impact: The applicant shall demonstrate through project siting, facility and proposed mitigation that the MWF minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection, turbine design, buffering and lighting. All electrical conduits shall be underground.

15.5.2 Color: MWFs shall be of non-reflective muted colors that blend with the sky, without graphics or other decoration. A single color shall be used on the blades a single color on the tower.

15.5.3 Equipment Shelters: All equipment necessary for monitoring and operation of the MWF shall be contained within the turbine tower. If this is infeasible, at the discretion of the SPGA, ancillary equipment may be located outside the tower, provided it is either contained within an underground vault or enclosed within a structure or behind a year-round landscape or vegetated buffer.

15.5.4 Lighting and Signage:

1. Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The applicant shall provide a copy of the FAA's determination to establish the required markings and/or lights for the structure.
2. Lighting of equipment, structures and any other facilities on site (including lighting required by the FAA, if possible) shall be shielded from abutting properties.
3. No signage except as allowed by the SPGA.

15.5.5 Guy Wires: Guy wires utilized in the construction of any tower shall be left totally unadorned. Nothing shall be hung from or attached to said wires, except that, in order to prevent unintended contact by persons who may be on the site, they may be wrapped with a colored sleeve only, which shall extend to a height not greater than ten (10) feet above grade.

15.6 Environmental Standards

15.6.1 Sound: The MWF and associated equipment shall not generate sound in excess of ten (10) decibels (DB) above ambient sound level at the property line. In order to demonstrate compliance with these sound standards, the applicant shall provide to the SPGA, as part of the special permit application, an analysis which is consistent with Massachusetts Department of Environmental Protection guidance for sound measurement (310 CMR 7.10).

15.6.2 Shadow/Flicker Impact: MWFs shall be sited in a manner that does not result in significant shadowing or flicker impact. The applicant has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through shadow/flicker modeling and/or siting and/or landscaping mitigation.

15.7 Safety Standards

15.7.1 No hazardous materials or waste shall be discharged on the site of any MWF. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste. The provisions of this by-law regarding Groundwater Protection Districts shall apply.

15.7.2 Climbing access to any tower shall be limited by placing climbing apparatus no lower than ten (10) feet from the ground.

15.7.3 A Clear Area, being the distance from the lowest point of the blade tip to the ground, shall not be less than fifteen (15) feet.

15.7.4 The wind turbine shall conform to FAA Safety Standards, as amended.

15.7.5 Building-mounted turbines may require a safety fence as determined by the SPGA.

SECTION 16.0 - ENVIRONMENTAL STANDARDS⁸⁷

- 16.1 Purpose - The purposes of this Bylaw are as follows:
 - 16.1.1 To protect the health, safety and property of the residents of the Town by regulating storm water runoff and erosion and by controlling degradation of inland and coastal wetlands, ponds and other surface water bodies; and
 - 16.1.2 Encourage the use of Best Management Practices that prevent and reduce nonpoint source of pollutants; and
 - 16.1.3 Promote land development and site planning practices that are responsive to the Town's scenic character without preventing the reasonable development of land.

- 16.2 In all Zoning Districts, the following standards shall be in effect:
 - 16.2.1 All surface water runoff from structures and impervious surfaces shall be collected on site; in no case shall surface water drainage be directed across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies. Drainage systems shall be designed, using Best Management Practices, to minimize the discharge of pollutants by providing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration. Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Oil, grease and sediments traps to facilitate removal of contaminants shall precede all such drainage structures.
 - 16.2.2 Install silt fences, vehicle mud removal areas, vegetative cover, and other sediment and erosion controls and properly maintain them.
 - 16.2.3 Prevent soil erosion by minimizing disturbed areas during construction projects, and by vegetating and by mulching bare areas as soon as possible.

- 16.3 Enforcement: The Building Inspector as per Section 19.0 enforces this Bylaw, and F.

SECTION 17.0 - MARIJUANA REGULATIONS⁸⁸

17.1 PURPOSE

The purpose of the marijuana bylaw is to provide for the placement of Recreational Marijuana Establishments (“RME”) and Medical Marijuana Treatment Centers (“MMTC”) in accordance with An Act To Ensure Safe Access to Marijuana, c.55 of the Acts of 2017 (the “Act”), and all regulations which have or may be issued by the Department of Public Health and the Cannabis Control Commission, including, but not limited to 105 CMR 725.00 and 935 CMR 500.00, in locations suitable for such uses, which will minimize adverse impacts of RMEs and MMTCs on adjacent properties, residential neighborhoods, schools, playgrounds and other locations where minors congregate by regulating the siting, design, placement, security, and removal of such uses.

17.2 ELIGIBILITY

USE	ZONING DISTRICT
Marijuana Cultivator	Trade Park
Marijuana Product Manufacturer	Trade Park
Independent Testing Laboratory	Trade Park
Marijuana Retailer	Core, Transition Commercial
Medical Marijuana Treatment Center Dispensary/Retail(MMTCDR)	Core, Transition Commercial
Medical Marijuana Treatment Center Cultivation/Processing (MMTCCP)	Trade Park
Other Licensed Recreational Marijuana Establishment	Trade Park

17.2.1 RMEs shall conform to 935 CMR 500.000: Adult Use of Marijuana, in addition to any requirements herein.

17.2.2 MMTCs shall conform to 105 CMR 725.000: Implementation of an Act for the Humanitarian Medical Use of Marijuana, and any regulations which may be subsequently issued by the Cannabis Control Commission, as well as any requirements herein.

17.2.3 A Special Permit is required for all RMEs and MMTCs. The special permit granting authority shall be the Planning Board.

17.2.4 A Special Permit granted under this section shall have a term limited to the duration of the applicant’s ownership or lease of the premises for an RME or MMTC, as licensed by the applicable Massachusetts licensing authority. Any new license for an existing RME or MMTC location or transfer of an existing license to a new owner of an RME or MMTC shall require a new Special Permit pursuant to the Eastham zoning bylaws.

17.3 APPLICABILITY OF REGULATIONS

- 17.3.1 The cultivation, production, processing, manufacturing, assembly, packaging, retail or wholesale sale, trade, distribution or dispensing of marijuana is prohibited unless licensed by all applicable Massachusetts licensing authorities and permitted as a RME or MMTC under this section.
- 17.3.2 The number of any type of RMEs shall be limited to not more than two (2) of the same type of RMEs in Eastham.
- 17.3.3 On-site consumption of marijuana products at RMEs or MMTCs, as either a primary or accessory use, shall be prohibited unless permitted by a local ballot initiative process, as allowed by MGL 94G §3(b). The prohibition on on-site social consumption shall include private social clubs or any other establishment which allows for social consumption of marijuana or marijuana products on the premises, regardless of whether the product is sold to consumers on site.
- 17.3.4 Hours of operation for Recreational Marijuana Retailers and Medical Marijuana Treatment Centers shall not exceed the Alcoholic Beverages Control Commission (ABCC) maximum hours of operation for liquor licenses not to be drunk on premises pursuant to MGL 138 §15, but may be limited by conditions of the special permit.

17.4 GENERAL REQUIREMENTS

- 17.4.1 No RME or MMTC shall be located within 500 feet, as measured from each lot line of the subject lot, of the following pre-existing uses: K-12 educational use; childcare center; public park; playground; or children’s camp.
- 17.4.2 Applicants for an RME or MMTC shall provide the licensing agent’s approved security plan to the Police Chief and Fire Chief prior to the granting of a Special Permit.
- 17.4.3 An approved Host Community Agreement shall be required prior to the granting of a Special Permit for a RME or MMTC.

17.5 STANDARDS AND CRITERIA⁸⁹

The Planning Board may grant a special permit under this Section 17 only if it finds that each of the site plan criteria set forth in paragraphs 17.5.1 through 17.5.10 below are satisfied, that the requirements of subsection 17.4 have been met, and that the use as proposed will be in harmony with the purpose and intent of this Section and the zoning district in which the use is to be located.

- 17.5.1 Adequacy of the site, in terms of size, for the proposed structure or use;
- 17.5.2 Compliance with all applicable requirements for Minor Site Plan Review, Major Site Plan Review or Site Plan Special Permit.
- 17.5.3 Suitability of the site for the proposed structure or use with regard to the purpose and intent of the zoning district;
- 17.5.4 Adequacy of traffic flow management within the site as well as in relation to adjoining streets and properties so as to minimize unsafe and harmful impacts;
- 17.5.5 Compatibility of the proposed structure or use with surrounding land uses so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values;
- 17.5.6 Adequacy of the method of sewage disposal, source of potable water and site drainage;

- 17.5.7 Protection and maintenance of groundwater quality and recharge volume and the water quality of coastal and fresh surface water bodies;
- 17.5.8 Adequacy of provision of utilities and other necessary or desirable public services;
- 17.5.9 Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and the neighborhood;
- 17.5.10 Protection from degradation and alteration of the natural environment, including, but not limited to, slopes and other topographical features, vegetation, wetlands, and wildlife habitat.

SECTION 18.0 - FLOOD PLAIN ZONING^{90 91}

See definitions of flood plain zone designations in Section 22.0 Definitions

18.1 STATEMENT OF PURPOSE, EXISTING REGULATIONS

The purposes of the Floodplain District are to:

1. Ensure public safety through reducing the threats to life and personal injury.
2. Eliminate new hazards to emergency response officials.
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding.
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding.
5. Eliminate costs associated with the response and cleanup of flooding conditions.
6. Reduce damage to public and private property resulting from flooding waters.
7. Facilitate accurate insurance ratings and promote the awareness of flood insurance.

18.2 EXISTING REGULATIONS

All development in the district including structural and non-structural activities whether permitted by right or by special permit must be in compliance with the following:

- 780 CMR 3107.0 of the Massachusetts Building Code which addresses floodplain and coastal high hazard areas.
- 310 CMR 10.0, Wetlands Protection Regulations, Department of Environmental Protection (DEP).
- 310 CMR 13.00, Inland Wetlands Restriction, DEP
- 310 CMR 12.00, Coastal Wetlands Restriction, DEP
- 310 CMR 15, Title 5, Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP
- Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

18.3 ELEVATION DATA

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Eastham designated as Zone A, AE, AH, AO, V or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, dated July 16, 2014. The exact boundaries of the District shall be 1%-chance base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

18.4 USE REGULATIONS

Flood plain District I is established as an overlay district to all other districts.

The Town of Eastham requires a permit for all proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement of manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

All development, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws and with the requirements of the Massachusetts State Building Code pertaining to construction in floodplains. Additionally any required federal permits must be obtained prior to the issuance of a development permit in the Flood plain District as follows:

1. Within Zones AH and AO on the FIRM, require adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures.
2. Prohibit man-made alteration of sand dunes and salt marshes within Zone VE which would increase potential flood damage.
3. Provide that all new construction within Zone VE be located landward of the reach of mean high tide.
4. Existing contour intervals of site and elevations of existing structures must be included on plan proposal.
5. There shall be established a "routing procedure" which will circulate or transmit one copy of the development plan to the Conservation Commission, Planning Board, Board of Health, Department of Public Works, Building Inspector, Board of Appeals and Fire Department for comments which will be considered by the appropriate permitting board prior to issuing applicable permits.
6. The Building Inspector shall (a) review all proposed development within the flood district to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution and Control Act Amendments of 1972, U.S.C. 1334, and (b) obtain and maintain records of elevation and floodproofing levels for new construction or substantial alteration within the flood district.
7. In accordance with the Code of Federal Regulations (44 CFR §60.3(b)(5)(iii)), the lowest floor of any new construction or substantial improvement must be documented and maintained on record with the town. The most recent Elevation Certificate from the Federal Emergency Management Agency must be used to document elevations for all new construction and substantial improvements in the Special Flood Hazard Area.

18.5 In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

18.6 The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and comply with other requirements:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery uses.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot, bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Buildings lawfully existing prior to the adoption of these provisions.

18.7 PROHIBITED USES

The installation of underground systems for the storage of petroleum products (including but not limited to oil, gasoline, kerosene, and any hazardous materials) shall be prohibited in the 100 year flood plain (Zones A, AE, and VE on the Flood Insurance Rate Maps prepared by the Federal Emergency Management Agency for the Town of Eastham). Storage system shall mean storage tank and all supply lines between storage tank and burner. Underground shall mean under the surface of the earth or under pavement, including cement floors of cellars or basements. Storage systems may be located in basements or cellars provided they are on or above the paved floor of the cellar or basement.

18.8 SUBDIVISION PROPOSALS

1. Base flood elevation data for subdivision proposals: When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.
2. All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:
 - (a) Such proposals minimize flood damage.
 - (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
 - (c) Adequate drainage is provided.

18.9 UNNUMBERED A ZONES

In A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

18.10 WATERCOURSE ALTERATIONS

Watercourse alterations or relocations in riverine areas - In a riverine situation, the Director of Community Development shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream
- Bordering States, if affected
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, 8th floor
Boston, MA 02114
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

18.11 RECREATIONAL VEHICLES

Recreation Vehicles: In A, AH, AE Zones, VE, and V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

18.12 NEW ZONE DESIGNATION

Any new construction, alteration of structures or other development which is removed from the A or V zones by subsequent flood insurance map amendments shall only have to meet the requirements of its new zone designation.

18.13 ABROGATION AND GREATER RESTRICTION

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

18.14 DISCLAIMER OF LIABILITY

The degree of flood protection required by this bylaw [ordinance] is considered reasonable but does not imply total flood protection.

18.15 REQUIREMENT TO SUBMIT NEW TECHNICAL DATA

If the Town of Eastham acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

FEMA Region I Risk Analysis Branch Chief
99 High St., 6th floor, Boston, MA 02110

And copy of notification to:

Massachusetts NFIP State Coordinator
MA Dept. of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

18.16 VARIANCES TO BUILDING CODE FLOODPLAIN STANDARDS

Upon learning that an applicant intends to file for a variance from the State Building Code Appeals Board, the Town of Eastham shall issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

The Town of Eastham will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

18.17 VARIANCES TO LOCAL ZONING BYLAWS RELATED TO COMMUNITY COMPLIANCE WITH THE NATIONAL FLOOD INSURANCE PROGRAM (NFIP)

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if:

- 1) Good and sufficient cause and exceptional non-financial hardship exist;
- 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and
- 3) the variance is the minimum action necessary to afford relief.

18.18 SEVERABILITY

If any section, provision or portion of this bylaw [ordinance] is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective

18.19 DESIGNATION OF FLOODPLAIN ADMINISTRATOR

The Town of Eastham hereby designates the position of Building Commissioner be the official floodplain administrator for the Town.

SECTION 19.0 - ADMINISTRATION

- 19.1 **BOARD OF APPEALS** – There shall be a Board of Appeals consisting of five (5) members, and two (2) alternates, all to be appointed by the Board of Selectmen, with the powers as provided in Massachusetts General Laws, Chapter 40A, Section 12, which shall act on all matters within its jurisdiction under this By-law in the manner prescribed in said Chapter 40A of Massachusetts General Laws.
- 19.2 **SPECIAL PERMITS**
- 19.2.1 Special Permits shall only be issued after a public hearing; which shall be held within 65 days after the filing of a special permit application with the Town Clerk, or special permit granting authority as may be required under Chapter 808 of the Acts of 1975, as amended.⁹²
- 19.2.2 All special permits shall lapse three (3) years from date of issue unless construction or operation under said permit has commenced. All rights authorized by a variance shall be exercised within one (1) year of the date of grant of such variance. If a matter is under court appeal, a special permit or variance shall be deemed issued on the date that a final court determination enters in the case.⁹³
- 19.3 **OUTSIDE CONSULTANTS**
- A Special Permit Granting Authority may impose a reasonable fee on the applicant for the employment of outside consultants. Upon the selection of an outside consultant by majority vote of the Special Permit Granting Authority, the applicant has 30 days to appeal the selection to the Board of Selectmen pursuant to the grounds set forth in M.G.L. Chapter 44, Section 53G.3.⁹⁴
- 19.4 **ENFORCEMENT**
- 19.4.1 This bylaw shall be enforced by the Building Commissioner. No building shall be erected or altered and no use of land or building shall commence or change except upon issuance of a permit by the Building Commissioner. Such permit shall be posted in a conspicuous place on the premises.
- 19.4.2 Any person, association, firm or corporation violating any of the provisions of this bylaw may be fined not more than \$300 for each offense. Each day that such a violation continues shall constitute a separate offense.
- 19.4.3 Noncriminal Disposition process. Violations of the zoning bylaw provisions may be sanctioned through the noncriminal disposition process authorized by Massachusetts General Laws Chapter 40, Section 21D, as amended. Resort to this noncriminal disposition method shall lie within the discretion of the Building Commissioner, or his or her designee. The option of noncriminal disposition shall exist in addition to all other available enforcement alternatives. To enforce the provisions of this Bylaw through noncriminal disposition, the following is an assessment of penalties that shall be imposed upon violators of this Bylaw:

First Offense:	\$100
Second Offense:	\$200
Third Offense and all further offenses:	\$300 ⁹⁵

19.4.4 The enforcement officer who takes cognizance of a violation of the bylaw subject to this noncriminal disposition process and who elects, as an alternative to criminal process, to proceed with noncriminal enforcement, shall give the offender a written notice to appear before the clerk of the Orleans Division of the District Court Department at any time during office hours, but not later than twenty-one (21) days after the date of such notice. Each day during which a violation of a zoning bylaw provision continues shall be deemed to be a separate offense subject to the noncriminal disposition process.⁹⁶

- For procedures related to District I Eastham Corridor Special District, see Sections 3.9.6, 3.9.7, 3.9.8 and 3.9.9.
- For procedures related to District J Groundwater Protection Overlay, see Sections 3.10.4 and 3.10.9.
- For procedures related to non-conforming uses, buildings or structures in all zoning districts see Section 4.4, 19.1 and 19.2.
- For procedures related to Accessory Dwelling Units, see Sections 5.3.4, 5.3.5 and 5.3.6.
- For procedures related to Site Plan Approval – Special Permit for Commercial Structures in Districts A, B, E, F, G and H, see Sections 10.1.4, 10.1.5, 10.2.1, 10.2.3, 10.2.4, 10.2.5, 10.2.6 and 10.2.7.
- For procedures related to Site Plan Approval – Residential, see Sections 10.3.2, 10.3.3, 10.3.4 and 10.3.5.
- For procedures related to Demolition of Historically or Architecturally Significant Buildings, see Sections 11.2 and 11.4.
- For procedures related to the Eastham Sign Code, see Section 12.2.
- For procedures related to Open Space Residential Subdivision, see Section 13.5.

SECTION 20.0 - REVIEW

Any applicant aggrieved by a decision of the Board of Appeals denying either the application for a Special Permit or a variance on the grounds that such denial constitutes a permanent or temporary taking by eminent domain without just compensation and violates the Fifth Amendment of the Constitution of the United States as applied through the Fourteenth Amendment, shall be required to resubmit to the Board an application for a Special Permit or variance specifying in detail the specific use for which the Special Permit or Variance is sought. The Board shall take evidence at a hearing or hearings necessary to determine whether the denial does constitute such a taking, applying the most recent legal standards, and shall render a written decision stating its reasons for its decisions. Said written decision shall be rendered within one hundred and twenty (120) days from the date that all hearings are closed.

SECTION 21.0 - DEFINITIONS

For the purpose of this By-Law the following terms shall have the following meanings:

ACCESSORY USE OR BUILDING, EASTHAM CORRIDOR SPECIAL DISTRICT (ECSD):

A use or structure, which is customarily incidental to and subordinate in area, extent, and Purpose to that of the principal structure or use and shall be located on the same lot therewith. If such use or structure occupies more than 40% of the floor area occupied by the principal structure or use or more than 50% of the lot area occupied by the principal structure or use, it shall no longer be considered accessory.

ACCESSORY DWELLING UNIT (ADU)⁹⁷: Shall be a separate housekeeping unit containing independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Which may be incorporated within a lawful principal single-family dwelling or commercial structure or within a detached building accessory to and on the same lot as a lawful principal single-family dwelling or commercial structure which the ADU shall be clearly subordinate in design to that principal single-family dwelling.

ADULT USES⁹⁸: Any of the following uses, as defined in MGL Chapter 40A, Section 9A: Adult Bookstore, Adult Motion Picture Theater, Adult Paraphernalia Store, Adult Video Store, and Establishments Which Display Live Nudity.

ALTERATION⁹⁹: As applied to a building or structure, means any modification, extension, reconstruction, renovation or rearrangements in the structural parts (horizontally or vertically) or in the exit facilities, or the moving from one location or position to another.¹⁰⁰

ALTERATION, FLOOD PLAIN: As applied to a building or structure, a change, modification, renovation or rearrangement in the structural parts or in the exit facilities or an enlargement whether by extending on a side or by increasing in height, or the moving from one location or position to another.

AMUSEMENT: Any type of indoor or outdoor amusement requiring the review and/or the issuance of a license by the Board of Selectmen, or sporting activities regardless of whether or not admission is charged.

AMUSEMENT, INDOOR: Any cinema, theater, auditorium, indoor sports area, health club, bowling alley, or any other commercial entertainment or recreation carried on indoors.

AMUSEMENT, OUTDOOR: A drive-in theater, golf driving range or facility other than a regulation golf course of not less than nine (9) holes or any other commercial entertainment or recreation carried on in whole or in part outdoors. Outdoor amusement shall not include a swimming pool, private or public, where no charge is made or where such is operated in connection with a hotel, motel, camp or club.

AMUSEMENT PARK: A premise or any part thereof used to provide one or more mechanical devices, rides, games or other like attractions to the public for hire or compensation of any kind, whether for fee or by admission or in connection with another service for which a fee is charged.

ANIMAL HOSPITAL: A building used primarily for the medical and surgical care of animals-which may include related facilities such as a laboratory and crematorium.

APARTMENT: A part of a building consisting of a room, suite, or collection of rooms intended, designed or used as a residence, separate from other residences on the same property.

APARTMENT BUILDING¹⁰¹: A building containing three (3) or more apartments with kitchen facilities, under a common roof, each independent of the other.

AQUIFER: A geologic formation composed of rock, sand or gravel that contains significant amounts of potentially recoverable water.

AREA, NET SITE: The total area within the property lines excluding external streets, wetlands and areas committed by easements for other uses.

AREA OF SPECIAL FLOOD HAZARD: Is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, VO, V1-30, VE, or V.

ARTIST STUDIO – See Studio Private

ASSISTED LIVING RESIDENCE (ALR)¹⁰²: A use allowed by special permit, consisting of a facility defined and certified under 651 CMR 12.02 et seq., which may be located on the same lot or abutting lots in common ownership with an Independent Living Facility, and which provides shelter and services to persons 55 years of age and older and other residents with disabilities requiring Personal Care Services, whether conducted for profit or not for profit, consistent with an approved Concept Plan.

ATHLETIC CLUB: A town, state, federally or privately owned facility or facilities used for the purposes of indoor or outdoor recreation for any public or private group. Principal facilities shall be a swimming pool or pools and/or tennis courts or similar courts. Accessory facilities generally associated with a swimming pool (s) and/or tennis court (s) are to be included in this definition.

AUTOMOBILE GRAVEYARD: An establishment that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or motor vehicle parts as defined in MGL c.140B, s.1.

BANNER: A temporary, flexible one- or two-sided sign, generally made of vinyl or fabric, and designed to be hung.

BASE FLOOD: Means the flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT: That portion of a building which is partly below and partly above grade, and having at least one-half (1/2) its height below grade.

BED AND BREAKFAST: A one-family, owner-occupied business located in a dwelling for rent for the primary purpose of furnishing overnight lodging, and a morning meal to the overnight guests only.

BEST MANAGEMENT PRACTICES (BMPs), ENVIRONMENTAL¹⁰³:

A Structural, nonstructural, or managerial technique recognized to be the most effective and practical means to prevent and reduce nonpoint source pollutants. BMPs should be compatible with the appropriate use of the resource to which they are applied, and should be cost effective.

BOATHOUSE, PRIVATE: A facility for private individual use and not for hire for the storage of boats and related marine equipment.

BOATHOUSE, PUBLIC: A facility for the construction, repair, storage, rental, or servicing of boats for hire or compensation, and for the sale of boats or marine equipment.

BUILDABLE UPLAND: Land which is not swamp, pond, bog, dry bog, fresh or salt marsh, areas of exposed groundwater, stream, and/or which is not subject to flooding from high tides.

BUILDING: A structure forming a shelter for persons, animals, property or an activity and having a roof. Where appropriate in the context, the word “building” shall include the principal and accessory buildings.

BUILDING, ACCESSORY¹⁰⁴: A supplemental building, the use of which is incidental to that of the main or principal building, and which is located on the same lot therewith.

BUILDING, DETACHED: A building designed or intended for one or more purposes, not connected to any other building on the same lot.

BUILDING, FRONT LINE OF: The line of that face of the building nearest the public or private way. This face shall include sun parlors, enclosed projections from the main body of the building, covered porches whether enclosed or unenclosed, and decks, but not uncovered steps.

BUILDING HEIGHT¹⁰⁵: The vertical distance, not to exceed thirty (30) feet, between the highest point of the roof and the average elevation of the naturally existing mean grade (the measurements taken at the corners of the structure) prior to any excavation, leveling, grading, or filling at the building foundation, exclusive of chimneys, air shafts, ventilators, vents, lightning rods not exceeding twelve (12) inches in height, or similar items which may be of the height required for proper operation or use. Building height applies to all buildings and/or structures including after final grading.

BUILDING INSPECTOR: The person occupying the office of Inspector of Buildings or otherwise authorized to issue demolition permits.

BUILDING PERMIT: A document of authorization to construct, repair, alter, demolish, enlarge or change any building and/or structure.

BUILDING, PRINCIPAL: A building in which is conducted the main or principal use of the lot on which said building is situated.

BUILDING SIGN: A permanent sign attached to a building or roof.

BULK STORAGE, OPEN: Exposed outside storage of sand, lumber, coal or other bulk materials or supplies.

BULK STORAGE, TANKS: Exposed outside storage tanks, silos or similar structures for the storage of oil, gas, fuels or other liquids or materials.

BUSINESS BAND RADIO ANTENNAS¹⁰⁶: An antenna used for radio communications for licensed business radios.

BUSINESS OFFICE: A building or part thereof devoted to the administration of a business or commercial enterprise which involves clerical, accounting and other administrative procedures but which excludes the receipt, processing and sale of merchandise; or a building or part thereof devoted to the professional office of a physician, lawyer, engineer, architect, real estate or insurance agent, or business activities of licensed professionals.

BUSINESS, PERSONAL SERVICE: Any building or part thereof used for the purpose of rendering a service upon the premise to the public where the sale of a product is not involved.

BUSINESS, SERVICE: Any building or part thereof used for or from which the sale, installation, repair and servicing, or the sale and/or installation, of component parts, of home appliances and installation is conducted. Service business shall include; plumbing and electrical shops, radio and television sales and repair, service contractors, and supply yards or outdoor storage relative to the conduct of these businesses.

CABIN¹⁰⁷: An existing structure containing not less than 150 square feet of floor area, nor more than 499 square feet of floor area, exclusive of porches, sundecks, patios, raised terraces or similar items, and containing sleeping, living and toilet facilities but not including any kitchen or cooking facilities.

CAMP: An area of land consisting of at least four (4) acres, exclusive of wetlands, upon which is located, or upon which it is intended to locate, the facilities required to operate upon a seasonal basis the continuing supervised recreational, health, educational religious or athletic program, or a combination thereof.

CAMPER: A small, portable vehicle used for living purposes whether standing on wheels, attached to a mobile body or on rigid supports.

CAMP GROUND: A parcel of land used or intended to be used, let or rented for occupancy by or of tents or moveable or temporary overnight dwelling facilities of any kind, exclusive of camps as defined by this section.

CATERING KITCHEN¹⁰⁸: An establishment wherein the principal use or accessory use to a retail use involved preparation of food and/or beverages for groups by advance order for transport and consumption off premises.

CELLAR: That portion of a building which is partly or completely below grade, having at least one-half (½) of its height below grade.

CHANGE OF USE: A change in the nature or purpose of a use for a developed site.

CLUB or LODGE: The premises or buildings of a nonprofit organization primarily 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. This shall not include clubs or organizations whose chief activity is a service customarily carried on as a business.

CMR: Code of Massachusetts Regulations

COASTAL HIGH HAZARD AREA: Means the area subject to high velocity waters, including but not limited to hurricane wave wash or tsunamis. The area is designated on a FIRM as Zone V, V1-30, VE.

COMMERCIAL FERTILIZER: Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except un-manipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, and other products exempted by state regulations.

COMMISSION: Eastham Historical Commission

COMMON DRIVEWAY¹⁰⁹: A form of access to the building site of a lot and to any occupied building on a lot, which is not itself a street but extends from a street and provides common vehicular access to more than one lot. For the purposes of calculating lot coverage, the common driveway's impervious surfaces shall be equally allocated among the lots served and/or benefited by the common driveway in proportion to the sizes of the lots.

COMMUNICATIONS TOWER¹¹⁰: A guyed monopole, or self-supported tower, constructed as a free-standing structure or in association with a building, or other permanent structure or equipment, containing one or more antennas intended for transmitting or receiving television, AM/FM radio, digital, microwave, cellular, telephone, or similar forms of electronic communication.

CONCEPT PLAN¹¹¹: A plan such as one submitted preliminary to a special permit application, which describes in detail the site and proposed mixed uses, including a site plan showing site improvements, and identifying traffic and environmental impacts and their mitigation, projected future division of the site, if any.

CONDOMINIUM: The land, the building or buildings, all other improvements and structures thereon, and all easements, rights and appurtenances belonging thereto, which are subject to the provisions of M.G.L. c. 183A.

CONDOMINIUM UNIT: A part of a condominium including one (1) or more rooms, with appurtenant areas such as balconies, terraces and storage lockers, if any are stipulated in the condominium master deed as being owned by the unit owner, occupying one (1) or more floors or a part or parts thereof, including the enclosed space therein, intended for any type of use, and with a direct exit to a street or way or to a common area leading to a street or way.

CONTRACTOR SIGN: A temporary sign displayed during the active construction located on-site indicating a construction industry-related business, including but not limited to a trade, professional or service provider.

CONVENIENCE STORE: A retail establishment accessory to a principal use offering for sale prepackaged food products, fresh produce, household items, newspapers, tobacco products, lottery items, or sundries, for use and/or consumption off premises.¹¹²

CONTRACTOR'S YARD: Premises used by a building contractor or subcontractor principally for storage of equipment and supplies, fabrication of subassemblies or parking of wheeled equipment.

COTTAGE: An existing¹¹³ structure containing not less than 500 square feet of floor area on at least one (1) floor, exclusive of sundecks, patios, and raised terraces, and containing at least one (1) bedroom, a living room, a kitchen, a bath or toilet room or any reasonable similar combination of rooms, designed for temporary, transient, seasonal living.

COTTAGE COLONY: A group of two (2) or more detached cottages located on the same lot, each cottage containing one (1) dwelling unit only, designed for temporary transient seasonal living.

COVERAGE: See SITE COVERAGE

CUPOLA¹¹⁴: A traditional decorative (non-functional) structure on top of a roof

DEMOLITION¹¹⁵: The act or process of wrecking, destroying or removing, temporarily or permanently, 50% or more of any existing structure.

DEMOLITION, HISTORIC: The act or process of pulling down, destroying, removing or razing a structure, or any portion of a building that results in a change in the footprint, or commencing the work of any such act with the intention of completing the same.

DEVELOPMENT: Means any manmade change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DEVELOPER'S SUBDIVISION SIGN: A temporary sign displayed while lots are for sale showing the lot plan of a subdivision.

DISCHARGE: The accidental or intentional disposal, deposit, injection, dumping, spilling, leaking, pouring, or placing of toxic or hazardous material or hazardous waste upon or into any land or water such that it may enter the surface or ground waters.

DWELLING: A building containing living quarters for one (1) family, having not less than 500 square feet of floor area on at least one floor, exclusive of porches, sun decks, patios, raised terraces or similar items, and containing a kitchen, a bathroom containing a toilet, a lavatory, a tub and/or shower, a living room, and a bedroom or any reasonably similar combination of rooms. ¹¹⁶

DWELLING, DUPLEX: A building containing living quarters for not more than two (2) families, having not less than 1,000 square feet of floor area under a common or connected series of roofs and containing in each dwelling all the requirements for a one family dwelling.

EVENT: Any gathering of a designated and limited duration, for economic, political, recreational, historical, celebratory, or other purposes.

FAMILY: An individual or two (2) or more persons related by blood or marriage, or a group of not more than four (4) persons not so related, living together as a single housekeeping unit.

FARM, COMMERCIAL: Any parcel of land containing at least five (5) acres of land which is used for gain in the raising of agricultural products, livestock, poultry and dairy products. It includes necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, hogs, livery and dog kennels.

FARM STAND¹¹⁷: A structure from which 100% of the products displayed and offered for sale are produced upon the premises or are legally gathered from the sea or seashore.

FARMERS PORCH¹¹⁸: Covered deck which on the front elevation is no greater than 10 feet in depth and one-story high.

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA): administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

FILLING STATION: Any area of land, including structures thereon, that is primarily used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, spraying or otherwise cleaning or servicing such motor vehicles

FITNESS CENTER: see ATHLETIC CLUB

FLAG, COMMERCIAL: A flexible one or two-sided sign attached to a vertical pole, which announces or advertises a business, service, product, or event.

FLOOD BOUNDARY AND FLOODWAY MAP: means an official map of a community issued by FEMA that depicts, based on detailed analyses, the boundaries of the 100-year and 500-year floods and the 100-year floodway. (For maps done later than 1987, floodway is designated on FIRM.)

FLOOD INSURANCE RATE MAP (FIRM): means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY: means an examination, evaluation, and determination of flood hazards, and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards.

FLOODWAY: means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

FLOOR AREA, HABITABLE¹¹⁹: The sum of the gross horizontal area of the floors of a dwelling used or intended to be used for living, sleeping, cooking or eating purposes, excluding cellar, attic and basement floor area not devoted to residential use.

FLOOR AREA OF A BUILDING¹²⁰: The sum of the gross horizontal area of the several floors of a building, excluding cellar and basement floor areas not devoted to residential use, and excluding the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

FLOOR AREA RATIO: The ratio of the total gross floor area of a building or buildings on one (1) lot to the total area of the lot.

FORMULA BUSINESS: A retail business, restaurant, or other food service establishment which does or is required by contractual or other arrangement such as a franchise to maintain two (2) or more of the following items:

1. Standardized (formula) array of services and/or merchandise, trademark, or logo;
2. Standardized exterior architecture, décor, or color scheme;
3. Standardized signage;

and these features are the same as or substantially the same as ten (10) or more such establishments, regardless of ownership or location.

FREE STANDING SIGN: A sign that is supported by one (1) or more uprights or braces that are in or upon the ground, and fully support the sign.

FRONTAGE BUILDING: The building that abuts the front yard, front lot line, exterior (street-facing) side yard, or exterior side lot line and serves to minimize views to parking or larger buildings to the rear. On any lot, the building closest to the road frontage shall be used to determine the parking setback. Corner buildings shall have two frontages.

FRONT YARD: A space extending the full width of the lot between the front line of the nearest building wall or structure and the front lot line. On corner lots or lots with frontage on two roadways, the front yard shall extend along the frontage on both streets.

FULLY SHIELDED LIGHT FIXTURE¹²¹: A light fixture closed at the top with shielding so that the lower edge of the shield is at or below the centerline of the light source or lamp to minimize the light rays emitted above the horizontal plane

FUNCTIONALLY DEPENDENT USE¹²² - A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

FUNERAL HOME: A dwelling or other structure used by a professional licensed mortician for burial preparation and funeral services.

GARAGE, PRIVATE: A building designed for the storage of motor vehicles.

GARAGE, PUBLIC: Any building which is not a private garage and which is used for the servicing and repair of automobiles and trucks, and the retail sale of fuels for motor vehicles.

GIFT-CRAFT SHOP / ART GALLERY: A building or portion thereof used for the inside display and retail sale of crafts, art work, sculpture, and other items primarily designed as gifts and keepsakes, as distinguished from the retail sale of food, clothing, hardware, furniture and items more commonly associated with or essential to the maintenance of home, person, and property.

GLARE¹²³: Light emitted from a lamp with intensity great enough to produce a reduction in a typical viewer's ability to see.

GRADE¹²⁴: The plane of the average of all finished ground level adjoining the building or structure for a distance of six feet from all exterior walls.

GROSS FLOOR AREA¹²⁵: The sum of all floor areas within a building or structure, measured from the perimeter of the outside walls of the building under consideration, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features. It shall include all areas capable of being used for human occupancy, including all basement floor areas, mezzanine and attic space and enclosed porches.

GROSS FLOOR AREA (GFA) EASTHAM CORRIDOR SPECIAL DISTRICT (ECS D): The sum of the area of all floors within the perimeter of a building, located either above or below ground level. Gross floor area shall be expressed in square feet and measured from the exterior face of the exterior walls, or the centerline of shared walls. It shall include mezzanines and attics without deduction for hallways, stairways, elevator shafts, mechanical rooms, closets, thickness of walls, columns, projections, or other similar features. Crawl spaces for plumbing, wiring, or other mechanical infrastructure or for storage and in all cases not designed for human occupancy shall not count towards Gross Floor Area.

Outdoor areas used for storage, sales, service and display shall also be included in the total Gross Floor Area.

GROUNDWATER PROTECTION DISTRICT: The land area consisting of aquifers and Zone II recharge areas as identified on a map and adopted pursuant to this bylaw.

GUEST HOUSE, PRIVATE: A detached or semi-detached building located upon the same lot with one family dwelling containing not more than 250 square feet and not containing cooking facilities, the use of said building being limited to the entertainment of relatives and friends without fee or other costs.

HAZARDOUS OR TOXIC MATERIAL/WASTE: see TOXIC OR HAZARDOUS MATERIAL/WASTE. ¹²⁶

HEIGHT, WIND TURBINE¹²⁷: The height of a wind turbine measured from the natural grade to the tip of the rotor blade at its highest point, or blade-tip height.

HIGHEST ADJACENT GRADE¹²⁸: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

HISTORIC STRUCTURE (Floodplain Bylaw)¹²⁹: Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
 - (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (1) By an approved state program as determined by the Secretary of the Interior or
 - (2) Directly by the Secretary of the Interior in states without approved programs.
- [US Code of Federal Regulations, Title 44, Part 59]

HISTORICAL HIGH GROUNDWATER TABLE ELEVATION: A groundwater elevation determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey.

HOME OCCUPATION¹³⁰: An occupation or profession which is conducted in a residential zone and which:

- A. Is carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit, and
- B. Is carried on by member of the family residing in the dwelling unit for residential purposes, and
- C. Is secondary to the use of the dwelling unit for residential purposes.

HOME OCCUPATION SIGN: A permanent residential sign advertising a business lawfully operated from a residence by one or more of its residents.

HOTEL: see INN

ILLUMINATED SIGN: A sign illuminated by a light source(s) external or internal to the sign's surfaces.

IMPERVIOUS SURFACE¹³¹: Material or structure on, above, or below the ground that does not allow precipitation or surface water runoff to penetrate into the soil.

INDEPENDENT LIVING RESIDENCE (ILR)¹³²: A use allowed by special permit, consisting of one or more multi-family condominium or apartment buildings containing dwelling units restricted to occupancy by residents 55 years of age or older, which may be located on the same lot or abutting lots in common ownership on which an Assisted Living.

INDUSTRY, HEAVY: The production, assembly, processing, finishing or manufacture of any object or material which results in or would result in noise, dust, odor, vibration, gases, or any feature that can or could be detected at any time off the premises upon which located.

INDUSTRY, LIGHT: Fabrication, assembly, processing, finishing work or packaging in such a manner that noise, dust, odor, vibration, or similar objectionable features are confined to the premises.

INFORMATIONAL SIGN: A non-commercial sign not to exceed 2 square feet including but not limited to those offering safety, instructional and public awareness, including, but not limited to, signs with the following or similar messages: Open, Closed, Hours of Operation, Right Turn Only, No Parking, Employee Entrance, Exit, and One-Way.

INN: A building, together with its accessory buildings, used or arranged or designed to be used to provide living accommodations including sleeping quarters, and meals which are prepared and served from a central kitchen/dining facility operated under a victualler license. The definition here given shall also include that for a hotel.

INTERCONNECTION: A shared access way among properties to reduce the number of curb cuts, driveways and vehicle maneuvers on adjacent roadways.

INTERIM WELLHEAD PROTECTION AREA (IWPA): The MassDEP designated protection radius around a public water well that lacks a Zone II.

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 but not any article or material which, unaltered or unchanged and without further reconditioning, can be used for its original purpose as readily as when new.

JUNKYARD: An establishment that is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, as defined in MGL c.140B, s.1.

LADDER SIGN: A freestanding ground-mounted sign not affixed to any building but constructed in a permanently fixed location on the ground with its own support structure, including pole signs, monument signs and freestanding menu signs which may contain two or more crosspieces servicing as individual signs, attached in a ladder style supported by a backboard, frame or post.

LAMP¹³³: A bulb, which is a component of a light fixture. It consists of an outer glass envelope and a metal base enclosing a filament or arc tube and electrodes.

LANDFILL: A facility established in accordance with a valid site assignment for the purposes of disposing solid waste into or on the land, pursuant to the Solid Waste Regulations, 310 CMR 19.006.

LIGHT FIXTURE¹³⁴: A lighting device that may be secured to a wall, ceiling, pole, or post and is used to hold one or more lamps. Lighting fixtures are designed to distribute the light, to position and protect the lamp(s), and to connect the lamp(s) to the electrical power supply.

LIGHT TRESPASS¹³⁵: The shining of direct light produced by a light fixture onto an abutting lot, parcel, or street.

LODGE BUILDING: A structure occupied by a non-profit social or civic organization.

LOT: A closed plot of land having a definite area and perimeter. ¹³⁶

LOT AREA: The horizontal area of a lot exclusive of any area under water, or within a road layout.

LOT AREA REQUIREMENTS¹³⁷: The calculation of the minimum lot area shall include only contiguous upland and shall exclude all wetland or land under any stream, creek, or other water body, therefore such upland area shall contain the minimum required area for buildable lots in the district.

LOT LINES: The lines bounding a lot as defined herein.

LOWEST FLOOR: The lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor, PROVIDED that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of NFIP Regulations 60.3.

MANUFACTURED HOME: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes the term "manufactured home" also includes park trailers, travel trailers, or other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers, and other similar vehicles.

MANUFACTURED HOME PARK OR SUBDIVISION: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

MARIJUANA DEFINITIONS: Any term not specifically defined herein shall have the meaning as defined in MGL c.94I, §1 and 105 CMR 725.00 implementing an Act for the Humanitarian Medical Use of Marijuana and MGL c.94G, §1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana, as such statutes and regulations may from time to time be amended.

- Marijuana Establishment Recreational (“RME”) shall mean a marijuana cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business as defined in MGL c.94G, §1 or the Cannabis Control Commission Regulations 935 CMR 500.00.
- Marijuana Retailer shall mean an entity licensed by the Cannabis Control Commission to purchase and deliver recreational marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer recreational marijuana and marijuana products to marijuana establishments and to consumers, as defined in MGL c.94G, §1 and the Cannabis Control Commission Regulations 935 CMR 500.00 governing Adult Use Marijuana.
- Medical Marijuana Treatment Center Dispensary/Retail (MMTCDR) shall mean an entity registered by the Department of Public Health or the Cannabis Control Commission that acquires, transfers, transports, sells, distributes, dispenses, or administers medical use marijuana, products containing medical use marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers.
- Medical Marijuana Treatment Center Cultivation/Processing (MMTCCP) shall mean an entity registered by the Department of Public Health or the Cannabis Control Commission that cultivates, possesses, transfers, transports and/or processes medical use marijuana or products containing medical use marijuana and related supplies to qualifying Medical Marijuana Treatment Center Dispensary/Retail.

MASSDEP: Massachusetts Department of Environmental Protection.

MGL: Massachusetts General Law.

MIXED-USE DEVELOPMENT¹³⁸: A use allowed by special permit, consisting of retail, office, municipal, service establishments, and residential uses, in some combination, consistent with an approved Concept Plan, which may be located on a single lot or a parcel formed from combined lots, and which, if authorized by special permit, need not comply with the use restrictions or dimensional requirements generally applicable in the underlying zoning district(s).

MOTEL: A structure containing not more than 4000 square feet on one floor, exclusive of porches, sun decks, patios, raised terraces or similar items, divided into units containing living, sleeping and toilet facilities only. No individual kitchen or cooking facilities in units shall be permitted.

MOTOR VEHICLE SALES: A premises used for the display and for the sale of new or used motor vehicles, as that term is defined under the Massachusetts General Laws.

MUNICIPAL WIND FACILITY¹³⁹: Any wind facility on Town-owned property.

NAME SIGN: A sign that is limited to identification of the resident or occupant of a dwelling or the name of the dwelling.

NEW CONSTRUCTION (Floodplain)¹⁴⁰: Structures for which the ‘start of construction’ commenced on or after the effective date of the initial FIRM For the Town of Eastham, July 3, 1986, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

NEW CONSTRUCTION: means structures for which the ‘start of construction’ commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later.

NON-CONFORMING USE: A building, structure, or land lawfully occupied by a use that did not conform to the by-laws of the district in which it is situated at the time of the adoption of applicable Zoning By-Laws and of any amendments thereto.

NON-SANITARY WASEWATER: Wastewater discharges from industrial and commercial facilities containing wastes from any activity other than collection of sanitary sewage including, but not limited to, activities specified in 310 CMR 15.004(6).

NURSERY SCHOOL: A school designed to provide daytime care or instruction for two (2) or more children from two (2) to six (6) years of age, inclusive, and operated on a regular basis.

NURSING or CONVALESCENT HOME: Any state licensed dwelling or building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

OCCUPANCY PERMIT: A permit issued by the Building Inspector authorizing the occupancy and the use of the land and/or structures and buildings.

OCEAN BEACH¹⁴¹: a municipal facility designed to provide access to the ocean for swimming, sunbathing, fishing, surfing, windsurfing and walking, including stairs, landings, parking areas and other associated structures necessary for operation.

OFFICE, MEDICAL OR DENTAL¹⁴²: A building or portion thereof the primary use of which is the provision of health-care services to patients or clients on an outpatient basis and by appointment only. The sale of merchandise is allowed only as an accessory use.

ONE-HUNDRED-YEAR FLOOD: see BASE FLOOD.

ON-SITE WIND FACILITY¹⁴³: A wind project, which is located at a commercial, industrial, agricultural, institutional, or public facility that will consume on-site more than 50% of the electricity generated by the project.

OPEN DUMP: A facility operated or maintained in violation of the Resource Conservation and Recovery Act 42 U.S.C. 4004(a)(b), or state regulations and criteria for solid waste disposal.

OPEN SPACE¹⁴⁴: An unoccupied space, open to the sky, free of all structures, parking, pavement and other impervious surfaces; consisting of lands used for agricultural or forest uses; and any land area that would, if preserved and continued in its present use:

1. Conserve and enhance natural or scenic resources;
2. Protect air or streams or water supply;
3. Promote conservation of soils, wetlands, beaches or tidal marshes, and
4. Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space.

OUTDOOR DINING AREA¹⁴⁵: A dining area with seats and/or tables that is an accessory use to, and located outside of, an approved restaurant for the purposes of table service. Outdoor Dining Areas may be open to the sky or may have umbrellas or partial tent covering; may include barricades or barriers to delineate the space from surrounding areas; and may contain furniture, including tables and chairs that are readily movable. Self-service counters with seating or picnic tables outside a business do not constitute an Outdoor Dining Area.

OUTSIDE DISPLAY¹⁴⁶: Placement or maintenance of goods or other items, including display racks and similar accessories, exterior to a building housing a commercial use on the same site, for the purpose of advertising or displaying the sale of goods or services within the building.

PAN HANDLE LOT¹⁴⁷: A pan handle lot is a closed plot of land having a definite area and perimeter connected to a way by a strip of land no less than 40 feet in width for its entire length and having less than fifty (50) feet of frontage.

PARKING, PRIVATE: Space for parking accessory to principal use, not to include parking for fee or parking of more than one (1) commercial vehicle except on farms.

PARKING, PUBLIC: An area used for the purpose of parking vehicles, whether or not a fee is required.

PARKING SPACE: The area required for parking one (1) automobile.

PASSIVE RECREATION¹⁴⁸: Forms of recreation such as nature study, walking, hiking, and horseback riding; and fishing and hunting as permitted by law.

PERMANENT SIGN: All signs other than temporary signs.

PERSONAL CARE SERVICE¹⁴⁹: Within an ALR, assistance to residents with Activities of Daily Living, as defined and provided in 651 CMR 12.02 et seq.

PET KENNEL: A building, structure or area used for the boarding, grooming, and breeding of domestic animals.

PETROLEUM PRODUCT: Includes, but not limited to, fuel oil; gasoline; diesel; kerosene; aviation jet fuel; aviation gasoline; lubricating oils; oily sludge; oil refuse; oil mixed with other wastes; crude oils; or other liquid hydrocarbons regardless of specific gravity. Petroleum product shall not include liquefied petroleum gas including, but not limited to, liquefied natural gas, propane or butane.

PET STORE: A building or structure used for the sale of domestic pets and related supplies.

POCKET PARK/PEDESTRIAN PLAZA: Landscaped and/or hardscaped area with benches, bike rack, landscaping and special pavement treatment.

PORCH, OPEN DECK: A porch that has no walls or windows other than that of the main building to which it is attached.

POTENTIALLY DEVELOPABLE AREA: Buildable upland which does not contain critical habitat as defined by the Commonwealth of Massachusetts Department of Environmental Protection.

PREFERABLY-PRESERVED SIGNIFICANT BUILDING: Any significant building which the Commission determines is in the public interest to be preserved or rehabilitated rather than demolished.

PRIMARY CONSERVATION AREAS: Areas comprised of only the most severely constrained lands, where development is typically restricted under current codes and laws (such as wetlands, floodplains, and slopes exceeding 25 percent)

PRINCIPAL USE OR BUILDING: A primary use on a lot or a building on a lot on which the primary use is located. (See also Accessory Use or Building).

PROCESS WASTEWATER¹⁵⁰: Includes all wastewaters other than sanitary wastewater.

PROPERTY IDENTIFICATION SIGN: A permanent sign displaying only the name of the business or commercial development.

PUBLISHING AND PRINTING ESTABLISHMENT:¹⁵¹ A commercial facility for the publishing and printing of information as a retail service use, not including bulk publishing or bulk printing of paper documents on-site, but may include the sale of ancillary goods typically used in the publishing and printing of information.

QUARRY, SAND PIT, GRAVEL PIT, TOP SOIL STRIPPING: An area of land or part thereof used for the purpose of extracting stone, sand, gravel or top soil.

RAIN GARDEN¹⁵²: A bowl-shaped landscape area designed to absorb stormwater runoff from impervious surfaces, which cleanses water of pollutants by filtering water through soil and plants.

RATED NAMEPLATE CAPACITY¹⁵³: The maximum rated output of electric power production equipment. This output is typically specified by the manufacturer with a “nameplate” on the equipment.

REAL ESTATE SIGN: A temporary sign that advertises the sale, lease, year-round or seasonal rental of real property erected by a property owner or licensed Real Estate Broker.

RECEPTORS¹⁵⁴: Special selected points at which measurements will be taken for required analysis submissions under this by-law.

RECHARGE AREAS: Land areas, such as a Zone II or Interim Wellhead Protection Area, where groundwater flows naturally or is drawn by pumping into a water supply well or precipitation and surface water infiltrates into the ground to replenish groundwater and aquifers used for public drinking water supplies.

RECREATIONAL FACILITY¹⁵⁵: An establishment engaged in the provision of public recreational services, including bowling and billiards, but not including miniature golf and video arcades.

RECREATIONAL VEHICLE (see also MANUFACTURED HOME)¹⁵⁶: A vehicle which is:

- (a) Built on a single chassis;
- (b) 400 square feet or less when measured at the largest horizontal projection;
- (c) Designed to be self-propelled or permanently towable by a light duty truck; and
- (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59].

REGULATORY FLOODWAY: see FLOODWAY.

REMOVAL OF BUILDING: Removal by demolition or relocation, either in whole or in part.

REPAIR SERVICES, NON-AUTOMOTIVE¹⁵⁷: Repair and servicing of appliances, computers, electronic equipment, tools and other small machinery common to homes and businesses, not to include any appliances, tools or small machinery that are powered by hydrocarbon fuel.

RESEARCH AND DEVELOPMENT FACILITY¹⁵⁸: A business that engages in non-biological research and development of innovative ideas, services and technology, such as development of computer software, information systems, communication systems, transportation, multi-media and video technology and development and construction of prototypes associated with such services and products.

RESORT AND CONFERENCE CENTER: A structure or series of structures, divided into separate units, the purpose of which is to provide living, sleeping and toilet facilities; conference, seminar, or meeting facilities and/or recreation or entertainment services and facilities, including but not limited to golfing, tennis, dining, or other amenities intended to solicit the use of the property as a resort or conference center.

RESTAURANT¹⁵⁹: An establishment where food and drink are prepared, served and consumed primarily within the principal building or at outside seating on a deck or patio. Food may be prepared for consumption off the premises provided such take-out service is accessory to the restaurant use. This definition, with its provision for accessory take-out service, shall not be construed to allow any "Restaurant, Drive In" or "Restaurant, Fast Food" as defined in this section.

RESTAURANT, DRIVE-IN¹⁶⁰: Premises where meals and/or other items of nourishment and/or refreshments are offered for sale, and where any portion of these are consumed or intended to be consumed in the open, off-premises, or within cars parked upon the premises.

RESTAURANT, FAST FOOD¹⁶¹: An establishment for the sale of on-or-off premises prepared food or drink packaged for takeout, whether for consumption on the premises or not, unless such sales are wholly incidental to a conventional restaurant or other use defined in this section, and including establishments providing in-car service or window service or service at two (2) or more take-away stations within the town.

RETAIL SALES¹⁶²: Any business, excluding restaurants, drive-in restaurants and fast food restaurants, engaged in the selling of goods or merchandise to the general public and rendering services incidental to the sale of such goods.

RETAIL SERVICES¹⁶³: Any business providing services including but not limited to hair stylists, barber shops, banks, funeral homes and offices where the sale of goods is secondary and incidental to the services provided.

RIDING ACADEMY: Any business where horses and/or ponies are kept for riding, driving or stabling for compensation, or incidental to the operation of any club, association or similar establishment.

ROADSIDE STAND: See FARM STAND

SANDWICH BOARD SIGN: A self-supporting, temporary double-sided sign consisting of two panels that are not parallel but which are connected along one edge and separated along the opposite edge.

SANITARY SEWAGE: see SANITARY WASTEWATER¹⁶⁴

SANITARY WASTEWATER¹⁶⁵: Any water carrying putrescible waste resulting from the discharge of water closets (toilets), laundry tubs, washing machines, sinks, showers, dishwashers, or any other source.

SEASONAL: This term shall refer to a period of time commencing each calendar year on the first day of April and terminating the last day of November of each calendar year.

SECONDARY CONSERVATION AREAS: Areas included are all other locally noteworthy or significant features of the natural or cultural landscape—such as mature woodlands, wildlife habitats and travel corridors, prime farmland, groundwater recharge areas, greenways and trails, river and stream corridors, historic sites and buildings, and scenic viewsheds.

SEPTAGE: The liquid, solid, and semi-solid contents of privies, chemical toilets, cesspools, holding tanks, or other sewage waste receptacles. This term shall not include any material that is a hazardous waste, as defined by 310 CMR 30.000.

SERVICE TRADE¹⁶⁶: An occupation or business which provides service to customers primarily in or on the customers' homes or premises, including but not limited to such trades as carpentry, masonry, plumbing and heating, electrical installation and repair; well drilling, and lawn maintenance.

SETBACK: The required distance between every structure and the lot lines of the lot on which it is located.

SEWAGE: see SANITARY WASTEWATER¹⁶⁷

SIGN: An advertising device or insignia, whether lighted or not, free standing or attached to or painted on a structure or other object, designed to identify items for sale, or to advertise a principal use or activity for the property, and used to attract attention to a commercial activity.

SIGNIFICANT BUILDING: Any building or portion thereof, which is not within a regional or local historic district subject to regulation under the provisions of Massachusetts General Law 40C or special act of Legislature, but which is included in the historical survey of the Town of Eastham and on file with the Massachusetts Historical Commission, or

- a. Is in whole or part seventy-five or more years old, and
- b. Is listed in, or is within an area listed in the National Register of Historic Places, or the State Register of Historic Places, or is the subject of a pending application for listing in said Registers, or has previously been determined to be eligible for listing in the National Register of Historic Places, or
- c. Has been previously determined by vote of the Commission to be:
 1. Historically or architecturally significant in terms of period, style, method of building construction, or association with a famous architect or builder, or
 2. Is importantly associated with one or more historic persons or events, or the broad architectural, political, economic or social history of the Town or Commonwealth, provided that the owner of such a building and the Building Inspector have been notified, in hand or by certified mail within ten (10) days of such Commission vote.

SITE COVERAGE¹⁶⁸: The sum of the gross horizontal area of the floors of a dwelling including the square footage of any permanently roofed accessory structures such as sheds, garages, screen porches and covered decks but excluding unfinished attic areas, unfinished basement areas, and farmer's porches.

SITE COVERAGE RATIO¹⁶⁹: The ratio of the total gross area of Site Coverage on one lot to the gross area of the lot.

SLUDGE: The solid, semi-solid, and liquid residue that results from a process of wastewater treatment or drinking water treatment including wastewater residuals. This term shall not include grit, screening, or grease and oil which are removed at the head-works of a facility.

SPECIAL FLOOD HAZARD AREA¹⁷⁰: is the land in a community's flood plain subject to a one percent or greater change of flooding in any given year. The area may be designated on the FIRM as Zone A, AO, AE, A99, AH, VE.

SPECIAL PERMIT GRANTING AUTHORITY: Shall be the Zoning Board of Appeals or another authorized board as allowed under Chapter 808 of the Acts of 1975, Massachusetts General Laws, as amended.

STABLE, PRIVATE: A building in which animals are kept for private use and not for hire, remuneration, or sale.

STABLE, PUBLIC – A building in which two (2) or more horses and/or ponies are kept for remuneration, breeding, raising or for hire or sale.

START OF CONSTRUCTION¹⁷¹: The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns. Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual “start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [Base Code, Chapter 2, Section 202]

STORY: That portion of building contained between any floor and the floor or roof above it.

STREET GRADE: The officially established grade of the center line of the street on which a lot fronts. If there is no officially established grade, the existing average grade between lot lines shall be taken as the street grade.

STREET, LINE: The dividing line between the street right of way and the lot.

STREET SIGN: A sign identifying the name of a private or public way.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground or attachment to something located on the ground.

STRUCTURE, FLOODPLAIN: For flood plain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. For insurance coverage purposes, **STRUCTURE** means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration, or repair, does not include building materials or supplies intended for use in such construction, alteration, or repair, unless such materials or supplies are within an enclosed building on the premises.

STUDIO, PRIVATE; also **ARTIST STUDIO**: a building or part of a building generally limited to a one (1) room working space so designed as to accommodate an occupation relative to production of various forms of art, such as painting, sculpture or, photography. Such a unit may be included within “home occupation” as defined in this By-Law only when such unit clearly meets ALL requirements of the “home occupation” definition.

SUBDIVISION NAME SIGN: A sign identifying only the name of a residential subdivision or development.

SUBSTANTIAL IMPROVEMENT, FLOOD PLAIN: Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. For the purpose of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of a building commences, whether or not that alteration affects the external dimensions of the structure.

SUBSTANTIAL REPAIR OF A FOUNDATION¹⁷²: When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC].

SWIMMING POOL: Any body of water or receptacle for water, enclosed or unenclosed, having a depth at any point greater than two (2) feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above ground.

TEMPORARY SIGN: A sign meant to be used for a limited period of time or conveying information concerning an event of limited duration. (Sign Code p83)

TEMPORARY STRUCTURE/BUILDING: One to be used for less than six (6) months.

TENNIS COURT: An area used or intended to be used for tennis and tennis related activities, and constructed, installed or maintained on or above the ground. A tennis court shall be considered a structure for the purposes of this By-Law.

TOWNHOUSE¹⁷³: A single dwelling unit with a dedicated ground level entrance, and front and rear yards and which may be held in separate ownership and which is not located above or below another dwelling unit and whose side walls are separated from other dwelling units by a fire wall or party walls.

TOXIC OR HAZARDOUS MATERIAL/WASTE¹⁷⁴: Any substance presently or subsequently designated by any federal, state or local agency or mixture of such physical, chemical, or infectious characteristics as to post a significant or actual potential hazard to water supplies if such substance or mixture were discharged into lands or waters of this Town. Toxic or hazardous materials include but are not limited to, organic chemicals, petroleum products, heavy metals, radioactive substances, infectious substances, acids, alkalies, pesticides, herbicides, fungicides, rodenticides, paints, varnishes, solvents, thinners, substances listed in the Regulations, 310 CMR 30.131-136, or substances which have one or more of the characteristics listed below:

1. Ignitable – easily catches fire, flash point less than 140 degrees Fahrenheit;
2. Corrosive – very acidic or alkaline, pH less than 2 or greater than 12.5;
3. Reactive – explosive, produces toxic gases when mixed with water or acid;
4. Toxic – poisonous, may injure or kill.

Wastes generated by, but not limited to the following activities are presumed to be toxic or hazardous, unless and except to the extent that anyone engaging in such activity can demonstrate to the contrary to the satisfaction of the Eastham Board of Health:

1. Airplane, boat and motor vehicle service and repair;
2. Chemical and bacteriological laboratory;
3. Cabinet making;
4. Dry cleaning, Laundromat;
5. Electronic circuit assembly;
6. Metal plating, finishing and polishing;
7. Motor and machinery service and assembly;
8. Painting, furniture stripping;
9. Pesticide, herbicide, fungicide, rodenticide and/or nitrate fertilizer application;
10. Photograph processing;
11. Printing;
12. Wood finishing or refinishing.

HAZARDOUS MATERIAL, GROUNDWATER PROTECTION DISTRICT: Any substance in any form which because of its quantity, concentration, or its chemical, corrosive, flammable, reactive, toxic, infectious or radioactive characteristics, either separately or in combination with one or more substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment, when improperly stored, treated, transported, disposed of, used, or otherwise managed. Hazardous material includes, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious materials, and all substances defined as toxic or hazardous under MGL c. 21E. This term shall not include hazardous waste or oil.

HAZARDOUS WASTE, GROUNDWATER PROTECTION DISTRICT: A substance or combination of substances, which because of quantity, concentration, or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness or pose a substantial present or potential hazard to human health, safety, or welfare or to the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed. This term shall include all substances identified as hazardous pursuant to the Hazardous Waste Regulations, 310 CMR 30.000.

TRAILER HOME/MOBILE HOME: A unit which at any time was a portable or mobile vehicle and was designed to be portable and used for living purposes whether standing on wheels or at a later date transferred to rigid supports.

TRAILER PARK: A tract of land occupied by or designed or intended for the occupancy of trailer homes or any similar vehicle.

TRANSPORT TERMINAL: Yard or structure for the storage and/or servicing of two (2) or more commercial vehicles and the storage of materials in transit.

TREATMENT WORKS: Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage, or disposal.

USE: The specific purpose for which land or a structure or building is designed, arranged, intended, or for which it is or may be occupied or maintained. The term “permitted use” or its equivalent shall not be deemed to include any non-conforming use.

UTILITY SCALE WIND FACILITY¹⁷⁵: A commercial wind facility, where the primary use of the facility is electrical generation to be sold to the wholesale electricity markets.

UTILITY WORKS: Regulated activities providing for public services, including roads, water, sewer, electricity, gas, telephone, transportation and their associated maintenance activities, and the installation of detention and retention basins for the purpose of controlling storm water.

VARIANCE (Floodplain Bylaw)¹⁷⁶: A grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59].

VEGETATED BUFFER: A combination of mixed hardwood and evergreen trees and shrub plantings designed to provide screening of development from adjacent roadways. Pedestrian amenities such as sidewalks may be located within the vegetated buffer where appropriate.

VERY SMALL QUANTITY GENERATOR: Any public or private entity, other than residential, which produces less than 27 gallons (100 kilograms) a month of hazardous waste or waste oil, but not including any acutely hazardous waste as defined in 310 CMR 30.136. Waste Oil Retention

VETERINARIAN: see ANIMAL HOSPITAL.

VIOLATION¹⁷⁷: The failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

WAREHOUSING: Storage of goods within a building or yard for distribution but not for retail sale on the premises.

WASTE OIL FACILITY: A sheltered facility for automobile service stations, retail outlets, and marinas.

WASTEWATER EFFLUENT DISPOSAL¹⁷⁸: The disposal of treated effluent from a public or private wastewater treatment facility.

WASTEWATER TREATMENT FACILITY¹⁷⁹: A public or private facility constructed to treat wastewater, not including the disposal of treated effluent.

WELLFIELD¹⁸⁰: An area of undeveloped or sparsely developed land of sufficient size to accommodate one or more municipal water supply wells pursuant to statute, by-law or other legal authority.

WIND FACILITY¹⁸¹: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, transmission, storage, collection and supply equipment, substations, transformers, service and access roads, and one or more wind turbines.

WIND MONITORING OR METEOROLOGICAL TOWER¹⁸²: A temporary tower equipped with devices to measure wind speeds and direction, used to determine how much wind power a site can be expected to generate.

WINDOW SIGN: A sign placed on or inside or enclosed within a window or door facing the exterior of the building and visible from the exterior.

WIND TURBINE¹⁸³: A device that converts kinetic wind energy into rotational energy that drives an electrical generator. A wind turbine typically consists of a tower, nacelle body and a rotor with two or more blades.

YARD: An unoccupied space on the ground open to the sky, on the same lot with a building.

YARD SALE SIGN: A temporary sign for occasional sales from a residential property, including, but not limited to, estate and garage sales, held in a residential neighborhood in compliance with town bylaws and regulations.

ZONE A: The 100-year flood plain area where the base flood elevation (BFE) has not been determined. To determine the BFE, use the best available federal, state, local or other data.

ZONE AE: The 100-year flood plain where the base flood elevation has been determined.

ZONE AH and ZONE AO: The 100-year flood plain with the flood depths of 1 to 3 feet.

ZONE A99: Areas to be protected from the 100-year flood by federal flood protection system under construction. Base flood elevations have not been determined.

ZONE V: Special flood hazard area along a coast subject to inundation by the 100-year flood with the additional hazards associated with storm waves. Base flood elevations have not been determined.

ZONE VE (for new and revised maps): A special flood hazard area along a coast subject to inundation by the 100-year flood with additional hazards due to velocity (wave action). Base flood elevations have been determined.

ZONE I: The protective radius around a public water supply well or well field that must be owned by the water supplier, or controlled through recorded conservation restriction. In most cases, it is a four

hundred (400) foot radius around the well (less for wells pumping less than one hundred thousand (100,000) gallons per day (gpd)).

ZONE II: The delineated recharge area to a public drinking water well as approved by MassDEP and defined under the Massachusetts Drinking Water Regulations 310 CMR 22.00. The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined by 310 CMR 22.00 and as approved by the Massachusetts Department of Environmental Protection (DEP).

APPENDIX – ZONING DISTRICT BOUNDARIES

DISTRICT A: All land not covered by any other district.

DISTRICT B: All Town-owned land in the Rock Harbor area, bounded on the north by Dyer Prince Road and the south lot line of B54, Lot 34; on the east and south by Rock Harbor; and on the west by Cape Cod Bay.

DISTRICT E: EAST PORTION: Bounded on the north by the Cape Cod National Seashore; on the east by the Cape Cod National Seashore; on the south by the south lot line of B6, Lots RWE4 and B6-73D; and on the west by Route 6.

WEST PORTION: Consists of the Lots B7-15C, B7-14D, VRD-7, VRD-6, B7-14A, B7-14B, B7-12B, and B7-13.

DISTRICT F: The Seashore District, bounded on the east by the Atlantic Ocean and Town Cove; on the north by the Wellfleet Town Line at its intersection with the right-of-way line of a power transmission line; thence southeasterly for a distance of approximately 5,200 feet to a point due north of the intersection of the easterly right-of-way line of Nauset Road with the northerly right-of-way line of Cable Road; thence due south to the intersection of the said easterly right-of-way line of Nauset Road and the said northerly right-of-way line of Cable Road; thence in a general southerly direction crossing Cable Road and along said easterly right-of-way line of Nauset Road to a point 500 feet north of the northerly right-of-way line of Doane Road and its intersection with Nauset Road; thence west to a point 500 feet west of the westerly right-of-way line of Nauset Road; thence southerly and westerly 500 feet from and parallel to the said right-of-way line of Nauset Road to the easterly right-of-way line of Salt Pond Road; thence southerly along the easterly right-of-way line of said Salt Pond Road to its intersection with the southerly right-of-way line of Nauset Road; thence westerly along the southerly right-of-way line of Nauset Road to its intersection with the easterly right-of-way line of Route 6; thence southerly along the easterly right-of-way line of said Route 6 a distance of about four-tenths of a mile to the northerly boundary of the Eastham Town Hall property; thence easterly to a point one-tenth of a mile from Route 6; thence turning and running in a generally southerly direction paralleling the general alignment of Route 6 and generally distant therefrom one-tenth of a mile to a small stream approximately one-tenth of a mile beyond Governor Pence Road extended; thence southeasterly along said stream to the Orleans Town Line.

DISTRICT G: ¹⁸⁴ The Water Resource Protection District, bounded on the north by the Wellfleet Town Line; on the east by the westerly boundary of the Cape Cod National Seashore; on the southeast by the westerly property line of Lot B28-84; on the south by the southerly property lines of Lots B28-18 and B28-17; on the southwest by the easterly sideline of Nauset Road (a public way); on the west by the easterly sideline of the Commonwealth of Massachusetts parcel B1-3 (Cape Cod Rail Trail/former Penn Central Railroad right-of-way), back to the point of beginning.

Boundaries as indicated on Eastham's Assessor's Map, revised January 1, 1991, sheets 2, 3, 5 and 6 as prepared by Nickerson & Berger, Registered Land Surveyors and Professional Engineers of Orleans, Massachusetts.

DISTRICT H: ¹⁸⁵ The Wellfield Protection District, beginning at a point on the easterly sideline of Nauset Road (a public way) at the intersection of the northwesterly boundary line of parcel 33 E 6387 and the northerly boundary line of parcel 34 E 6438 to the westerly sideline of Ocean View Drive (a public way); thence commencing at the easterly sideline of Ocean View Drive and continuing easterly along the northerly boundary line of parcel 34 E 6438 to the mean high water line of the Atlantic Ocean; thence southerly along said mean high water line of the Atlantic Ocean to its intersection with the southerly boundary line of parcel 34 E 8643; thence westerly along said southerly boundary line of parcel 34 E 8643 to the easterly sideline of Ocean View Drive; thence northerly along this easterly sideline of Ocean View Drive up to the intersection with the southerly sideline of Atlantic Avenue (a paper road); thence commencing at the westerly sideline of Ocean View Drive and continuing westerly along the southerly sideline of Atlantic Avenue and including parcel 34 E 6436 onward to the northwesterly corner of parcel 34 E 6424; thence southerly along the westerly boundary line of parcel 34 E 6424 to the intersection with the northerly boundary line of parcel 33 E 6322; thence westerly along said northerly boundary line of parcel 33 E 6322 to the easterly boundary line of parcel 33 E 6301; thence northerly along said easterly boundary line of parcel 33 E 6301 to the southerly sideline of Atlantic Avenue (a paper road); thence westerly along said southerly sideline of Atlantic Avenue to the easterly sideline of Nauset Road; thence northerly along said easterly sideline of Nauset Road to the point of beginning. Boundaries are indicated on Eastham's Assessor's Map, revised January 1, 1991, sheets 9 and 24 as prepared by Nickerson and Berger, Registered Land Surveyors and Professional Engineers of Orleans, Massachusetts.

DISTRICT I: ¹⁸⁶ Shown on a map entitled "Eastham Corridor Special District (ECSD)"
Adopted May 7, 2018

DISTRICT J: ¹⁸⁷ Shown on a map entitled "Town of Eastham Groundwater Protection Overlay District" dated January 7, 2016

FLOODPLAIN DISTRICT BOUNDARIES

The Floodplain District is herein established as an overlay district. The District includes all special flood hazard areas within the Town of Eastham designated as Zone A, AE or VE on the Barnstable County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Barnstable County FIRM that are wholly or partially within the Town of Eastham panel numbers 25001C0244J, 25001C0263J, 25001C0264J, 25001C0407J, 25001C0409J, 25001C0417J, 25001C0426J, 25001C0427J, 25001C0428J, 25001C0429J, 25001C0433J, 25001C0436J, 25001C0437J, and 25001C0441J dated July 16, 2014. The exact boundaries of the District may be defined as the 100-year base flood elevations shown on the FIRM and further defined by the Barnstable County Flood Insurance Study (FIS) report dated July 16, 2014. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official, and Conservation Commission.

INDEX OF ZONING BYLAW AMENDMENTS

Amendments accepted at Special Town Meeting April 19, 1988

Approved by Attorney General July 28, 1988

Article 1 - Total By-Law Revision

Amendments accepted at Special Town Meeting October 25, 1988

Approved by Attorney General January 30, 1989

Article 43 - Section VIII - Prohibited Uses

Article 44 - Section VIII - Prohibited Uses

Article 45 - Section IX, B - District C - New Construction

Article 46 - Section IX, B - Public Event Signs

Article 48 - Sign Code - Section G - Line 1 - Political Signs

Article 49 - Sign Code - Section 11, C - Approval of Permit

Article 50 - Sign Code - Section IV - Permanent Signs

Amendments accepted at Annual Town Meeting May 3, 1989

Approved by Attorney General August 24, 1989

Article 41 - Section II - Definitions - Cabin

Article 42 - Section II - Definitions - Cottage

Article 43 - Section IX, 4 - Lot Size

Article 44 - Section IX B, 1 - Setback Requirements

Article 45 - Section IX, B, 2 - Setback Requirements

Article 46 - Section IX, B, 4 - Setback Requirements

Article 48 - By-Law & Sign Code - Establishing New District "G" Water Resource Protection District

Article 49 - By-Law & Sign Code - Establishing New District "H" Wellfield Protection

Amendments accepted at Annual Town Meeting May 7, 1990

Approved by Attorney General November 26, 1990

Article 62 - Section II - Definitions - Home Occupation

Article 63 - Section II - Definitions - Service Trade

Amendments accepted at Annual Town Meeting May 4, 1992

Approved by Attorney General September 9, 1992

Article 39 - Section II - Definitions - Demolition

Article 40 - Section VI, C - Non-conforming Uses

Article 41 - Section IX - Intensity Regulations - A, Lot Size, 6

Article 42 - Section IX - Intensity Regulations - B, Setback Regulation, 5

Article 43 - Section IX - Intensity Regulations - A, Lot Size 5

Article 44 - Section IX - Intensity Regulations - A, Lot Size 4

Article 45 - Appendix - Zoning District Boundaries - District "C"

Article 46 - Appendix - Zoning District Boundaries - District "G"

Article 47 - Appendix - Zoning District Boundaries - District "H"

Article 48 - Section II - Definitions - Cottage Colony

Article 49 - Section II - Definitions - Cottage

Amendments accepted at Annual Town Meeting May 3, 1993

Approved by Attorney General August 18, 1993

Article 28 - Section IV - Flood Plain Zoning

Article 29 - Section V - District "C"

Article 30 - Sign Code - Section 1 - Definitions/General

Article 31 - Sign Code - Section 1 - Definitions/General

Amendments accepted at Annual Town Meeting May 2, 1994

Approved by Attorney General August 17, 1994

Article 18 - Section VI - Non-conforming Uses

Article 19 - Sign Code - Section 1 - Definitions/General

Article 20 - Section II - Definitions – Alteration

Amendments accepted at Annual Town Meeting May 1, 1995

Approved by the Attorney General May 31, 1995

Article 22 - Sign Code - Section 1 - Definitions/General

Amendments accepted at Annual Town Meeting May 6, 1996

Article 17 - Section IX - Intensity Regulations

Article 25 - Section II - Definitions - Restaurant/Fast Food

Article 27 - Section II - Definitions - Restaurant/Drive-In

Amendments accepted at Special Town Meeting October 21, 1996

Approved by Attorney General March, 1997

Article 12 - Section II - Definitions - Apartment House/Home Occupation/Lot Area Requirements/Roadside Stand

Article 13 - Section II - Definitions - Business Retail/Retail Sales and Services

Article 14 - Section II - Definitions - Communication Tower

Article 15 - Section V - Uses - Communication Towers

Article 16 - Section II - Definitions - Business Band Radio Antennas

Article 17 - Section V - Uses - Business Band Radio Antennas

Article 19 - Section V - Uses - District C

Article 20 - Section V - Uses - District C

Article 21 - Section V - Uses - District D/District E

Article 22 - Section V - Uses - All Districts

Article 26 - Section II - Definitions - Pan Handle Lot

Article 27 - Section IX - Intensity Regulations - Pan Handle Lot

Article 28 - Section XIII - Site Plan Approval - Special Permit

Article 29 - Section XII - Administration - Planning Board - Special Permit

Amendments accepted at Annual Town Meeting May 5, 1997

Approved by Attorney General August 5, 1997

Article 31 - Section I - Definitions/General - will expire May 1, 1998

Article 36 - Section XVI - Procedure for the Demolition of Historically or Architecturally Significant Buildings

Amendments accepted at Annual Town Meeting May 5, 1998

Approved by Attorney General November 18, 1998

Article 31 - Sign Code Section I Definitions/General

Article 32 - Section IX Intensity Regulations - Lot Size

Article 33 - Section VIII Prohibited Uses - Temporary Structures

Article 34 - Section IX Intensity Regulation - Lot Size

Article 35 - Section XIII Site Plan Review - Waivers

Amendments accepted at Annual Town Meeting, June 29, 1999

Article 23 - Section II Definitions - Adult Uses, Section V Uses

Article 24 - Section VIII Prohibited Uses - Adult Uses

Article 25 - Section VIII Prohibited Uses - Adult Uses

Article 26 - Section II Definitions - Convenience Store

Article 27 - Section IV Flood Plain Zoning

Amendment accepted at Special Town Meeting June 29, 1999

Article 3 - Section II Definitions - Restaurant, Drive-In; Restaurant, Fast Food

Amendments accepted at Special Town Meeting, July 24, 2001

- Article 1 - Section II, Definitions, Restaurant
- Article 3 - Section II, Definitions - Restaurant, Drive-In, Restaurant, Fast Food - Section VII, Prohibited Uses F
- Article 4 - Section II - Definitions - Catering Kitchen
- Article 5 - Section X, B, Parking Requirements - add 6 and 7
- Article 6 - Section X, Parking Requirements, C Surfacing
- Article 7 - Section VI, Non-conforming Uses, Section B
- Article 8 - Section VI, Paragraph C
- Article 9 - Section II, Definitions - Alteration - Section VI, Non-conforming Uses
- Article 10 - Section VI, Paragraph D - add Special Permit Section
- Article 11 - Section XVII - Sign Code, delete existing and replace entirely
- Article 17 - Section VII - Accessory Uses and Structures add Section C

Amendments accepted at Annual Town Meeting, May 5, 2003

- Article 22 - Section XIV Site Plan Approval - Residential
- Article 23 - Section III Definitions - Farmers Porch
- Article 23 - Section III Definitions - Site Coverage
- Article 23 - Section V Uses - District H - Wellfield Protection District - 4
- Article 24 - Section VII Accessory Uses
- Article 27 - Section III Definitions - Ocean Beach

Amendments accepted at Annual Town Meeting, May 1, 2006

- Article 26 - Section III Definitions
- Article 28 - Section VI-D Non Conforming Uses
- Article 29 - Section VII Accessory Uses
- Article 30 - Section IX Intensity - Setbacks
- Article 31 - Section IX Intensity - Lot Intensity
- Article 32 - Section XIII Site Plan Commercial
- Article 35 - Section XIX Open Space Residential Plans
- Article 39 - Section V Uses District A
- Article 41 - Section IX Intensity - Setbacks

Amendments accepted at Annual Town Meeting, May 5, 2008

- Article 33 - Section XVII - Procedure for the Demolition of Historically or Architecturally Significant Buildings
- Article 34 - Section XIV - Site Plan Approval - Residential
- Article 35 - Section XII - Administration - G
- Article 38 - Section III - Definitions - Utility Scale Wind Facility
- Article 38 - Section III - Definitions - On-Site Wind Facility
- Article 38 - Section III - Definitions - Height
- Article 38 - Section III - Definitions - Rated Nameplate Capacity
- Article 38 - Section III - Definitions - Wind Facility
- Article 38 - Section III - Definitions - Wind Monitoring or Meteorological Tower
- Article 38 - Section III - Definitions - Wind Turbine
- Article 38 - Section III - Definitions - Receptors

Amendments accepted at Annual Town Meeting May 4, 2009

- Article 25 - Section XX - Wind Facilities (WFs)
- Article 26 - Section XXI - Municipal Wind Facilities (MWFs)

Amendments accepted at Annual Town Meeting, May 3, 2010

- Article 3 - Section XII.G - Administration
- Article 4 - Section III - Definitions - Fully Shielded Light Fixture
- Article 4 - Section III - Definitions - Glare
- Article 4 - Section III - Definitions - Lamp
- Article 4 - Section III - Definitions - Light Fixture
- Article 4 - Section III - Definitions - Light Trespass

Article 4 - Section III - Definitions - Municipal Wind Facility
Article 5 - Section XIII - Site Plan Approval - Special Permit - G.5
Article 6 - Section XIII.B.1 - Projects Requiring Site Plan Special Permits
Article 23 - Section III - Definitions - Building Height
Article 24 - Section III - Definitions - Cupola
Article 25 - Section III - Definitions - Building, Accessory
Article 26 - Section IX B - Setback Requirements
Article 27 - Section III - Definitions - Site Coverage
Article 37 - Section XXII - Environmental Standards, and Section III - Definitions - Best Management Practices (BMPs)
Article 39 - Section V - Uses - District H - Wellfield Protection District

Amendments accepted at Annual Town Meeting May 6, 2013

Article 30 - Zoning - Outdoor Display
Article 31 - Zoning - Residential Site Plan Approval Waiver Option to Approve
Article 32 - Zoning - Residential Site Plan Approval Waiver Procedures to Apply
Article 33 - Zoning - Accessory Dwelling Unit - replace Section C

Amendments accepted at Annual Town Meeting May 5, 2014

Article 20 - Adoption of Flood Zone Federal Maps
Article 21 - Zoning - Sign Code
Article 22 - Zoning - Overlay District Village Center

Amendment accepted at Annual Town Meeting May 2, 2016

Article 16 - Zoning - Groundwater Protection District

Amendments accepted at Annual Town Meeting May 1, 2017

Article 21 - Zoning - Flood Plain Amendment
Article 22 - Zoning - Site Plan Amendment
Article 23 - Zoning - North Eastham Overlay District Amendment

Amendments accepted at Annual Town Meeting May 7, 2018

Article 18 - Zoning - Allow 200 sq ft accessory building
Article 19 - Zoning - Allow municipal uses
Article 20 - Zoning - Delete one definition of building height
Article 21 - Zoning - Extend period of Special Permit from 1 to 3 years
Article 22 - Zoning - New District (DCPC)
Article 23 - Zoning - Retail marijuana regulations

Amendments accepted at Special Town Meeting October 15, 2018

Article 4 - Zoning - DCPC zoning amendments

Amendments accepted at Annual Town Meeting May 6, 2019

Article 17 - Zoning - Allow interior changes (SPA-R)
Article 18 - Zoning - Align local enforcement with state code
Article 19 - Zoning - Housekeeping/various for consistency
Article 20 - Zoning - Allow Accessory Dwelling Units

Amendments accepted at Annual Town Meeting September 26, 2020

Article 24 - Zoning - Map & Districts
Article 25 - Zoning - Administration
Article 26 - Zoning - Site Plan Approval Residential
Article 27 - Zoning - General Wind Facilities
Article 28 - Zoning - Zoning Proposed Re-Codification of Zoning Bylaw

Amendments accepted at Annual Town Meeting May 2, 2022

- Article 11A – Inclusionary Bylaw
- Article 11B – Motel/Cottage Colony Conversion
- Article 11C – Open Space residential Subdivision
- Article 11D – Two-Family Dwelling
- Article 11E – Duplex Dwellings
- Article 11F – Flood Plain Bylaw
- Article 11G – ECSD Use regulations
- Article 11H – Accessory Outdoor Dining Bylaw
- Article 11I – Private Street Signs

END NOTES:

- ¹ Entire Zoning By-law revised and accepted at Special Town Meeting, April 19, 1988, Article 1
- ² Entire Zoning By-Law re-codified and accepted at Annual Town Meeting September 26, 2020, Article 29
- ³ Accepted at Annual Town Meeting, May 1, 2006, Article 39
- ⁴ Accepted at Special Town Meeting October 21, 1996, Article 21
- ⁵ Accepted at Annual Town Meeting, May 3, 1989, Article 48

- ⁶ Accepted at Annual Town Meeting, May 3, 1989, Article 49
- ⁷ Accepted at Annual Town Meeting May 5, 2003, Article 23
- ⁸ Accepted at Annual Town Meeting, May 3, 2010, Article 39
- ⁹ Accepted at Annual Town Meeting, May 6, 2019, Article 19
- ¹⁰ Accepted at Annual Town Meeting, May 2, 2016, Article 16
- ¹¹ Accepted at Annual Town Meeting September 26, 2020, Article 24
- ¹² Amendments accepted at Annual Town Meeting, May 6, 2019, Article 19
- ¹³ Accepted at Annual Town Meeting, May 7, 2018, Article 19
- ¹⁴ Accepted at Special Town Meeting, October 21, 1996, Article 15
- ¹⁵ Accepted at Annual Town Meeting, May 7, 2018, Article 22. Amended at Special Town Meeting, October 15, 2018, Article 4.
- ¹⁶ Accepted at Annual Town Meeting May 2, 2022 Article 11H
- ¹⁷ Accepted at Annual Town meeting May 2, 2022, Article 11E
- ¹⁸ Accepted at Annual Town Meeting May 2, 2022 Article 11E
- ¹⁹ Accepted at Annual Town Meeting May 2, 2016, Article 16
- ²⁰ Accepted at Special Town Meeting July 24, 2001, Article 7
- ²¹ Accepted at Annual Town Meeting, May 2, 1994, Article 18
- ²² Accepted at Special Town Meeting, July 24, 2001, Article 8
- ²³ Accepted at Annual Town Meeting, May 2, 1994, Article 18. Amendment accepted at Special Town Meeting, July 24, 2001, Article 9
- ²⁴ Accepted Annual Town Meeting, May 1, 2006, Article 28
- ²⁵ Accepted at Annual Town Meeting May 2, 2022 Article 11D
- ²⁶ Accepted at Annual Town Meeting, May 6, 2019, Article 20
- ²⁷ Accepted at Annual Town Meeting May 2, 2022 Article 11H
- ²⁸ Accepted at Annual Town Meeting, May 5, 1998, Article 32
- ²⁹ Accepted at Special Town Meeting, October 25, 1988, Article 44
- ³⁰ Accepted at Special Town Meeting July 24, 2001, Article 3
- ³¹ Accepted at Annual Town Meeting, May 3, 1989, Article 48
- ³² Accepted at Annual Town Meeting, May 3, 1989, Article 49
- ³³ Accepted at Annual Town Meeting, May 3, 1989, Article 48
- ³⁴ Accepted at Annual Town Meeting, May 6, 2019, Article 19
- ³⁵ Accepted at Annual Town Meeting May 2, 2022 Article 11D
- ³⁶ Amendment accepted at Annual Town Meeting, May 5, 1998, Article 30
- ³⁷ Accepted at Special Town Meeting July 24, 2001, Article 18
- ³⁸ Accepted at Annual Town Meeting, May 5, 1998, Article 33

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- ³⁹ Accepted at Annual Town Meeting, May 4, 1992, Article 44
- ⁴⁰ Accepted at Annual Town Meeting, May 6, 1996, Article 17
- ⁴¹ Amendment accepted at Annual Town Meeting, May 4, 1992, Article 41
- ⁴² Amendment accepted at Annual Town Meeting May 3, 1989, Article 44
- ⁴³ Accepted at Annual Town Meeting, May 3, 1989, Article 45. Amendment accepted at Annual Town Meeting, May 6, 2019, Article 19
- ⁴⁴ Accepted at Annual Town Meeting, May 3, 1989, Article 46
- ⁴⁵ Amendment accepted at Annual Town Meeting, May 4, 1992, Article 42
- ⁴⁶ Amendment accepted at Annual Town Meeting, May 5, 1998, Article 30
- ⁴⁷ Accepted at Annual Town Meeting, May 3, 2010, Article 26
- ⁴⁸ Accepted at Special Town Meeting, October 21, 1996, Article 27
- ⁴⁹ Accepted at Special Town Meeting July 24, 2001, Article 15. Amendment accepted at Annual Town Meeting, May 1, 2006, Article 31. Amendment accepted at Annual Town Meeting, May 7, 2018, Article 18
- ⁵⁰ Accepted at Annual Town Meeting, May 7, 2018, Article 18
- ⁵¹ Accepted at Annual Town Meeting, May 6, 2019, Article 17
- ⁵² Accepted at Special Town Meeting October 21, 1996, Article 12
- ⁵³ Accepted at Annual Town Meeting May 2, 2022 Article 11A
- ⁵⁴ Accepted at Annual Town Meeting, May 6, 2019, Article 19
- ⁵⁵ Accepted at Special Town Meeting, July 24, 2001, Article 5
- ⁵⁶ Accepted at Special Town Meeting, July 24, 2001, Article 5
- ⁵⁷ Accepted at Special Town Meeting July 24, 2001, Article 6
- ⁵⁸ Accepted at Annual Town Meeting, May 6, 2019, Article 19
- ⁵⁹ Accepted at Annual Town Meeting, May 6, 2019, Article 19
- ⁶⁰ Accepted at Annual Town Meeting, May 1, 2017, Article 22
- ⁶¹ Accepted at Annual Town Meeting, May 1, 2017, Article 22
- ⁶² Amendment accepted at Annual Town Meeting, May 5, 1998, Article 34
- ⁶³ Accepted at Annual Town Meeting, May 1, 2017, Article 22
- ⁶⁴ Accepted at Annual Town Meeting, May 1, 2017, Article 22
- ⁶⁵ Accepted at Annual Town Meeting, May 6, 2013, Article 31
- ⁶⁶ Amendment accepted at Annual Town Meeting May 5, 2003, Article 22
- ⁶⁷ Accepted at Special Town Meeting, October 21, 1996, Article 28
- ⁶⁸ Accepted at Annual Town Meeting, May 1, 2006, Article 32
- ⁶⁹ Accepted at Annual Town Meeting, May 3, 2010, Article 6
- ⁷⁰ Accepted at Annual Town Meeting, May 6, 2013, Article 30
- ⁷¹ Accepted at Annual Town Meeting, May 3, 2010, Article 4
- ⁷² Accepted at Annual Town Meeting, May 7, 2018, Article 21
- ⁷³ Accepted at Special Town Meeting July 24, 2001, Article 16
- ⁷⁴ Amendment accepted at annual Town Meeting May 5, 2003, Article 22
- ⁷⁵ Accepted at Annual Town Meeting May 5, 2003, Article 22
- ⁷⁶ Amendment accepted at Annual Town Meeting May 5, 2003, Article 22
- ⁷⁷ Amendment accepted at Annual Town meeting September 26, 2020, Article 26
- ⁷⁸ Accepted at Annual Town Meeting, May 5, 1997, Article 36
- ⁷⁹ Accepted at Annual Town Meeting, May 5, 2008, Article 33
- ⁸⁰ Amended and accepted at Annual Town Meeting May 5, 2014, Article 21
- ⁸¹ Accepted at Annual Town Meeting May 2, 2022 Article 11I
- ⁸² Accepted at Annual Town Meeting, May 1, 2006, Article 35
- ⁸³ Accepted at Annual Town Meeting May 2, 2022 Article 11C
- ⁸⁴ Accepted at Annual Town Meeting May 4, 2009
- ⁸⁵ Accepted at Annual Town Meeting September 26, 2020, Article 27
- ⁸⁶ Accepted at Annual Town Meeting May 4, 2009
- ⁸⁷ Accepted at Annual Town Meeting, May 3, 2010, Article 37
- ⁸⁸ Accepted at Annual Town Meeting, May 7, 2018, Article 23
- ⁸⁹ Accepted at Annual Town Meeting September 26, 2020, Article 28
- ⁹⁰ Accepted at Annual Town Meeting, May 3, 1993, Article 28. Sections reorganized, Annual Town Meeting, June 29, 1999, Article 27. Amendment accepted at Annual Town Meeting, May 5, 2014, Article 20.

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- ⁹¹ Accepted at Annual Town Meeting May 2, 2022 Article 11F
- ⁹² Accepted at Special Town Meeting, October 21, 1996, Article 29. Amendment accepted at Annual Town Meeting, May 6, 2019, Article 18
- ⁹³ Accepted at Annual Town Meeting, May 7, 2018, Article 21. Amendment accepted at Annual Town Meeting, May 6, 2019, Article 18
- ⁹⁴ Accepted at Annual Town Meeting, May 5, 2008, Article 35. Amendment accepted at Annual Town Meeting, May 3, 2010, Article 3. Amendment accepted at Annual Town Meeting, May 6, 2019, Article 18
- ⁹⁵ Accepted at Annual Town Meeting September 26, 2020, Article 25
- ⁹⁶ Accepted at Annual Town Meeting, May 6, 2019, Article 18
- ⁹⁷ Accepted at Annual Town Meeting, May 6, 2019, Article 19
- ⁹⁸ Accepted at Annual Town Meeting June 29, 1999, Article 23
- ⁹⁹ Accepted at Annual Town Meeting, May 2, 1994, Article 20
- ¹⁰⁰ Accepted at Special Town Meeting, July 24, 2001, Article 9
- ¹⁰¹ Accepted at Special Town Meeting, October 21, 1996, Article 12
- ¹⁰² Accepted at Annual Town Meeting, May 5, 2014, Article 22
- ¹⁰³ Accepted at Annual Town Meeting, May 3, 2010, Article 37
- ¹⁰⁴ Accepted at Annual Town Meeting, May 3, 2010, Article 25
- ¹⁰⁵ Accepted at Annual Town Meeting, May 3, 2010, Article 23
- ¹⁰⁶ Accepted at Special Town Meeting, October 21, 1996, Article 16
- ¹⁰⁷ Accepted at Annual Town Meeting, May 3, 1989, Article 41
- ¹⁰⁸ Accepted at Special Town Meeting, July 24, 2001, Article 4
- ¹⁰⁹ Accepted at Annual Town Meeting, May 5, 2014, Article 22
- ¹¹⁰ Accepted at Special Town Meeting, October 21, 1996, Article 14
- ¹¹¹ Accepted at Annual Town Meeting, May 5, 2014, Article 22
- ¹¹² Accepted at Annual Town Meeting, June 29, 1999, Article 26
- ¹¹³ Accepted at Annual Town Meeting, May 3, 1989, Article 42
- ¹¹⁴ Accepted at Annual Town Meeting, May 3, 2010, Article 24
- ¹¹⁵ Accepted at Annual Town Meeting, May 4, 1992, Article 39
- ¹¹⁶ Accepted at Annual Town Meeting May 1, 2006, Article 26
- ¹¹⁷ Accepted at Special Town Meeting, October 21, 1996, Article 12
- ¹¹⁸ Accepted at Annual Town Meeting May 5, 2003, Article 23
- ¹¹⁹ Accepted at Annual Town Meeting, May 1, 2006, Article 26
- ¹²⁰ Accepted at Annual Town Meeting May 1, 2006, Article 26
- ¹²¹ Accepted at Annual Town Meeting May 3, 2010 Article 4
- ¹²² Accepted at Annual Town Meeting, May 2, 2022, Article 11F
- ¹²³ Accepted at Annual Town Meeting, May 3, 2010, Article 4
- ¹²⁴ Accepted at Annual Town Meeting, May 5, 2014, Article 22
- ¹²⁵ Accepted at Annual Town Meeting, May 5, 2014, Article 22
- ¹²⁶ Accepted at Annual Town Meeting, May 3, 1989, Article 48
- ¹²⁷ Accepted at Annual Town Meeting, May 5, 2008, Article 38
- ¹²⁸ Accepted at Annual Town Meeting, May 2, 2022, Article 11F
- ¹²⁹ Accepted at Annual Town Meeting, May 2, 2022, Article 11F
- ¹³⁰ Accepted at Annual Town Meeting, May 7, 1990, Article 62
- ¹³¹ Accepted at Annual Town Meeting, May 3, 1989, Article 48
- ¹³² Accepted at Annual Town Meeting, May 5, 2014, Article 22
- ¹³³ Accepted at Annual Town Meeting, May 3, 2010, Article 4
- ¹³⁴ Accepted at Annual Town Meeting, May 3, 2010, Article 4
- ¹³⁵ Accepted at Annual Town Meeting, May 3, 2010, Article 4
- ¹³⁶ Accepted at Annual Town Meeting, May 1, 2006, Article 26
- ¹³⁷ Accepted at Special Town Meeting, October 21, 1996, Article 12
- ¹³⁸ Accepted at Annual Town Meeting, May 5, 2014, Article 22
- ¹³⁹ Accepted at Annual Town Meeting, May 3, 2010, Article 4
- ¹⁴⁰ Accepted at Annual Town Meeting, May 5, 2003, Article 11F
- ¹⁴¹ Accepted at Annual Town Meeting, May 5, 2003, Article 27

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- ¹⁴² Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁴³ Accepted at Annual Town Meeting, May 5, 2008, Article 38
¹⁴⁴ Accepted at Annual Town Meeting, May 3, 1989, Article 28
¹⁴⁵ Accepted at Annual Town Meeting, May 2, 2022, Article 11H
¹⁴⁶ Amendment accepted at Annual Town Meeting, May 6, 2013, Article 30
¹⁴⁷ Accepted at Special Town Meeting October 21, 1996, Article 26
¹⁴⁸ Accepted at Annual Town Meeting, May 3, 1989, Article 49
¹⁴⁹ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁵⁰ Accepted at Annual Town Meeting May 3, 1989, Article 48
¹⁵¹ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁵² Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁵³ Accepted at Annual Town Meeting, May 5, 2008, Article 38
¹⁵⁴ Accepted at Annual Town Meeting, May 5, 2008, Article 38
¹⁵⁵ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁵⁶ Accepted at Annual Town Meeting, May 2, 2022, Article 11F
¹⁵⁷ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁵⁸ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁵⁹ Accepted at Special Town Meeting, July 24, 2001, Article 1
¹⁶⁰ Accepted at Annual Town Meeting, July 24, 2001, Article 3
¹⁶¹ Accepted at Annual Town Meeting July 24, 2001, Article 3
¹⁶² Accepted at Special Town Meeting October 21, 1996, Article 12
¹⁶³ Accepted at Special Town Meeting, October 21, 1996, Article 13
¹⁶⁴ Accepted at Annual Town Meeting May 3, 1989, Article 48
¹⁶⁵ Accepted at Annual Town Meeting, May 3, 1989, Article 48
¹⁶⁶ Accepted at Annual Town Meeting, May 7, 1990, Article 63
¹⁶⁷ Accepted at Annual Town Meeting, May 3, 1989, Article 48
¹⁶⁸ Accepted at Annual Town Meeting, May 3, 2010, Article 27
¹⁶⁹ Accepted at Special Town Meeting, July 24, 2001, Article 14

¹⁷⁰ Accepted at Annual Town Meeting, May 2, 2022, Article 11F
¹⁷¹ Accepted at Annual Town Meeting, May 2, 2022, Article 11F
¹⁷² Accepted at Annual Town Meeting, May 2, 2022, Article 11F
¹⁷³ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁷⁴ Accepted at Annual Town Meeting, May 3, 1989, Article 48
¹⁷⁵ Accepted at Annual Town Meeting, May 5, 2014, Article 21
¹⁷⁶ Accepted at Annual Town Meeting, May 2, 2022, Article 11F
¹⁷⁷ Accepted at Annual Town Meeting, May 2, 2022, Article 11F
¹⁷⁸ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁷⁹ Accepted at Annual Town Meeting, May 5, 2014, Article 22
¹⁸⁰ Accepted at Annual Town Meeting, May 3, 1989, Article 49
¹⁸¹ Accepted at Annual Town Meeting, May 5, 2008, Article 38
¹⁸² Accepted at Annual Town Meeting, May 5, 2008, Article 38
¹⁸³ Accepted at Annual Town Meeting, May 5, 2008, Article 38
¹⁸⁴ Accepted at Annual Town Meeting May 3, 1989, Article 48, Amended at Annual Town Meeting,
May 4, 1992, Article 46
¹⁸⁵ Accepted at Annual Town Meeting, May 3, 1989, Article 48, Amended at Annual Town Meeting,
May 4, 1992, Article 47
¹⁸⁶ Accepted at Annual Town Meeting, May 6, 2019, Article 19
¹⁸⁷ Accepted at Annual Town Meeting, May 6, 2019, Article 19