

1.0 PURPOSE AND APPLICATION

1.1 This Bylaw is adopted pursuant to, and is intended to achieve the objectives of, Chapter 40A of the Massachusetts General Laws (“M.G.L.”). Except as provided by Chapter 40A, all structures constructed, reconstructed, altered, or moved, and all uses of land or structures in the Town of Rowley, shall comply with the provisions of this Bylaw.

1.2 The invalidity of any provision of this Bylaw shall not be construed to invalidate any other provision.

2.0 DEFINITIONS

Abandonment: The discontinuation of a nonconforming use or building, or the removal of the characteristic equipment or furnishings used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings, or the replacement of the nonconforming use or building with a conforming use or building.

Alteration: Any external construction, reconstruction, or other action resulting in a change in the structural parts of height, number of stories or exits, size, or location of a structure.

Apartment: A dwelling unit which occupies part of a building, and which has its own kitchen sink, toilet, shower or bathtub, and cooking facilities.

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

Bedroom: A room providing privacy, intended for sleeping, and containing at least one window, floor space of seventy (70) or more square feet, and electrical service. Living rooms, dining rooms, kitchens, halls, bathrooms, unfinished cellars, unheated storage areas over garages, and open lofts without windows are not considered bedrooms.

Buildable Area: The portion of a lot that is composed of ground dry and permeable enough to permit construction of a dwelling and the installation of sewage disposal facilities.

Conservation Areas, Primary: Areas consisting of wetlands, riverfront areas, or floodplains protected by the Wetlands Protection Act, M.G.L., Ch. 131, § 40, land included within the Floodplain and Watershed Protection District, or land protected by a restrictive order under M.G.L., Ch. 130, § 105.

Conservation Areas, Secondary: Areas consisting of unprotected elements of the natural landscape (e.g., steep slopes, woodlands, farmland, meadows, and wildlife habitats), and cultural features (e.g., historic or archeological sites, scenic viewpoints).

Disposal: The deposit, leaking, dumping, or incineration of any material into or on any land or water body so that such material, or any constituent thereof, may enter the environment, be emitted into the air, or discharged into any waters or groundwaters.

Driveway: A way that provides vehicular access from a street to a garage or parking area located on a lot.

Driveway, Common: A driveway that serves more than one lot. Any extension of a common driveway that provides vehicular access to only one of the lots served by the common driveway shall not be considered as part of a common driveway.

Dwelling, Multi-Family: A building designed for, or containing, two (2) or more dwelling units.

Dwelling, Single-Family: A building designed for, or containing, a single dwelling unit that is substantially separated by open space from any other structure except accessory structures.

Dwelling, Townhouse: A building designed for, or containing, two (2) or more dwelling units separated by one (1) or more common walls, but with no common spaces within the building, and no portion of any unit above or below any portion of another unit.

Dwelling Unit: A room or group of rooms intended for habitation by a single family or household.

Dwelling Unit, Affordable: A dwelling unit that (1) is permanently restricted to occupancy by persons who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development ("DHCD"), and that (2) meets the minimum criteria for inclusion into the Subsidized Housing Inventory maintained under M.G.L., Ch. 40B, § 21.

Dwelling Unit, Market Rate: A dwelling unit that does not qualify as an affordable dwelling unit.

Filling: The deposit or redistribution of earth, gravel, or similar materials on any land or wetland, or in any watercourse.

Filling Station: A building whose primary activity is the selling of gasoline, oil, and related products for motor vehicles, or limited auto repair.

Floor Areas: The gross area of all floors within a building, or all floors within a section or sections of a building devoted to a particular use or establishment, excluding basements and attics not designed for human occupancy.

Formula Fast Food Restaurant: A restaurant, required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, decor, external facade, or uniforms, and which primarily sells on-premise prepared, ready-to-consume meals through window, drive-through, or over-the-counter service, or combination of such services.

Frontage: The continuous distance, unencumbered by easements or otherwise, measured between the side lot lines at the street line on a way that qualifies for frontage under M.G.L., Ch. 41, § 81 L (for the purposes of this definition, a common driveway shall not be considered to be an easement or other form of encumbrance).

Groundwater: All water beneath the surface of the ground.

Historic Building: A building which is listed in the National Register of Historic Places and/or the Inventory of Historic Assets of the Commonwealth of Massachusetts, or a building filed with the Massachusetts State Historical Commission.

Home Occupation: An occupation that is customarily carried on entirely within a dwelling unit by the residents of the unit, and which in no way changes the character of the building.

Hotel, Motel, or Inn: A building or portion of a building intended for transient occupancy by five (5) or more persons, and in which major provision for cooking may be made in a central kitchen, but not in individual rooms or suites.

Impervious Surfaces: Material or structure on, above, or below the ground that does not allow water to penetrate into the soil.

Leachable Wastes: Waste materials, including sewage and sludge, that are capable of releasing water borne contaminants into the surrounding environment.

Loading Space: An off-street space used for loading or unloading.

Lot, Reduced Frontage: A lot that does not satisfy the applicable frontage requirement established by section 6.1.1.1.

Lot Width: The shortest distance between the side lot lines of a lot, as measured between the street line and the proposed building site.

Mining: The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Nonconforming Structure or Use: Any structure or use that complied with the Bylaw when it was commenced or built, but which does not currently comply with the Bylaw, and which may lawfully be continued, despite such noncompliance, pursuant to M.G.L., Ch. 40A, § 6.

Recharge: The drainage of water from any source, on or beneath the surface of the ground, into an aquifer.

Recharge Areas: Areas that collect precipitation or surface water and transmit it to aquifers.

Retail Sales Establishments: Stores or similar business establishments that are primarily engaged in selling goods, wares, or merchandise on a retail basis.

Retail Sales Establishments, Large: Retail sales establishments that utilize forty thousand (40,000) or more square feet of floor area.

Retail Sales Establishments, Medium: Retail sales establishments that utilize five thousand (5,000) or more, but less than forty thousand (40,000), square feet of floor area.

Retail Sales Establishments, Small: Retail sales establishments that utilize less than five thousand (5,000) square feet of floor area.

Solid Wastes: Unwanted or discarded materials with insufficient liquid content to be free-flowing, including rubbish, scrap materials, junk, and other refuse.

Storage Trailer for Permanent Use: A trailer that is used to store goods and materials for more than twelve (12) months.

Storage Trailer for Temporary Use: A trailer that is used to store goods or materials for a limited period of time (e.g, during a construction project or following a fire or other calamity), not to exceed twelve (12) months.

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, retaining wall, swimming pool, tank, tunnel, tent, tennis court, bin, fence or sign.

Subdivision of Land: A division of a tract of land that constitutes a "subdivision" under M.G.L., Ch. 41, 81L.

Subdivision Rules: The Rules and Regulations Governing the Subdivision of Land in Rowley, promulgated by the Rowley Planning Board.

Toxic or Hazardous Materials: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant hazard to water supplies or to human health if such substances or mixtures are discharged to land or water. Toxic or hazardous materials include synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, all substances defined as toxic or hazardous under M.G.L., Ch. 21C and 21E, and 310 C.M.R. 30.00, and such products as solvents and thinners in quantities greater than those associated with normal household use.

Use, Accessory: A use which is customary, incidental, and subordinate to the principal use of a structure or lot.

Use, Principal: The main purpose for which a structure or lot is used.

Watershed or Drainage Basin: A land area bounded by a ridgeline of high elevation from which surface run-off and groundwater flow downgradient into streams, ponds, wetlands, and aquifers.

3.0 DISTRICTS

3.1 Establishment of Districts

3.1.1 The Town of Rowley is divided into the following zoning districts: the Central District, the Residential District, the Outlying District, the Coastal Conservation District, the Retail District, and the Business/Light Industry District. In addition, the following overlay zoning districts have been established: the Municipal Water Supply Protection District, and the Floodplain District.

3.1.2 The districts established by this Bylaw are located as shown on a map entitled "Zoning District Map of the Town of Rowley", dated November 2, 1983, signed by the Planning Board and filed with the Town Clerk. Such map, together with all explanatory matters thereon, and amendments thereto, is incorporated and made a part of this Bylaw.

3.2 Determination of District Boundary Lines

3.2.1 District boundary lines shall be determined as follows:

(a) Where a district boundary line is shown on the zoning district map within the street lines of a public or private way, or within utility transmission lines, the center line of such way or transmission lines shall be considered the district boundary line, unless otherwise indicated.

(b) Boundary lines shown outside of, but approximately parallel to, street or transmission lines, shall be regarded as parallel to such lines, and such dimensions shown in figures placed upon the map between such boundary lines and street or transmission lines are the distances in feet of such boundary lines from such lines, such distances being measured at right angles to such lines, unless otherwise indicated.

(c) Where a boundary line is shown approximately on a lot line, and the exact location of the lot or boundary line is not indicated by means of dimensions shown in figures, the lot line shall be the boundary line.

(d) Where a boundary line is shown along the boundary of a brook or stream, or in a brook or stream, the center line of such brook or stream shall be the boundary line. Where a boundary line is along or in a body of water, the high water mark shall be the boundary line.

(e) Contour lines used as boundary lines are the elevation above the datum sea level as indicated by the U.S. Coast and Geodetic maps of Rowley, on file with the Planning Board and the Town Clerk.

(f) In all situations not addressed above, boundary lines shall be determined by the distance in feet, if given, from other lines on the map, or by the use of identification shown on the map, or by the scale of the map.

4.0 USE REGULATIONS

4.1 Application of Use Regulations

4.1.1 Except as provided by M.G.L., Ch. 40A, or by other sections of this Bylaw, a structure or lot may be used only for the purposes permitted in the applicable zoning district as described in this section. Any use not described in this section shall be deemed to be prohibited.

4.2 Central District

4.2.1 The Central District is intended to encompass the historic village area of the Town and to provide for business, semi-public, and government uses normally found in a town center.

4.2.2 The following principal uses are permitted in the Central District.

(a) Single family dwellings.

(b) Multi-family dwellings subject to the provisions of section 6.2 (“Multi-Family”) and section 6.7 (“New England Village Development”).

(c) Conversion of buildings to accommodate more than one (1) dwelling unit subject to the provisions of section 6.3 (“Conversion of Existing Buildings”).

(d) Townhouse dwellings subject to the provisions of section 6.4 (“Open Space Residential Development”).

(e) Accessory in-law apartments subject to the provisions of section 6.6 (“Accessory In-Law Apartments”).

4.2.3 The following principal uses are permitted in the Central District, provided a site plan is approved by the Planning Board, and except for those uses that also require a special permit, as provided in sections 4.2.4 and 4.2.5.

(a) Small retail sales establishments, but excluding sales of motor vehicles, and provided further that all trade, displays, and accessory uses (except for required off-street parking) are conducted within the principal structure.

(b) Consumer service establishments, but excluding filling stations and establishments for the service, storage, and repair of motor vehicles.

(c) Professional and business offices and services.

(d) Medical and dentistry clinics.

(e) Banks and credit unions without drive-through facilities.

(f) Historical, philanthropic, or charitable associations.

(g) Restaurants (other than formula fast food restaurants) without live entertainment.

(h) Museums and libraries.

(i) Antique and handicraft shops.

(j) Funeral establishments.

4.2.4 The following principal uses are permitted in the Central District, provided a special permit is approved by the Planning Board.

(a) Any development under section 4.2.3, whether or not developed in phases, that would create more than five thousand (5,000) square feet of floor area, or more than fifteen (15) off-street parking spaces, or that would include accessory buildings, enclosed accessory uses, or off-street loading areas.

(b) Research laboratories and facilities.

4.2.5 The following principal uses are permitted in the Central District, provided a site plan is approved by the Planning Board, and a special permit is approved by the Board of Selectmen.

(a) Filling stations, and establishments for the sale, storage, service, and repair of motor vehicles.

(b) Overnight lodging, including hotels, motels, and inns.

4.3 Residential District

4.3.1 The Residential District is intended to encompass the more established, residential areas surrounding the town center.

4.3.2 The following principal uses are permitted in the Residential District.

(a) The uses described in section 4.2.2, excluding multi-family dwellings approved under section 6.7.

4.4 Outlying District

4.4.1 The Outlying District is intended as an area of low density residence, recreation, conservation, agriculture, and similar uses compatible with a rural area.

4.4.2 The following principal uses are permitted in the Outlying District.

(a) The uses described in section 4.2.2(a),(c),(d), and (e).

(b) Agriculture, horticulture, floriculture, viticulture, aquaculture, and animal husbandry.

4.4.3 The following uses are permitted in the Outlying District, provided a special permit is approved by the Planning Board.

(a) Country clubs, day camps, and other nonprofit recreational uses without overnight accommodations.

(b) A landing field for the noncommercial use of the residents of the lot on which the field is located, provided there are no hangers and no repairs are conducted on site.

4.5 Coastal Conservation District

4.5.1 The Coastal Conservation District is intended as an area of low density residence, recreation, conservation, agriculture, and similar uses compatible with a salt marsh ecosystem and adjacent upland areas.

4.5.2 The following principal uses are permitted in the Coastal Conservation District.

(a) The uses described in section 4.2.2(a),(d), and (e), and sections 4.4.2(b) and 4.4.3(b).

4.6 Retail District

4.6.1 The Retail District is intended as an area for retail business which provides goods and services primarily for consumers arriving by automobile.

4.6.2 The following principal uses are permitted in the Retail District, provided a site plan is approved by the Planning Board, and except for those uses that also require a special permit, as provided by section 4.6.3.

(a) Small and medium retail sales establishments, but excluding sales of motor vehicles, and provided further that all trade, displays, and accessory uses (except for required off-street parking) are conducted within the principal structure.

(b) The uses described in section 4.2.3 (b), (c), (d), (e), (f), and (g).

4.6.3 The following principal uses are permitted in the Retail District, provided a special permit is approved by the Planning Board.

(a) Office parks and shopping centers.

(b) Banks and credit unions with drive-through facilities.

(c) Research laboratories and facilities.

(d) Wholesale trade or sales establishments.

(e) Assembly or light manufacturing enterprises.

(f) Adult entertainment establishments subject to the provisions of section 7.9.

(g) Filling stations, and establishments for the repair and servicing of motor vehicles and for the retail distribution of petroleum products.

(h) Video or electronic game machines, except that no more than two (2) machines are allowed per building, facility, or lot.

(i) Dance halls, theaters, and skating rinks, except that no more than one (1) skating rink or theater is allowed per building, facility, or lot.

(j) Bars, taverns, and restaurants (other than formula fast food restaurants) with live entertainment.

(k) Any development under section 4.6.2, whether or not developed in phases, that would create more than ten thousand (10,000) square feet of floor area, or more than 30 off-street parking spaces, or that would include accessory buildings, enclosed accessory uses, or off-street loading areas.

4.7 Business/Light Industry District

4.7.1 The Business/Light Industry District is intended for office and professional buildings and for assembly and light manufacturing uses consistent with the Town's suburban character.

4.7.2 The following principal uses are permitted in the Business/Light Industry District, provided a site plan is approved by the Planning Board, and except for those uses that also require a special permit, as provided by section 4.7.3.

(a) The uses described in section 4.2.3 (c), (d), and (g).

(b) Veterinary hospitals and kennels.

(c) Enclosed storage yards.

(d) Offices for general construction, landscaping, or similar contractors, with open storage of related supplies, equipment, or vehicles, and structures for storing such items, provided all such storage areas and structures are screened from outside view, and provided further that such storage areas and structures may not be located within seventy (70) feet of a street line, or within the minimum setback area established by section 6.1.3.2.2, whichever is greater.

4.7.3 The following principal uses are permitted in the Business/Light Industry District, provided a special permit is issued by the Planning Board.

(a) The uses described in section 4.6.3 (c), (d), (e), and (i).

(b) Office parks.

(c) Warehousing and distribution facilities.

(d) Self-storage facilities.

(e) Retail sales accessory to a principal use, except that the floor area devoted to such accessory use may not exceed the lesser of ten percent (10%) of the floor area of the principal structure, or two thousand (2,000) square feet.

(f) Establishments for the repair and servicing of motor vehicles, and for the retail distribution of petroleum products.

(g) Any development under section 4.7.2., whether or not developed in phases, that would create more than ten thousand (10,000) square feet of floor area, or more than 30 off-street parking spaces, or that would include accessory buildings, enclosed accessory uses, or off-street loading areas.

4.8 Uses Permitted in All Districts

4.8.1 Subject to the provisions of sections 4.10 (“Flood Plain and Watershed Protection District”) and 4.11 (“Municipal Water Supply Protection District”), the following uses are permitted in all districts.

(a) Cemeteries.

(b) Municipal buildings and uses.

(c) Agriculture, horticulture, floriculture, and viticulture, provided that such uses shall be limited to parcels of land containing at least five (5) acres.

(d) Uses of land or structures for religious or educational purposes on land owned or leased by the Commonwealth or its political subdivisions, or by a religious sect or denomination, or by a non-profit educational corporation, except as provided in M.G.L., Ch. 40A, § 3, and provided further that, if new or additional off-street parking is required, a site plan is approved by the Planning Board.

(e) Personal wireless service facilities, subject to the provisions of section 8.7.

(f) Activities accessory to activities otherwise permitted within the district as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right, subject to the issuance of a special permit by the Board of Appeals.

(g) Conservation areas for water, plants, and wildlife, and dams necessary for achieving this purpose.

(h) Accessory structures and uses which are customary, incidental, and subordinate to a principal use permitted in the district, including storage trailers

for temporary use and, where dwelling units are permitted, home occupations. Notwithstanding the provisions of this paragraph (h), a special permit from the Planning Board is required for any building that is accessory to a dwelling unit and that has more than fifteen hundred (1500) square feet of floor area.

4.9 Uses Excluded in All Districts

4.9.1 Notwithstanding the foregoing provisions of section 4.0, the following uses are excluded in all districts.

- (a) Formula fast food restaurants.
- (b) Car washes, unless performed as part of a temporary, fund-raising effort.
- (c) Drive-through windows and facilities for uses other than banks, credit unions, or filling stations.
- (d) Wholesale fuel storage and distribution areas.
- (e) Storage trailers for permanent use.
- (f) Large retail sales establishments.

4.10 Floodplain District

4.10.1 Definitions

Base Flood: a flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): the elevation of the water surface of the base flood.

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

New Development Activities: Any man-made change to improved or unimproved real estate, including, but not limited to, the following: the construction of new structures; the substantial improvement of existing structures; the construction of roads, driveways, and parking areas; grading, mining, dredging, filling, excavating, dumping, and similar activities; and the

permanent storage of materials and/or equipment, but excluding activities that have no flood damage potential and that do not obstruct flood flows to any significant extent, such as the raising of agricultural crops and the grazing of livestock, and the erection of mail boxes, flag poles, split rail fences, and similar structures.

Special Flood Hazard Area (SFHA): any area within the Town subject to a one percent (1%) or greater chance of flooding in any given year; such areas are designated as Zones A, A1-30, and V1-30 on the Town of Rowley Flood Insurance Rate Map (FIRM), dated June 30, 1999, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP).

Substantial Improvement: Any expansion, reconstruction, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the fair market value of the structure either before construction of the improvement is commenced or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, regardless of whether such alteration affects the external dimensions of the structure. The latest assessed value of a structure may be used to establish fair market value, provided the Town’s Assessor certifies that such assessed value is based on one hundred percent (100%) valuation, less depreciation.

4.10.2 **Establishment of District and Allowed Uses**

4.10.2.1 The Floodplain District is established as an overlay zoning district, and is imposed on the following areas that have been deemed subject to seasonal or periodic flooding:

- (a) all areas below the elevation of fifteen (15) feet above National Geodetic Vertical Datum of 1929 (NGVD);
- (b) all areas below the elevation of ten (10) feet above the line following the lowest part of the stream bed (thalweg) of a named stream or river, or within one hundred (100) feet of the lowest part of the stream bed of a named stream or river, or within one hundred (100) feet of the high-water line of a named pond or lake, as shown on the U.S. Geological Survey Map of Georgetown, Ipswich, Newburyport East, and Newburyport West; and
- (c) all SFHAs designated on the FIRM, the exact boundaries of which may be defined by the 100-year BFEs shown on the FIRM, and all floodways designated on the FEMA Flood Boundary & Floodway Map, dated August 5, 1986, and further defined by the Flood Insurance Study Booklet (FISB), dated August 5,

1986 (the FIRM, Flood Boundary & Floodway Map, and FISB are incorporated by reference, and are on file with the Planning Board).

4.10.2.2 All uses permitted in the underlying zoning district are permitted in the Floodplain District, except that new development activities in the Floodplain District are prohibited, unless such activities are authorized by a special permit issued by the Planning Board under section 4.10.5.

4.10.3 **Submittal and Notification Requirements**

4.10.3.1 An applicant for a special permit under this section shall provide the Planning Board with a site plan that meets the requirements of section 7.6 of the Bylaw.

4.10.3.2 BFE data is required for subdivisions or other developments that would create fifty (50) or more lots, or involve five (5) or more acres of land. For developments that would create fewer than fifty lots, and involve less than 5 acres of land, the Planning Board may require the submission of BFE data.

4.10.3.3 In a riverine situation, the Planning Board shall notify the following of any alteration or relocation of a watercourse: adjacent communities; the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway St., Suite 600-700, Boston, MA 02114-2104; and the NFIP Program Specialist, FEMA, Region I, 99 High St., 6th Floor, Boston, MA 02110.

4.10.4 **Development Standards**

4.10.4.1 In addition to any development standards adopted under section 7.8.3.2, new development activities in the Floodplain District shall comply with the following standards:

(a) the volume of lost floodwater storage capacity caused by the proposed development shall be offset by the provision of an equal volume of floodwater storage capacity by excavation or other compensatory measures at hydraulically equivalent sites;

(b) vehicular and pedestrian access to, over, and from the site shall be provided over ways having an elevation of at least fifteen (15) feet above NGVD, or one foot above the BFE, whichever elevation is higher, except that the standard established by this paragraph shall not apply where the proposed development activity consists of the substantial modification of an existing dwelling unit, and provided further that the Planning Board may waive the application of this standard if the Board determines (1) that the non-compliant portion[s] of the proposed access route involves a way that existed on the effective date of the Bylaw, and (2) that the measures that would be required to raise the non-compliant portion[s] of such existing way to the required elevation, or to construct

an alternative access route that would meet the standard, would have a significant adverse impact on primary or secondary conservation areas, or would be substantially detrimental to the character of the neighborhood;

(c) the methods by which structures and ways are elevated shall not endanger human health and safety or adversely affect the natural function of the flood plain;

(d) in zones A and A1-30, no new development activity shall be permitted, unless the applicant demonstrates, to the satisfaction of the Planning Board, that the cumulative effect of the proposed development, when combined with all other existing and anticipated developments in the Floodplain District, will not result in any increase in flood levels within the community during the occurrence of the base flood discharge;

(e) man-made alteration of sand dunes within Zones V1-30 is prohibited;

(f) all proposed subdivisions or other developments must be designed to assure that flood damage is minimized, that all public utilities and facilities are located to minimize or eliminate flood damage, and that adequate drainage is provided to reduce exposure to flood hazards;

(g) all new construction within Zones A, A1-30, and V1-30 must be located landward of the reach of mean high tide;

(h) the area of the Floodplain District that is used to satisfy the minimum lot area and yard requirements in the underlying zoning district in which the remainder of the lot is located shall not exceed twenty-five percent (25%) of the lot area; and

(i) any proposed development that (1) would be located entirely or partially within the Floodplain District, (2) that would involve a Subdivision of Land, and (3) that would satisfy the eligibility criteria specified in section 6.4.3.1, shall require a special permit for an Open Space Residential Development (OSRD) under section 6.4, except that the Planning Board may waive the application of this standard if the Board determines that the development of the site as an OSRD, as compared to a conventional subdivision, would not promote the purposes of section 6.4.

4.10.4.2 Nothing in this section shall be construed as modifying the requirements of the following: M.G.L., Ch. 131, § 40; the Massachusetts State Building Code, 780 C.M.R. 3107.0 ("Flood Resistant Construction"); the Massachusetts Wetlands Protection Regulations, 310 C.M.R. 10.00; the Massachusetts Inland Wetlands Restriction, 310 C.M.R. 13.00; the Massachusetts Coastal Wetlands Restriction, 310 C.M.R. 12.00; and Title V of the State Environmental Code, 310 C.M.R. 15.000.

4.10.5 Special Permit Criteria and Procedures

4.10.5.1 The Planning Board may not issue a special permit for a new development activity under this section, unless it determines:

(a) that the activity will comply with all applicable development standards specified by section 4.10.4;

(b) that the activity will not result in an increase in flooding above the BFE, obstruct or divert flood flow, or reduce natural flood storage; and

(c) that the proposed development will be reasonably safe from flooding.

4.10.5.2 In deciding whether to issue a special permit under this section, the Planning Board shall consider any comments submitted prior to the close of the public hearing by the Conservation Commission, the Board of Selectmen, the Board of Health, and any Town officer or department.

4.11 Municipal Water Supply Protection District (“MWSPD”)

4.11.1 Purposes

4.11.1.1 This section is intended to promote the health, safety, and general welfare of the community by preserving the quality and quantity of existing and potential sources of drinking water.

4.11.2 Establishment of the MWSPD

4.11.2.1 The MWSPD is an overlay district superimposed on other zoning districts. The MWSPD shall apply to all new construction, reconstruction, or expansion of existing buildings, and new or expanded uses. Uses within the MWSPD must comply with the requirements of this section, as well as with the requirements of the underlying zoning district. Uses that are prohibited in the underlying district are not allowed in the MWSPD.

4.11.2.2 The MWSPD includes all lands lying within the watersheds of groundwater aquifers which now provide public water supply. The boundaries of the MWSPD are shown on the Zoning District Map of the Town of Rowley.

4.11.2.3 Any person who disputes the location of the MWSPD boundary line in relation to a particular parcel may resolve the dispute by applying for a special permit from the Board of Appeals. The Applicant shall bear the burden of proving that the boundary line should be relocated. The Board of Appeals may engage, at the Applicant’s expense, a registered civil or sanitary engineer, hydrologist,

geologist, or soil scientist to determine the boundary of the district with respect to the subject parcel of land.

4.11.3 Use Regulation

4.11.3.1 The following uses are prohibited within the MWSPD.

- (a)** Landfills and open dumps, as defined by 310 C.M.R. § 19.006.
- (b)** Landfills receiving only wastewater residuals and/or septage (wastewater residuals “monofills”) approved by the Commonwealth’s Department of Environmental Protection (“DEP”), pursuant to M.G.L., Ch. 21, §§ 26-53; M.G.L., Ch. 111, § 17; M.G.L., Ch. 83, §§ 6-7, and any regulations promulgated thereunder.
- (c)** Storage of sludge or septage, unless such storage complies with 310 C.M.R. §§ 32.30 and 32.31.
- (d)** Commercial service and repair of motor vehicles, including motorboats.
- (e)** Degreasing or detoxification of motor vehicles.
- (f)** Dry cleaning.
- (g)** Commercial furniture stripping and refinishing.
- (h)** Metal plating, processing, or finishing.
- (i)** Chemical or bacteriological laboratories.
- (j)** Storage of liquid petroleum products or liquid hazardous materials, as defined by M.G.L., Ch. 21E, unless such storage is: above-ground level; on an impervious surface; and either (i) in container[s] or above-ground tank[s] within a building, or (ii) 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.
- (k)** Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983; SIC Codes are established by the U.S. Office of Management and Budget, and may be determined by referring to the publication, Standard Industrial Classification Manual, and any amendments thereto.

(l) Storage of sodium chloride, chemically treated abrasives, or other chemicals used for the removal of ice and snow on roads, unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated leachate or runoff.

(m) Storage of animal manure, unless covered or contained to prevent the generation and escape of contaminated leachate or runoff.

(n) Removal of soil, sand, or gravel or any other earth material, including mining activities, to within six (6) feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the U.S. Geological Survey, unless the substances removed are redeposited within forty-five (45) days of removal on site to achieve a final grading greater than six (6) feet above the historical high water mark, and except for excavations for the construction of building foundations, or the installation of utility works.

(o) Facilities that generate, treat, store or dispose of hazardous waste subject to M.G.L., Ch. 21C, and 310 C.M.R. § 30.00, except the following: (1) very small quantity generators, as defined by 310 C.M.R. § 30.00; (2) household hazardous waste collection centers and events operated pursuant to 310 C.M.R. § 30.390; (3) waste oil retention facilities required by M.G.L., Ch. 21, § 52A; and (4) water remediation treatment works approved under 314 C.M.R. § 5.00 for the treatment of contaminated ground or surface waters.

(p) Junk and salvage yards, including automobile graveyards, as defined by M.G.L., Ch. 140B, § 1.

(q) Truck and bus terminals.

(r) Commercial car washes.

(s) Treatment works subject to 314 C.M.R. § 5.00, including privately-owned sewage treatment facilities, except the following: (1) replacement or repair of an existing treatment works that will not result in an increased design capacity; (2) replacement of existing subsurface sewage disposal system(s) with waste-water treatment works that will not result in an increased design capacity; and (3) treatment works approved by the DEP designed for the treatment of contaminated ground water.

(t) Industrial and commercial uses which discharge processed wastewater on site.

(u) Stockpiling and disposal of snow or ice removed from streets located outside of the MWSPD that contains sodium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.

(v) Storage of commercial fertilizers and soil conditioners, as defined by M.G.L., Ch. 128, § 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated leachate or runoff.

(w) Use of septic system cleaners which contain toxic or hazardous chemicals.

4.11.3.2 The following uses are permitted in the MWSPD, provided a special permit is issued by the Board of Appeals.

(a) Expansion or alteration of existing uses that do not conform to the MWSPD.

(b) Construction of dams or other water control devices, or other changes in water bodies or watercourses, for recreational or agricultural uses, or drainage improvements.

(c) Any use that will render impervious more than fifteen percent (15%), or two thousand five hundred (2,500) square feet, of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge by storm water infiltration basins or similar systems covered by natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contaminants. Any and all recharge facilities shall be permanently maintained in full working order.

4.11.4 Site Plan and Special Permit Criteria

4.11.4.1 An Applicant for a special permit under section 4.11.3.2 shall request site plan review from the Board of Appeals pursuant to section 7.6. In addition to the information required by section 7.6, the site plan shall contain the following:

(a) a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use; and

(b) proposed down-gradient location(s) for groundwater monitoring well(s).

4.11.4.2 If the proposed use involves materials described in section 4.11.4.1(a), the Applicant shall file a Hazardous Materials Management Plan with the Board of Appeals, the Board of Health, and the Fire Chief. Such plan shall include the following information:

(a) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and cleanup procedures;

(b) provisions for indoor, secured storage of hazardous materials and wastes on impervious floor surfaces; and

(c) evidence of compliance with the regulations promulgated under the Massachusetts Hazardous Waste Management Act, 310 C.M.R. § 300.00, including the assignment of an EPA identification number from the DEP.

4.11.4.3 The Board of Appeals may grant a special permit under section 4.11.3.2, if the Board makes the following determinations:

(a) that the proposed use satisfies any pertinent standards established by section 4.11.3.2;

(b) that the proposed use will not have a material adverse impact on the quality or quantity of existing or potential sources of groundwater in the MWSPD; and

(c) that proposed control and response measures are sufficient to mitigate risks to groundwater quality and quantity resulting from accident or system failure.