

Town of Sandwich
Special Town Meeting

WARRANT

Monday, November 7, 2011
7:00 p.m. – Sandwich High School



BOARD OF SELECTMEN

Frank Pannorfi, Chair
John Kennan, Vice-Chair
Linell M. Grundman
James W. Pierce
Ralph Vitacco

MODERATOR

Jan L. Teehan

FINANCE COMMITTEE

William Diederling, Chair
Paul Sylvania, Vice-Chair
Linda Bliss
Courtney Bridge
Thomas R. Hickey
Paul C. Kilty
Gene Parini
John D. Vibberts
Ellen Yaffe

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**TOWN OF SANDWICH
2011 SPECIAL TOWN MEETING
November 7, 2011**

Warrant

Barnstable, ss.

To the Constables of the Town of Sandwich, in the County of Barnstable,

GREETINGS:

In the name of the Commonwealth of Massachusetts you are hereby directed to notify and warn the inhabitants of the Town of Sandwich qualified to vote in elections and Town affairs to meet at the Sandwich High School on Quaker Meetinghouse Road in said Sandwich on

Monday, November 7, 2011, at 7:00 p.m.,

then and there to act on the following articles.

ARTICLE 1

To see if the Town will vote to increase the amount raised and appropriated under Article 2 of the May 2, 2011 Annual Town Meeting for the FY'12 School Department budget by the sum of \$34,049.00, or any other amount, or take any action relative thereto.

Recommended by the Board of Selectmen and Finance Committee.

ARTICLE 2

To see if the Town will vote to raise and appropriate or transfer from available funds a sum of \$50,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of providing funds to the Sandwich Economic Initiative Corporation; and further, to authorize the Board of Selectmen to enter into a grant agreement with said Sandwich Economic Initiative Corporation, on such terms and conditions as the Board of Selectmen deems appropriate, setting forth the conditions under which such funds may be expended, or take any action relative thereto.

Recommended by the Board of Selectmen and Finance Committee.

ARTICLE 3

To see if the Town will vote to transfer from the FY'12 Group Health Insurance Account, and appropriate a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of reducing a projected FY'12 deficit in the Unemployment Account, or take any action relative thereto.

Recommended by the Board of Selectmen and Finance Committee that \$75,000.00 be appropriated for said purpose.

ARTICLE 4

To see if the Town will vote to transfer from the Beach Parking Account, and appropriate a sum of money, to be expended under the direction of the Board of Selectmen, for the purpose of performing construction and drainage improvements to the Oak Crest Cove parking lot, or take any action relative thereto.

Recommended by the Board of Selectmen and Finance Committee that \$8,000.00 be appropriated for said purpose.

ARTICLE 5

To see if the Town will vote to transfer and appropriate under the Community Preservation Act historic resources program the sum of \$25,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of preserving, restoring, and protecting historic Town of Sandwich records, documents, photographs, and other archival materials; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose; or take any action relative thereto.

Recommended by the Board of Selectmen, Finance Committee, and Community Preservation Committee.

ARTICLE 6

To see if the Town will vote to transfer and appropriate under the Community Preservation Act open space and recreation program the sum of \$150,000.00, or any other amount, to be expended under the direction of the Board of Selectmen, for the purpose of securing professional services and permitting the Town Neck Beach Management Plan and Old Harbor Inlet Stabilization Project; that to meet this appropriation the Town transfer from the Community Preservation Fund a sum of money for this purpose, or take any action relative thereto.

Recommended by the Board of Selectmen, Finance Committee, and Community Preservation Committee.

ARTICLE 7

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 25, Lot 25 consisting of 6.53 acres more or less off Chase Road, Assessors Map 25, Lot 28 consisting of 2.97 acres more or less off Chase Road, and Assessors Map 25, Lot 7 consisting of 2.08 acres more or less off Popple Bottom Road, all of said premises believed to be owned by Alvaro G. Tarantino for open space and water protection purposes under the Community Preservation Act; and as funding therefor to transfer and appropriate from the Community Preservation Fund the sum of

\$400,000.00, or any other amount; and further, to authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31, or take any action relative thereto.

Recommended by the Board of Selectmen, Finance Committee, and Community Preservation Committee.

ARTICLE 8

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 24, Lot 208-001 consisting of 4.00 acres more or less off Popple Bottom Road, said premises believed to be owned by C. E. Schmonsees Realty Trust for open space and water protection purposes under the Community Preservation Act; and as funding therefor to transfer and appropriate from the Community Preservation Fund the sum of \$200,000.00, or any other amount; and further, to authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31, or take any action relative thereto.

Recommended by the Board of Selectmen, Finance Committee, and Community Preservation Committee.

ARTICLE 9

To see if the Town will vote to authorize the Board of Selectmen to acquire by purchase, gift, eminent domain, or otherwise, on such terms and conditions as the Board of Selectmen deems appropriate, all or a portion of the land and improvements thereon identified as Assessors Map 25, Lot 5 consisting of 16.51 acres more or less off Popple Bottom Road, said premises believed to be owned by Dennis J. Falcione for open space and water protection purposes under the Community Preservation Act; and as funding therefor to transfer and appropriate from the Community Preservation Fund the sum of \$150,000.00, or any other amount; and further, to authorize the Board of Selectmen to grant a conservation restriction meeting the general requirements of M.G.L. c. 184, Section 31, or take any action relative thereto.

Recommended by the Board of Selectmen and Community Preservation Committee.

ARTICLE 10

To see if the Town will vote to authorize the Board of Selectmen to grant a non-exclusive perpetual easement over the portion of the property known as Parcel A and Parcel C of the Town of Sandwich South Sandwich Village Center land off Quaker Meetinghouse Road, shown on a plan on file with the Office of the Town Clerk titled "Plan to Accompany R.F.P. Land in Sandwich, Massachusetts, Quaker Meetinghouse Road" dated June 14, 2004 and prepared by David C. Thulin, PE, PLS, for the purpose of providing an internal roadway and associated infrastructure improvements through the South Sandwich Village Center, on such terms and conditions and for such

consideration as the Board of Selectmen may determine, and to further authorize the Board of Selectmen to execute any and all instruments and to take such other action necessary to effectuate this vote; or take any action relative thereto.

Recommended by the Board of Selectmen.

ARTICLE 11

To see if the Town will vote to authorize the Board of Selectmen to accept a drainage easement from Judith G. Lanigan consisting of 18,989 square feet more or less on land situated at 33 Tarragon Drive and shown as Assessor Map 30, Lot 69, and which is also shown as Potential Drainage Easement on a plan entitled, "Town of Sandwich Potential Drainage Easement at 33 Tarragon Drive" dated September 14, 2011, a copy of which is on file with the Town Clerk's Office, upon such terms and conditions as the Board of Selectmen deems to be in the best interests of the Town, or take any action relative thereto.

Recommended by the Board of Selectmen.

ARTICLE 12

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws and the Zoning Map dated October 2009 by changing all references for BL-1 and BL-2 to B1 and B2, respectively, or take any action relative thereto.

Recommended by the Board of Selectmen and Planning Board.

ARTICLE 13

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by replacing Section 2600, Intensity of Use Schedule, note b, "Hotels, motels, motor courts, lodging houses and cottage colonies must meet this requirement and must provide not less than 12,000 square feet per dwelling or guest unit" and substitute a new note b to read:

For hotels or motels, must meet this requirement and lot area must be increased by 3,000 square feet per guest unit for each guest unit after the first.

or take any action relative thereto.

Recommended by the Board of Selectmen and Planning Board.

ARTICLE 14

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by deleting the text of Section 3510 (a) in its entirety, which presently reads: "Not more than sixty percent of lot area shall be covered by structures, paving, driveways, walkways and parking areas", and revising subsection (b) by adding the text in bold in place of that shown with strikeout, so as to read:

Not less than 30 percent of lot area shall be retained ~~in its natural state with no more than minor removal of existing trees and ground vegetation~~ **in a vegetated condition unless by special permit.**

and by re-lettering the remaining two subsections accordingly, so that Section 3150 reads in its entirety as follows:

- (a) Not less than 30 percent of lot area shall be retained in a vegetated condition unless by special permit.
- (b) Vegetation Restoration (etc.)

or take any action relative thereto.

Recommended by the Board of Selectmen and Planning Board.

ARTICLE 15

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by adding the following text as new Sections 4500-4505, Mixed Use Cluster Development Regulations, thereby adding a new use by special permit in the B2 zoning district:

4500 Mixed Use Cluster Development Regulations

4501 Objective

Create vibrant mixed use developments and housing, including workforce housing, by allowing residential use to be incorporated into second and third floors of certain new or existing commercial structures in accordance with the provisions of this Section.

4502 Applicability

The Zoning Board of Appeals may grant a special permit for the construction and occupancy of a Mixed Use Cluster Development subject to Sections 1330-1342 and the additional following regulations and conditions.

4503 Mixed Use Cluster Provisions

A Mixed Use Cluster special permit may be issued to authorize construction of a mixed use structure of at least two stories, or to convert or expand a Major Commercial Complex structure by adding a second or third story.

4504 Residential Restrictions

1. The floor area of residential use shall be limited to the second or third story;
2. Individual residential units shall contain a minimum of 800 square feet of floor area; and
3. The average number of bedrooms for the entirety of any proposed Mixed Use Cluster Development shall not exceed 1.5. For the purposes of determining compliance with this standard, any proposed studio units shall be considered one-bedroom units.

4505 Affordability Restrictions/Regulatory Agreement

A minimum of 15 percent of all proposed units shall be restricted to families earning low to moderate income as defined by the Massachusetts Department of Housing and Community Development. Fractions of a unit shall be rounded to the nearer whole number. Any special permit granted pursuant to this section shall require that these units be sold and maintained in accordance with the following provisions:

Any special permit granted hereunder shall contain a condition that a permanent deed restriction shall be recorded against the property to require permanent affordability of all the affordable units prior to or simultaneously with the recording of the special permit, which shall require that no occupancy of any unit in the project shall occur unless and until the affordable units have been determined as eligible for inclusion upon occupancy of the unit on the Town's Subsidized Housing Inventory as maintained by the Department of Housing and Community Development or any successor agency and as provided for under the applicable state regulations for inclusion upon completion of construction and occupancy.

The permanent restriction shall be released in the event that, either the special permit is not exercised by completing the construction and uses allowed thereunder before it expires or the permanent restriction is released by majority vote of the Board of Selectmen.

Regulatory Agreement

The resale of affordable units created under this section shall be governed by the regulatory agreement executed as a condition of any special permit granted. Eligible purchasers are given the opportunity to purchase the Affordable Units at a reduced price of the Affordable Unit's appraised fair market value if the purchaser agrees to convey the Affordable Unit on resale:

1. To an eligible purchaser located by the Town of Sandwich or the Monitoring Agent or the property owner or;
2. To the Town of Sandwich, for an amount equal to the Maximum Resale Price, which is determined by multiplying the most recent published area median income as determined by the United States Department of Housing and Urban Development ("HUD") (the "Base Income Number") by the Maximum Resale Price Multiplier. Maximum Resale Price Multiplier is calculated at the initial sale by dividing the Initial Sales Price by the Base Income Number.

And further,

Amend Section 2600, Intensity of Use Schedule, by adding ad note "q" the following: "May be increased up to 40 feet by Mixed Use Cluster Development Special Permit."

And further,

Amend Section 2540, by adding a new subsection "d. Mixed Use Cluster Developments", to read as follows:

d. In the B2 district, multiple mixed market rate and affordable owner occupied or rental dwelling units may be located on an individual lot within a Mixed Use Cluster Development by special permit from the ZBA pursuant to Section 4500. In the case of affordable units, the provisions of Section 4130 shall not apply; however, the Zoning Board of Appeals shall condition any special permit allowing for Mixed Use Cluster affordable housing according to the affordability requirements in Section 4505, subsection b, 1 and 2, and the special permit criteria of Section 1342.

or take any action relative thereto.

Recommended by the Board of Selectmen and Planning Board.

ARTICLE 16

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by amending Section 3100, Parking Requirements, by inserting the text shown below in bold type, so that it reads as follows:

Section 3110. Adequate off-street parking shall be provided on all-weather surfaces within a reasonable distance to service all parking demands created by new construction, whether through new structures or additions to old ones, or by change of use of existing structures. Such parking shall be either on the same premises as the activity it services, or within three hundred feet (300') on a separate parcel, which may be jointly used with other premises for this purpose. The following minimums must be met unless, after application and hearing, the Board of Appeals grants a special permit upon a showing and determination that the construction of fewer spaces will adequately serve anticipated parking needs. **Analyses used to demonstrate that a reduction of spaces is acceptable may include, but shall not be limited to, a peak demand analysis consistent with the Institute of Traffic Engineers (ITE) guidance and the use of on-street parking where allowed.** For uses allowed on special permit under Section 2300, the Board of Appeals may require that these minimums be exceeded to meet anticipated demand.

And further,

Amend Section 3130 by inserting the text shown in bold below, so that it reads as follows:

No off-street parking shall be maintained closer to the street line than twenty feet (20') **unless approved as part of a Mixed Use Cluster Development special permit.** In the B-2 and Industrial District, no off-street parking shall be located between the principal building and the street line of an arterial street unless completely screened from view from the arterial street by vegetation and topography. Off-street parking servicing a use not allowed in an R-1 or R-2 District shall not be maintained within thirty feet (30') of said district bounds.

And further,

Amend Section 3100, Parking Requirements, at Section 3120, Table of Requirements, by adding the following introductory language prior to the listing of parking requirements for the various types of uses currently listed:

The following Table of Requirements shall be used to determine the required number of spaces for individual uses. Where more than one primary use is located on a site, the sum of the required spaces for each individual use shall apply.

or take any action relative thereto.

Recommended by the Board of Selectmen and Planning Board.

ARTICLE 17

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by inserting a new Article VI–A, Sections 6000 through 6104, Sandwich Development Agreement to read as follows:

ARTICLE VI–A

6000 SANDWICH DEVELOPMENT AGREEMENT

6001 Purpose

WHEREAS: The Town of Sandwich 2009 Local Comprehensive Plan has been certified by the Cape Cod Commission as consistent with the Regional Policy Plan; this by-law is adopted pursuant to the authority of the Cape Cod Commission Act, Chapter 716 of the Acts of 1989, as amended, and Chapter D, Development Agreement Regulations, Code of Cape Cod Commission Regulations of General Application, for the purpose of authorizing the Town to enter into a Development Agreement with an owner of land for the mutual benefit of the parties consistent with the purposes of said Act and Regulations.

6002 Authority

Notwithstanding provisions of G. L. c. 40A or other law to the contrary, the Town, acting through the Board of Selectmen may enter into a Development Agreement with an owner of land within the Town as provided herein and consistent with the certified local comprehensive plan for the Town.

6010 DEFINITIONS

ACT- The Cape Cod Commission Act, Chapter 716 of the Acts of 1989, including, where appropriate, regulations adopted by the Cape Cod Commission for the purpose of implementing Development Agreements and other actions authorized by the Act.

APPLICANT- As used in this section, a person or persons with 100 percent ownership and control of the land within a proposed Development Site, as well as meeting the

requirements for Qualified Applicant status within the meaning of the Act and Regulations adopted thereunder.

APPLICATION- The form generated by the Town for initiation of the development agreement negotiation and legislation process and the process by which an Applicant initiates consideration of a proposed Development Agreement.

CAPITAL FACILITY- Any constructed element or service necessary or appropriate to support a Development, including but not limited to roads, water, sewers, waste treatment or disposal, affordable housing, schools, police and fire protection facilities.

CAPITAL FACILITIES, PUBLIC- Those Capital Facilities which are open or available to the general public.

CAPITAL FACILITIES, PRIVATE- Those Capital Facilities which are not open to the general public and are open or available only to the Applicant and successors in interest.

CHIEF REGULATORY OFFICER- The official appointed by the Barnstable County Commissioners, upon the recommendation of the Commission, as provided in Section 8(h) of the Act, who is responsible for supervising the development of the regional impact review process and for review of proposed Development Agreements as provided in §8.2 of the Cape Cod Commission's Model Development Agreement By-law.

CONSULTANT FEE- Such fees as may be required from an Applicant by the Town for peer or technical review in the course of the negotiation and review of a proposed Development Agreement as authorized in the manner provided by G. L. c. 44, §53G.

COUNTY- The County of Barnstable, Massachusetts.

DEVELOPMENT- Any of the following activities undertaken by any person: any building, construction, renovation, mining, extraction, dredging, filling, excavation, or drilling activity or operation; any material change in the use or appearance of any structure or in the land itself; the division of land into parcels; any change in the intensity of use of land, such as an increase in the number of dwelling units in a structure or a change to a commercial or industrial use from a less intensive use; any activity which alters a shore, beach, seacoast, river, stream, lake, pond, canal, marsh, dune area, woodland, wetland, endangered species habitat, aquifer, or other resource area, including coastal construction or other activity in Barnstable County within the jurisdictional limits of Barnstable County; demolition of a structure; the clearing of land as an adjunct of construction; or the deposit of refuse, solid or liquid waste or fill on a parcel of land or in any water area.

DEVELOPMENT AGREEMENT- A contract among and between an Applicant and the Town and, at the election of the Applicant, with the Cape Cod Commission, the principal

purpose and effect of which is to establish the Development Rights that will apply to the Site of the Development Agreement during the term of said Agreement and to establish the conditions to which the Development will be subject.

Pursuant to a Development Agreement, an Applicant may agree to contribute one or more of the following: Public and/or Private Capital Facilities to serve the proposed Development, the Town and/or Region; Affordable Housing either on- or off-site; reservation of land for open space, community facilities, historic or natural preservation or recreational use and/or the contribution of impact fees or other funds to create or support any of such purposes and facilities. The Development Agreement shall establish the permitted uses, densities, scale of buildings, site design and traffic within or external to the Development Site, the duration of the Agreement, impact fees and any other terms or conditions mutually agreed upon between the Applicant, the Town and/or the Cape Cod Commission, and shall have the effect of Vesting the Development Rights relative to the Site for the duration of the Agreement, as further defined in this by-law and the Agreement.

DEVELOPMENT OF REGIONAL IMPACT (DRI)- As defined in the Act, a Development which, because of its magnitude or the magnitude of its impact on the natural or built environment, is likely to present regulatory or other development issues significant to or affecting more than one municipality, and which conforms to the applicable criteria set out in Section 12 of the Act.

DEVELOPMENT PERMIT- Any permit, license, authority, order, approval, certificate, endorsement, or permission required from the Town prior to the commencement or completion of any Development, but not including any household solid waste permit.

DEVELOPMENT RIGHTS- The restrictions and other conditions on the nature or number of residential or other units of development which are in effect at the time of submission of a completed Application as established by the Town's land use laws and regulations or, where applicable, by the Act and Regulations thereunder.

FEES- The Board of Selectmen may adopt regulations setting the fee for application for and modification of a development agreement and may establish a consultant fee procedure consistent with the provisions of G. L. c. 44, §53G.

HOUSING, AFFORDABLE- Any residential housing unit which meets affordability standards promulgated by the Executive Office of Communities and Development of the Commonwealth of Massachusetts and which prohibits discrimination because of the race, color, religious creed, national origin, sex, ancestry, sexual orientation or handicap of any person.

IMPACT FEE- Payment(s) to the Town designed to offset in whole or in part the effects upon the Town or Region of a proposed Development, which may include, but not be limited to payments for creation or enhancement of Public Capital Facilities, such as streets, sewers and sewer treatment facilities, water supply and distribution facilities,

parks, improvements to natural resource areas, whether public or privately owned, schools, police and fire protection facilities, affordable housing and other Capital Facilities of or within the Town; such payments to be held and administered in the manner provided in §15 (b) and (c) of the Act.

INFRASTRUCTURE- Services and physical facilities accessory to or otherwise associated with development of a site, including but not limited to roads, water supply, sewers and electrical or other utilities.

LOCAL COMPREHENSIVE PLAN- The Sandwich LCP, as certified by the Cape Cod Commission as of the effective date of this by-law and as may be amended as of the date of submission to the Town of an Application for a Development Agreement.

MAIL- Unless otherwise indicated, certified mail, return receipt requested.

MODIFICATION, MAJOR- An amendment to an executed Development Agreement that alters or varies the use, intensity or mitigation stipulations of an executed Development Agreement.

MODIFICATION, MINOR- An amendment to an executed Development Agreement that is limited to a technical correction or does not alter or vary the use, intensity or mitigation stipulations of an executed Development Agreement, as determined by both the Commission and the Town.

NOTICE- Unless otherwise provided, written notice sent by certified mail to the Parties or other required entities.

PARTIES, PARTICIPATING- Following execution and delivery of a Development Agreement, the Town and Applicant, and, where applicable, the Cape Cod Commission.

PROFFER- An offer contained in an Application or made by the Applicant or another Party in the course of negotiation to commit to provide certain benefits to one or more of the Parties or to residents of the Town or Region, and which are intended to become a term or condition of the approved Development Agreement.

REGULATIONS- The Town, acting through the Planning Board as specified herein shall adopt, and may from time to time amend, regulations establishing procedures in furtherance of the objectives of this by-law.

REGION- That area, including but not limited to land within the County, which is either likely to be benefited or otherwise affected by a Development, either during its construction stage or post-construction.

SITE- The locus subject to a Development Agreement, whether consisting of a single parcel of land or multiple parcels.

TOWN- The Town of Sandwich, acting through its Board of Selectmen, which term shall include the designee of the Board of Selectmen.

TOWN MEETING- The legislative body of the Town.

TRANSFER OF DEVELOPMENT RIGHTS (TDR)- As authorized by an approved Development Agreement, the severance, or limitation, of the potential development rights of parcel, known as the “sending parcel,” and the corresponding increase in Development Rights for another parcel, known as the “receiving parcel,” as provided for in Regulations adopted by the Planning Board.

VESTING OF DEVELOPMENT RIGHTS- The “freezing” of applicable zoning or other local laws or regulations, and/or in the case of a Development Agreement to which the Cape Cod Commission is a party, Development Rights pursuant to §14(a) of the Act and §3 of Cape Cod Commission Regulations Chapter D “Development Agreement Regulations,” with the effect that, notwithstanding any other law to the contrary, amendments to Town By-laws and regulations or, in the case of any Development Agreement to which the Cape Cod Commission is a party, to provisions of the Act and its Regulations otherwise applicable to the development of land, shall not apply to the Development Site during the term of the Development Agreement; subject to a requirement in the Development Agreement that the application and/or development authorized by a Development Agreement proceed reasonably and continuously.

6020 PARTICIPATING PARTIES

A Development Agreement may be executed by and between applicant and one or more of the following, parties:

1. The Town of Sandwich; or
2. The Cape Cod Commission and the Town of Sandwich

6030 ELEMENTS OF DEVELOPMENT AGREEMENT

6031 Proffer(s) by Applicant

A Development Agreement may include, but is not limited to, commitments by the applicant to actions that contribute to one or more of the following interests, as they may be identified in the Application and further refined or modified in the course of negotiation of the Development Agreement, which, as identified in the Application may include, but not be limited to contributions for or improvements to:

1. The infrastructure of the Town and/or region;
2. Public or Private Capital Facilities;
3. Land dedication and/ or open space, historical or other preservation;
4. Affordable housing, either on- or off-site;
5. Employment opportunities;
6. Community facilities;
7. Recreational facilities, active or passive in nature;
8. Alternative or mass transportation facilities or contributions; and

9. Any other benefit intended to serve the proposed Development, Town, and/or Region, including without limitation site design standards for preservation or enhancement of aesthetic, natural, historic, cultural or other resources

6032 Proffer(s) by Town

A Development Agreement may include commitments by the Town to provide specific protection(s) from future changes in applicable local by-laws and/or regulations and assistance in streamlining the local Development approval process. Streamlining may include, where not in conflict with existing local, state or federal law, holding joint board and permit hearings, coordination of permit applications and, where possible, accelerated review of permit approvals. The Parties may agree in writing to extensions of time within which development approvals under local laws may be acted upon, which, in the case of any Development Agreement to which the Cape Cod Commission is a party, may include deadlines for action on applicable state or regional laws and regulations.

6040 APPLICATION PROCEDURE

6041 Applicant Qualification

Application for approval of a Development Agreement may be made by a person having full ownership and control of the real property which is the subject of the Development Agreement, including the duly authorized agent.

6042 Application

Applicant shall complete a Development Agreement Application Form provided by the Town, which form shall require submission of the following information:

1. A certified list of abutters;
2. A legal description and survey plan of the Site, including names of all legal and equitable owners;
3. The proposed duration of the Development Agreement;
4. The uses currently permitted on the land by applicable zoning and other local controls, and all uses and structures proposed on the land, including, building densities, height, and any significant natural features;
5. A description of Public Capital Facilities that will service the Development, including sources of payment for such facilities, the date of construction of all new facilities, and a schedule to assure that public facilities adequate to serve the Development are available concurrent with the impacts of the Development;
6. A description of any reservation or dedication of land for public purposes, including public recreation, conservation, agricultural or historic purposes;
7. A description of all Town, State and regional permits and licenses approved or required to be approved for the development of the site;
8. A statement acknowledging that any omission or failure to address a particular permit, condition, term, or restriction in a Development Agreement as may issue for the proposed project shall not relieve applicant of the obligation to comply with the law governing said permitting requirements, conditions, terms or restrictions;

9. A Final Environmental Impact Report, bearing the certification of the Secretary of Environmental Affairs, if required under G. L. c. 30, §§61 through 62h;
10. Additional data and analysis necessary to assess the impact of the proposed Development;
11. Evidence of ownership and assents of all parties with legal or equitable interests in the site; and
12. A description of any zoning relief required pursuant to §7.703 Limitations.

6043 Cape Cod Commission a Party

An applicant shall complete a Development Agreement application form and comply with the specific application requirements set forth in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised. The procedural requirements established in Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall be followed, and no Development Agreement shall be valid unless and until the requirements of said Section 5 of Chapter D have been complied with in full.

6044 Cape Cod Commission Not a Party

6044.1 Local DRI Determination

An applicant seeking to enter into a Development Agreement without the Cape Cod Commission as a party shall submit an Application containing a detailed description of the proposed Development to the Building Inspector for review and jurisdictional determination as to whether the proposed Development qualifies as a DRI.

1. If the Building Commissioner determines that the proposed Development is not a DRI, then the Building Commissioner shall within five business days forward said determination, together with reasons therefore and a copy of the Development Agreement application form, to the Clerk of the Cape Cod Commission, in which case the applicant may pursue a Development Agreement without the Cape Cod Commission as a party.
2. If the proposed Development is determined to be a DRI, then the Cape Cod Commission must be a party to the Development Agreement, in which case, the provisions of Section 5 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised, shall apply, which require, among other things, that the applicant shall file with the Cape Cod Commission a Notice of Intent to file a Development Agreement for a determination by the Cape Cod Commission Regulatory Committee as to whether the proposed development is suitable and qualifies for the Development Agreement Process

6050 STANDARD OF REVIEW

The Planning Board shall review a proposed Development Agreement for consistency with the Cape Cod Commission Act, the Town's zoning and the Local Comprehensive Plan. A Development Agreement proposal that is inconsistent with the by-law shall require either a zoning amendment or shall be subject to obtaining the required zoning relief, by special permit or otherwise, as may be available under then current zoning as necessary to eliminate the conflict or inconsistency with zoning, unless, however, the

Development Agreement containing such inconsistencies is approved by two-thirds vote of Town Meeting.

6060 NEGOTIATION

Negotiation of the terms of a Development Agreement shall commence with the filing of an Application with the Planning Board. The Planning Board may designate such other boards, departments or officers to participate in review of the Application as it shall deem necessary or appropriate in consideration of the nature of the proposed Development, the characteristics of the Site and any other relevant considerations. All negotiations shall take place in open meetings or public hearings that comply with the applicable Town or statutory requirements for the notice and conduct of meetings with or hearings by Town boards.

6070 HEARING

The Planning Board shall hold a public hearing after receipt of a fully completed Application. There shall be a minimum of two public hearing sessions for the purpose of reviewing the Development Agreement application, which hearing shall close within 90 days, unless extended by mutual agreement of the parties. Failure to close the public hearings within 90 days shall not result in a constructive grant of the proposed development.

6071 Notice

The Town shall provide at the expense of applicant notice of the public hearing to consider a Development Agreement by publication in a newspaper of general circulation once in each of two successive weeks, the first publication to be not less than 14 days before the day of the hearing, and by mailing notice not less than 14 days before to:

1. The Board of Selectmen, Town Manager, Town Clerk, Building Inspector, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Old King's Highway Historic District Committee, Historic District Commission, Housing Authority, Sandwich Economic Initiative Corporation and any other Town agency, officer or individual that makes a written request for such notice;
2. The applicant;
3. Each abutter to the Site, based on a list of abutters provided by the applicant and certified by the Sandwich Tax Assessor, including owners of land directly opposite the Site on any public or private street or way and owners of land located within 300 feet of any boundary of the proposed Development; and
4. The Cape Cod Commission.

6080 DECISION: ISSUANCE; FILING; RECORDING AND SUMMARY

6081 Issuance

A Development Agreement shall be issued in a form suitable for recording in the Barnstable County Registry of Deeds.

6082 Filing and Recording

The Town shall file an executed Development Agreement with the Clerk of the Cape Cod Commission and with the Town Clerk, and shall, at the expense of the applicant, record the executed Development Agreement in the Barnstable County Registry of Deeds and publish notice of issuance of a Development Agreement in a newspaper of general circulation in the Town, which notice shall contain a brief summary of the contents of the Development Agreement and a statement that copies of the Development Agreement are available for public inspection at the office of the Town Clerk during normal business hours.

6083 Summary

In addition, the Town shall provide the Cape Cod Commission with a summary of the Development Agreement which the Cape Cod Commission shall publish in its official publication pursuant to Section 5(i) of the Cape Cod Commission Act.

6090 MODIFICATION AND RESCISSION OF DEVELOPMENT AGREEMENT

A Development Agreement may be amended or rescinded as provided below, subject to the same procedural requirements as required for application pursuant to §5 of the Development Agreement Regulations applicable where the Cape Cod Commission is a party, other than submission of a Notice of Intent pursuant to §5(a) of said Regulations and §6, applicable where the Cape Cod Commission is not a party, including requirements applicable to negotiation, hearing and approval of a Development Agreement as applicable to the original application.

6091 Procedure

At any time following execution and delivery of an approved Development Agreement, any Party to the Development Agreement, including the Town on its own initiative, acting through the Board of Selectmen, may petition for amendment or rescission of the Development Agreement. If not a Party, the Cape Cod Commission may petition to rescind the Development Agreement only in the event of failure of consideration.

Modification or rescission of an executed Development Agreement must be ratified by all parties to the original Development Agreement. Any Development Agreement may contain provisions further regulating the amendment and/or rescission of a Development Agreement.

1. A petition for modification or rescission shall be made in writing and shall state, in specific detail the Petitioner's reasons for amendment or rescission, and, except in the case of a Minor Modification, a Party applying for modification or rescission of shall provide notice of said application, in writing and at its own expense, to every Party, and to the Cape Cod Commission if not a Party, including a copy of the application for modification or rescission..
 - a. Minor Modification- Amendments to an approved and executed Development Agreement that consist only of de minimis substantive changes or technical or typographical changes may be made by the Planning Board at an open meeting without the need for the full application, notice and hearing required for the original application, provided that any

such Minor Modification is authorized by the Regulatory Committee of the Cape Cod Commission and by majority vote of the Board of Selectmen; otherwise, the procedure for Major Modification shall apply.

- b. Major Modification or Rescission -
 - i. When the Commission is a party to the Development Agreement, any Party to a Development Agreement, any Participating Party, including the Commission, may petition to amend the Development Agreement, subject to the application, notice and hearing requirements for the original application; however, the Commission may petition for rescission only in the event of failure of consideration.
 - ii. When the Commission is not a party, the Town or any other Party to the Development Agreement may petition to amend or rescind the Development Agreement, subject to the application, notice and hearing requirements for the original application; provided that said petitioner shall provide notice in writing to the Commission and all Parties of its intent to seek amendment or rescission

6100 DECISION

6101 Term

1. A Development Agreement shall commence and terminate as provided in said Agreement. Where the Cape Cod Commission is not a party, a Development Agreement shall not exceed 10 years;
2. Where the Cape Cod Commission is a Party, a Development Agreement may extend for such period of time as it may provide, as set forth in Section 7 of Chapter D of the Code of Cape Cod Commission Regulations of General Application, as revised; and
3. Notwithstanding the foregoing, conditions or other provisions of the Development Agreement pertaining to the preservation of open space and park areas, and agreement to pay for maintenance of utilities and other infrastructure may exceed such ten-year limitation.

6102 Interpretation

1. A Development Agreement may not be interpreted or applied to prevent the Town or other governmental subdivision or agency from requiring applicant to comply with the laws, rules and regulations and policies enacted after the date of the Development Agreement, if the Town or governmental agency determines that the imposition of and compliance with the newly effective laws and regulations are essential to ensure the public health, safety or welfare of the residents of all or part of the jurisdiction; and
2. In any case of conflict between the provisions of this by-law and other by-laws or regulations of the Town, the more restrictive provisions shall apply.

6103 Limitations

1. Nothing in this Article shall be construed to permit the Town to require an applicant to enter into a Development Agreement; and

2. Any provision within a Development Agreement that is inconsistent with the zoning bylaw shall require either a zoning amendment or shall be subject to the grant of such zoning relief as may be needed for compliance with the zoning bylaw.

6104 Enforcement

A Development Agreement is a binding contract which is enforceable in law or equity by a Massachusetts court of competent jurisdiction.

or take any action relative thereto.

Recommended by the Board of Selectmen and Planning Board.

ARTICLE 18

To see if the Town will vote to amend the Sandwich Protective Zoning By-laws by deleting the current Definitions section in its entirety and inserting a new Definitions section in order to eliminate duplication, make editorial changes, and add new definitions, to read as follows:

DEFINITIONS

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

ABANDONMENT- A non-conforming use of a building or land, which has been abandoned for a period of two (2) years, shall not thereafter be returned to such non-conforming use. A non-conforming use shall be considered abandoned when the premises has been vacant for two years, or when the characteristic equipment and/or furnishings of the non-conforming use have been removed from the premises and have not been replaced by similar equipment, whichever shall occur first.

ACCESSORY APARTMENT- A secondary dwelling unit (not to exceed 750 square feet) on a property which is located within or attached to a single-family dwelling unit.

ACCESSORY BUILDING OR USE- A building or use customarily incidental to and located on the same lot with the principal building or use, except that if more than thirty percent of the lot area or building is devoted to a principal use or is occupied by such use, it shall no longer be considered accessory.

ACCESSORY DWELLING UNIT- A small, self-contained residential unit not to exceed 1,000 square feet (or 30 percent of the gross floor area of the principal dwelling unit)

built on the same lot as an existing single-family home that is within or attached to a principle dwelling unit or garage.

ADDITION- New construction in which a substantial part of a wall of the original structure is attached to the principal building.

ADULT USE- The following uses are included within this term, all as defined in G. L. c. 40A, §9A: Adult Bookstore; Adult Motion Picture Theater; Adult Paraphernalia Store; Adult Video Store; Establishment which displays live nudity for its patrons.

ALTERATION- Any construction, reconstruction or other action resulting in a change in the structural parts or height, number of stories or exits, size, use or location of a building or other structure.

ANIMAL KENNEL- Premises for the harboring and/or care of more than three dogs or other domestic animals. Four or more animals shall require a special permit in any district.

ANTENNA- A device for transmitting and receiving electromagnetic waves.

ANTENNA, AMATEUR RADIO- An antenna structure operated by a federally licensed amateur radio operator, as provided in G. L. c. 40A, §3.

APARTMENT, ACCESSORY- A secondary dwelling unit on a property, which is in addition to, and secondary to, another primary residential or commercial building.

APPLICANT- Individuals, partnerships, corporations, trusts and other legal entities in which the applicant of record holds a legal or beneficial ownership of greater than one percent.

ARTERIAL STREET- Any state numbered highway, plus the following named streets: Beale Avenue, Chase Road, Farmersville Road, Great Hill Road, Mid-Cape Service Road, Newtown Road, Race Lane, Quaker Meetinghouse Road, Sandwich-Cotuit Road, Snake Pond Road.

ASSISTED LIVING FACILITY- per G. L. c. 19D, §18(d), a facility so defined in G. L. c. 19D, §1 and licensed pursuant to G. L. c. 19D, §4 for provision to three or more adult residents with activities of daily living.

AUDITORIUM- A large open or enclosed building used to accommodate an audience for public meetings or gatherings.

BASE FLOOD- The flood having a one percent chance of being equaled or exceeded in any given year.

BASEMENT- The portion of a building which is partly below and partly above grade, and having at least one-half its height above grade.

BED AND BREAKFAST- A dwelling which includes the renting of rooms at a daily rate wherein the rental rate includes a breakfast meal in the daily rate, and wherein the owner or operator maintains a place of principal residence. Hotels, motels, and inns are not classified as bed and breakfast establishments.

BEDROOM- Any habitable room in a dwelling, if such room exceeds sixty square feet, other than a living room, dining room, kitchen, utility room, or bathroom. Any dwelling unit in which no such room exists shall be construed to contain one bedroom.

BOAT AND WATERCRAFT STORAGE BUILDING- A building used for the indoor storage of boats and watercraft.

BOAT HOUSE- A structure used for the storage of recreational vessels and associated equipment and which is located within one hundred feet of mean high water (MHW) or the natural high water mark.

BUILDING- An enclosed structure, whether principal or accessory.

BUILDING HEIGHT- The vertical distance from the natural grade at the front line of the building to the highest point of the roof for flat or shed roofs, to the deck line for mansard roofs and to the ridge for gable, hip and gambrel roofs. Not included are spires, cupolas, TV antennae and other parts of structures, which do not enclose potentially habitable floor space.

BULK STORAGE- Exposed outside storage of sand, lumber, coal, or raw materials, or the storage of liquids or gases in tanks (except underground) as an accessory use.

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

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

CAMPING SUPERVISED- Facilities operated on a seasonal basis for continuing supervised recreational, health, educational, religious, and/or athletic programs, with persons enrolled for periods of not less than one week, and with group dining if overnight accommodations are included.

CELLAR- A portion of a building, partly or entirely below grade which has half or more than one-half of its height, measured from finished floor to finished ceiling, below the

average finished grade of the ground adjoining the building. A cellar is not deemed a story.

CERTIFICATE OF USE AND OCCUPANCY- A statement signed by the Building Inspector setting forth either that a building or structure complies with zoning and the building code or that a building, structure or parcel of land may lawfully be employed for specified uses.

CHANGE OF USE- Any use that substantially differs in quality and effect on its neighborhood from the previous use of a building or land. If a particular land use is undefined by this by-law, the most similar use listed in the Standard Industrial Classification (SIC) Manual shall be used. A change of ownership shall not be considered a change of use.

CHANNEL- The segment of the radiation spectrum from an antenna that carries one signal. An antenna may radiate on many channels simultaneously.

CHILD CARE FACILITY- A day care center or school age child care program, as those terms are defined in G. L. c. 1A, §15d and G. L. c. 40A, §3.

CINEMA- a movie theater containing several auditoriums within the same building.

CLUB- An organization catering exclusively to members and their guests, or premises and buildings for recreational, social and/or fraternal purposes, which are not conducted primarily for gain, providing there are no vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club. There shall be no sleeping accommodations provided for members or their guests.

CLUSTER DEVELOPMENT- Residential development granted by special permit, on parcels of land of five or more acres, that would qualify for development as a conventional subdivision of land in full compliance with dimensional zoning controls, alternatively designed to maximize open space with the same or fewer number of lots within the parcel, by reduction of lot dimensions and building setback and clustering or consolidation of remaining land as open land to provide superior protection of the parcel's natural features and aesthetic characteristics in comparison to a conventional residential design.

COMMERCIAL MARINE EQUIPMENT STORAGE- Storage of a boat, boat trailer and/or equipment relating to a commercial marine business.

COMMON DRIVEWAY- By special permit, an alternative means of physical access to two or three lots which have legal access and frontage of the length and type required for individual lots. A common driveway so permitted is not a street and does not provide lot frontage.

CONTINUING CARE RETIREMENT COMMUNITY- A facility or group of facilities which offers several levels of assistance, including independent living, assisted living, congregate care, and/or skilled nursing care.

CONTRACTOR'S YARD- An enclosed lot with or without structures used by an individual building contractor or subcontractor for storage of equipment, supplies, and sub-assemblies, or parking of wheeled equipment.

CONVENIENCE STORE, RETAIL- Retail store greater than 5,000 gross square feet yet not to exceed 9,999 square feet. Retail convenience store may operate a pharmacy within the premises.

CONVENIENCE STORE, SMALL RETAIL- Retail store less than 5,000 square feet gross floor area that sells a variety of basic items and packaged foods. Small retail convenience stores shall not operate pharmacies within the premises.

COTTAGE COLONY- Two or more detached seasonal dwellings located on the same lot and under single ownership, each designed for independent family living and including cooking facilities.

CULTIVATED LAWN- A vegetated cover of sod-forming grass species, which is maintained by being fertilized, irrigated, and mowed.

DAY CARE CENTER- See G. L. c. 40A, §3 "Child Care Facility" defined as "day care of school age child care as those terms are defined in" G. L. c.28A, §9.

DEVELOPMENT- Any constructed change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DISCHARGE, WASTEWATER EFFLUENT- A discharge into the ground of treated wastewater from a permitted wastewater treatment facility.

DISPOSAL AND RECYCLING FACILITIES- Structures not to exceed 9,000 square feet where non-hazardous wastes, scrap articles or materials are safely stored, sorted and packed for sale or re-use.

DISTRICT OF CRITICAL PLANNING CONCERN (DCPC)- a geographic area of Cape Cod identified by the Cape Cod Commission as requiring special protection and designated by the Assembly of Delegates in accordance with the criteria, procedures and requirements set for in Sections 10 and 11 of the Commission Act.

DRIVE-UP/DRIVE THROUGH- A principal or accessory use relating to or conducting exchanges with clients who drive-up to a window and remain in their automobiles.

DWELLING- A building or part of a building used exclusively as the living quarters for one or more households.

DWELLING, SINGLE-FAMILY- One dwelling unit on a single lot irrespective of structure type, ownership or tenure.

DWELLING, TWO-FAMILY- Two dwelling units on a single lot irrespective of structure type, ownership or tenure.

DWELLING, MULTI-FAMILY- Three or more dwelling units on a single lot irrespective of structure type, ownership or tenure.

DWELLING UNIT- Living quarters for a single household and not more than two boarders or lodgers, with cooking, living, sanitary, and sleeping facilities, independent of any other unit.

ELEVATION- Height relative to mean sea level.

ELEVATION, PRINCIPAL FLOOR – the first floor of a structure or building at grade.

EMF- Electromagnetic frequency radiation.

EXTERIOR DISPLAY- Any advertising done outdoors that publicizes a business's products and services. Types of exterior display include billboards, bus benches, interiors and exteriors of buses, taxis and business vehicles, and signage posted on the exterior of a building.

FACILITY SITE- Location of proposed telecommunication tower or turbine and all associated equipment (including but not limited to electrical transformers for utility interconnections, equipment shelters, storage facilities, transformers and substations) required to ensure long-term, safe and proper operations.

FALL ZONE- A circle with its center at the base of the wireless telecommunication or wind energy facility and its radius equal to the facility's height.

FAMILY DAY CARE- As defined in G. L. c. 40A, §3

FARM- Premises, including necessary structures and equipment which are used for gain in the raising of agricultural products, or livestock, except horses (see Stables).

FARM STAND- As defined in G. L. c. 40A, §3.

FAST FOOD, TAKE OUT- Establishments designed for the selling or intended selling of food to be taken and eaten off the premises.

FCC- The Federal Communications Commission of the United States of America.

FCC 96-326- A report and order that sets national standards for emissions of radio frequency emissions from FCC regulated transmitters.

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

FLOOD PLAIN- A low plain adjacent to a river that is formed chiefly of river sediment and is subject to flooding.

FLOOD ZONE A- Areas with a 1 percent annual chance of flooding and a 26 percent chance of flooding over the life of a 30-year mortgage. Because detailed analyses are not performed for such areas, no depths or base flood elevations are shown within these zones.

FLOOD ZONE AE- The base floodplain where base flood elevations are provided. AE Zones are now used on new format Flood Insurance Rate Maps instead of A1-A30 Zones.

FLOOD ZONE AO- River or stream flood hazard areas and areas with a 1 percent or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth ranging from 1 to 3 feet. These areas have a 26 percent chance of flooding over the life of a 30-year mortgage. Average flood depths derived from detailed analyses are shown within these zones.

FLOOD ZONE V- Coastal areas with a 1 percent or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26 percent chance of flooding over the life of a 30-year mortgage. No base flood elevations are shown within these zones.

FLOOD ZONE VE- Coastal areas with a 1 percent or greater chance of flooding and an additional hazard associated with storm waves. These areas have a 26 percent chance of flooding over the life of a 30-year mortgage. Base flood elevations derived from detailed analyses are shown at selected intervals within these zones.

FOOTPRINT- The area within the perimeter of a building measured at the foundation. It shall include all roofed porches and or other roofed areas, bulkhead and cantilevered portions on any level of the building. Not included in the footprint are open, uncovered patios, decks, unroofed stoops, window wells for emergency egress from below-grade bedrooms, stairs and roof projections (cornices, eaves, gutters, outside chimneys, steps, bay windows and terraces).

FORMULA BUSINESS ESTABLISHMENT- A business which does or is required by contractual or other arrangement or as a franchise to maintain two (2) or more of the following items: standardized (formula) array of services and/or merchandise including

menu, trademark, logo, service mark, symbol, décor, architecture, façade, layout, uniforms, color scheme, and which are utilized by ten (10) or more other businesses worldwide regardless of ownership or location.

FRONTAGE- That portion of a lot which is bounded by the street line or way, the sidelines and the minimum building setback line. The frontage must be suitable for development of an access route or driveway to the building site.

GAME ROOM- A commercial facility exclusively for playing of billiards, pool, darts and/or table games, but not including video games or pinball machines.

GARAGE, RESIDENTIAL- A structure which is accessory to a residential building and which is used for the parking and storage of vehicles or other chattel owned by the residents thereof, which is not a separate commercial enterprise available to the general public and is not to be utilized for commercial repair, commercial storage, or the rental of more than two stalls.

GARAGE/PARKING LOT, COMMERCIAL- A structure or designated area used for the parking and storage of vehicles which is operated as a business and open to the public for a fee.

GARAGE, REPAIR- A building designed and used commercially for the storage, care, repair, or refinishing of motor vehicles including both minor and major mechanical overhauling, paint, and body work.

GASOLINE STATION- Any area of land, including structures thereon, that is used or designated to be used for the retail sale of gasoline or oil or other fuel for the propulsion of motor vehicles, and which may include facilities for cleaning or servicing such motor vehicles, but not including painting or body repairs.

GOLF COURSE, STANDARD OR PAR 3 - Course, including customary accessory buildings, where tee-to-hole distance averages not less than eighty yards.

GROUNDWATER- Water beneath the earth's surface, often between saturated soils and rock, that supplies wells and springs.

GROSS FLOOR AREA, NON-RESIDENTIAL- The sum of the areas for each story or level exclusive of basements, elevator shafts, stairwells, and floor space used for mechanical equipment as measured from the outer face of exterior walls.

GROSS FLOOR AREA, RESIDENTIAL- The sum of the areas for each story or level of a dwelling unit exclusive of areas not designed for human occupancy including, but not limited to basements, stairwells, bathrooms, attics, wall partitions and attached accessory buildings.

GUEST HOUSE- An accessory residential structure for occasional occupancy by non-paying guests, having not less than 400 square feet of gross floor area.

GUEST UNIT- Room or suite of rooms suitable for separate rental or occupancy in a hotel, motel, or similar establishment. Any room or suite of rooms containing a stove plus either or both a refrigerator and a kitchen sink shall be considered a dwelling unit.

HABITABLE SPACE- Space in a structure for living, sleeping, eating or cooking. Bathrooms, closets, halls, storage areas and utility spaces are not considered habitable space.

HAZARDOUS MATERIALS- Any product or waste or combination of substances which, because of quantity, concentration, or physical or chemical, or infectious, or radioactive characteristics may reasonably pose, in the determination of the enforcing authority, a substantial present or potential hazard to human health, safety or welfare, or the environment when improperly treated, stored, transported, used or disposed of, or otherwise managed; any substance which may create a special hazard in the event of spill, leak, fire, or exposure; and all substances deemed to be hazardous waste as defined in G. L. c. 21C §2, the hazardous waste regulations promulgated by the DEP at 310C CMR 30.010 in amounts in excess of that normally used in household maintenance, the Resource Conservation and Recovery Act (RCRA), 42 USC 6901 et seq., or the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 USC 9601 et seq., as these may be amended, or other materials which are listed as toxic, hazardous or a priority pollutant by the United States Environmental Protection Agency.

HAZARDOUS MATERIALS, HOUSEHOLD QUANTITIES- Any waste material defined by the Massachusetts Hazardous Waste Regulations, 310 CMR 30.00. Household quantities may consist of any of the following:

- 275 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator; or
- 25 gallons (or the dry weight equivalent) or less of other hazardous materials on site at any time, including oil not used for heating or to supply an emergency generator; or
- a quantity of hazardous waste at the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR 30.535.

HAZARDOUS WASTE FACILITY- As defined in G. L. c. 21D, §5. A site or works for the storage, treatment, dewatering, refining, incinerating, reclamation, stabilization, solidification, disposal or other processes where hazardous wastes can be stored, treated or disposed of; however, not including a municipal or industrial waste water treatment facility if permitted under G. L. c. 21, §43.

HEALTH CLUB- A facility with exercise equipment offering aerobic-related activities and is open to both those with memberships as well as the general public.

HEIGHT- The vertical distance from the average finished grade of the adjacent ground to the top of the structure of the highest roof beams of a flat roof, the deck of a mansard roof, or the mean level of the highest gable or slope of a hip roof. When applied to a Wind Energy Facility, the height of a Wind Energy Facility measured from natural grade of the facility's foundation to the tip of the rotor blade at its highest point, or blade-tip height.

HELIPORT- An area, either at ground level or elevated on a structure, licensed or approved for the loading and takeoff of helicopters, and including auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

HOME OCCUPATION - The use of a room or rooms in a dwelling or building accessory thereto as an office, studio, or workroom for a home occupation by a person resident on the premises provided that:

1. Such use is clearly incidental and secondary to the use of the premises as a dwelling;
2. Not more than one person other than residents of the premises regularly provided paid services in connection with such use;
3. No commodity or service is sold or provided to another person who is on the premises;
4. The public is not invited onto the premises in the usual course of business;
5. No offensive noise, traffic, vibration, smoke, dust, odor, heat, or glare is produced as a result of the home occupation;
6. There is no exterior display or exterior sign except as permitted under the Sign Code;
7. There is no exterior storage of materials or equipment (including the exterior parking of more than one commercial vehicle), and no other exterior indication of such use or variation from the residential character of the premises;
8. All parking for such home occupation, other than for residents of the premises, shall be provided off the street. Adequate off-street parking shall be provided in accordance with the provisions of the by-laws; and
9. Such use has been approved in writing by the Building Inspector.

HOME RULE AMENDMENT - Article II of the Articles of Amendment to the Constitution of the Commonwealth, as amended, which is codified in the General Laws of the Commonwealth as G. L. c. 43B, which empowers a municipality by local legislation to exercise any power or function which the General Court has power to confer upon it, so long as such local law does not conflict with the Constitution of the Commonwealth or certain statutes enacted by the General Court which deny such local power in matters where state-wide uniformity has been deemed to be necessary.

HOSPICE CARE- Palliative and supportive care and other services for terminally ill patients with a limited life-expectancy and their families. Services shall include, but not be limited to, physician's services, nursing care provided by or under the supervision of a registered nurse, social services, volunteer services and counseling services.

HOSPITAL- Institutions providing acute twenty–four hour inpatient services which include, but are not limited to, the treatment of emergencies, intensive and patient care units for adults and children, and major clinical and diagnostic health care services.

HOSPITAL, REHABILITATION - A hospital licensed pursuant to G. L. c. 111, which provides Hospital-level in-patient rehabilitation services, together with general and specialty out-patient rehabilitation services including but not limited to: aquatic therapy, cardiac rehabilitation, occupational therapy, physical therapy, speech and language pathology, women’s rehabilitative services, wellness, holistic medicine, sports medicine, wound treatment, pain therapy, adult daycare, research and development related to rehabilitation, geriatric and elder care and day time veterinary rehabilitative services.

HOSPITAL-RELATED SERVICES- Hospital or healthcare-related commercial services, such as laboratories, pharmacies, laundries, and medical equipment rentals, which are operated by and on the principal premises of a hospital or health care facility. A hospital licensed pursuant to G. L. c. 111, which provides hospital-level in-patient rehabilitation services, together with general and specialty out-patient rehabilitation services including but not limited to: aquatic therapy, cardiac rehabilitation, occupational therapy, physical therapy, speech and language pathology, women’s rehabilitative services, wellness, holistic medicine, sports medicine-adaptive sports, wound treatment, pain therapy, adult daycare, research and development related to rehabilitation, geriatric and elder care and day time veterinary rehabilitative services.

HOSPITAL, VETERINARY- A building providing for the diagnosis and treatment of ailments of animals other than human, including facilities for overnight care.

HOTEL- A building or group of buildings, whether detached or connected, each containing three or more rooming units each with its own sanitary facilities, as well as providing meals and other guest services (including such accessory uses as function rooms, health club, restaurants, swimming pools, and/or tennis courts).

IMPERVIOUS SURFACE- A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes surfaces such as compacted sand and gravel, or clay, as well as most conventionally surfaced streets, roofs, roadways, sidewalks, parking lots, and other similar structures.

JUNKYARD- A lot, land or structure, or part thereof, used primarily for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition or for the sale of parts thereof.

LANDSCAPE MAINTENANCE AGREEMENT- contract between SPGA and applicant for the long-term care and health of plantings for a project subject to SPR approval or issuance of a special permit.

LANDSCAPED OPEN SPACE- Space not covered by any structure and not used for golf drives, parking, utilities, or storage; such spaces include landscaped areas and

outdoor recreational facilities, including those on balconies and roofs over structures, if so developed. Area shall be measured horizontally and not include any land with slope over twenty percent, or any land under water other than swimming pool.

LOAM- Fertile, friable, natural topsoil of the locality, without admixture of subsoil, refuse or other foreign material, and as further defined by the Barnstable County Extension Service.

LOT- An area of land in single ownership with definite boundaries, established by a recorded plan or deed, including a lot created by combining several previously recorded lots, and used or available for use as the site of one or more buildings or for any other purpose.

LOT AREA- The horizontal area of a lot exclusive of any area in a street or recorded way open to public use. At least eighty percent of the lot area required for zoning compliance shall be contiguous land other than that under any water body, or wetland as defined in G. L. c. 131, §40 of the Sandwich Wetland By-law.

LOT, CORNER- A lot at the point of intersection of and abutting on two or more intersecting streets, the interior angle of intersection of the street lot lines, or extended lot lines in case of a curved street being not more than 135°.

LOT COVERAGE- Percentage of lot area that is covered by structures, paving, driveways, walkways and parking area.

LOT FRONTAGE- That portion of a lot fronting upon and having access to a street, measured continuously along the street sideline between side lot lines. For lots on the outside of a curve whose radius is 120 feet or less, the lot frontage may be reduced at the street line to sixty percent of the required lot frontage, provided that the full required frontage can be met at the front building line. No lot width shall measure less than sixty percent of the required lot frontage between side lot lines within a distance of one hundred feet from the street sideline.

LOT SHAPE- No lot shall be created so as to be so irregularly shaped or extended that the square of the lot perimeter exceeds thirty times the gross lot area for any lot in excess of 80,000 square feet, or twenty-two times the gross lot area for any other lot. A lot may exceed the shape factor of 22 or 30 only if the portion intended for building is designated on the plan and said portion is connected to the frontage and meets the shape and zoning requirements of the area in which it is located.

MAINTENANCE PLAN- Shall include, but not be limited to, the structural integrity of the a wireless telecommunications facility and accessory structures, painting, site access maintained in a manner acceptable to the Fire Chief, and inspections in accordance with the manufacturer's guidelines.

MAJOR COMMERCIAL COMPLEX- Building or series of buildings in excess of 10,000

square feet GFA located on one or more lots for retail sales and service.

MAJOR INDUSTRIAL COMPLEX- Building or series of buildings in excess of 10,000 square feet GFA located on one or more lots for industrial use.

MANUFACTURING, LIGHT- processing, assembly, or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause: excessive dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry, hazard of fire or explosion or other physical hazard to any adjacent building or land, or to surface or groundwater, Including without limitation the following:

1. Manufacture of small machinery;
2. Fabrication of metal, paper or wood products;
3. Boat building or repair;
4. Food and associated industries such as: wholesale bakeries, bottling of food and beverages, and food processing;
5. Warehousing or storage of goods and products such as building materials, farm supplies and the like, which may be sold from the premises to the general public. The bulk storage of nuclear or radioactive products, toxic waste chemicals is specifically excluded from the intent of the above; and
6. Scientific or research laboratories devoted to research, design and/or experimentation and processing and fabrication incidental thereto.

MARINA- a boat basin with facilities for small boats, docks, moorings and supplies.

MARINE MEDICAL and REHABILITATION FACILITY- A facility that rescues, rehabilitates and releases all varieties of marine species and serves as an educational resource for studies in oceanic health, marine care and medicine.

MEASURED WATER'S EDGE- The waters of any other fresh ponds and lakes shall be determined by the contour of the highest observed elevation, established by measuring the existing elevation and adjusting that elevation by using the methods specified in the *U.S.G.S. Water Resources Investigations 83-4112* with subsequent amendments, if any, as if the waters of the pond or lake were the groundwater.

MEDICAL OFFICES- offices and clinics for medical or other health services for the examination and treatment of persons as outpatients only, including laboratories that are part of such offices and clinics.

MOBILE HOME- A movable or portable dwelling suitable for permanent residence built on a chassis, designed for connection to utilities when in use, and designed without necessity of a permanent foundation for year-round living.

MOBILE HOME PARK- Premises which have been planned and improved for the placement of mobile homes for year-round occupancy.

MONITORING PROTOCOL- The testing protocol, such as the Cobbs Protocol, or a protocol substantially similar, including compliance determined in accordance with the National Council on Radiation Protection and Measurements, Reports 86 and 119, that is to be used to monitor emissions from existing and new personal wireless service facilities. Other testing protocols may be required as the technology changes.

MOTEL- Building or a group of buildings, whether detached or connected, each containing three or more rooming units. Rooming units may include such accessory uses as swimming pools and tennis courts shall be no less than 225 square feet in size and no more than 480 square feet in size, and no building shall be fewer than **20 feet** from any other buildings. The rooming units shall be used, or designed to be used, as individual sleeping and dwelling units by transient travelers, tourists or vacationers. Each integral sleeping unit shall have its own attached sanitary facilities. A motel may include accessory uses such as a restaurant and other facilities commonly associated with the operation of a motel

MULTI-FAMILY HOUSING- Includes duplexes, 3 to 4 unit structures and apartment-type structures with 5 or more units.

MUNICIPAL USE- activity on land owned or controlled by the Town or any of its subsidiary or partner agencies, including (but not limited to) the Town, Sandwich Housing Authority or Sandwich Public Schools.

MUSEUM- Premises for the procurement, care and display of inanimate objects of lasting interest and value.

NONCONFORMING LOT, USE OR STRUCTURE- A lot, use or structure, or any part thereof, which does not conform to the use or dimensional regulations for the zoning district in which it exists.

NONCONFORMING USE OR STRUCTURE, EXTENSION- Any one of the following: greater coverage of land area with structures or paving or other non-vegetative uses associated with or accessory to the use or structure; including without limitation, any increase in parking or storage or display of vehicles or goods; any increase in the volume of a structure by means of an addition, or enlargement; or the placement of accessory structures or accessory uses such as storage sheds, gas pumps, outdoor displays and other similar structures or uses.

NONCONFORMING USE OR STRUCTURE, PRE-EXISTING- A nonconforming use or structure which either preceded the first zoning in the Town of Sandwich May 9, 1960 or which complied with applicable use and dimensional regulations in effect on the date the use was commenced or the structure was constructed and which is situated exclusively within the limits of ownership.

NURSING/CONVALESCENT/REHABILITATION FACILITY- Any institution, however named, whether conducted for charity or profit, which is advertised, announced or

maintained for the express or implied purpose of caring for four or more persons admitted thereto for the purpose of nursing or convalescent care.

OFFICE, PROFESSIONAL- The office or place of business where professional services are offered and do not involve the sale of goods, or the keeping of a stock in trade. Professional offices include but are not limited to doctors, dentists, attorneys, architects, engineers, land surveyors, planners, landscape architects, accountants, real estate brokers, insurance brokers, builders, psychologists and chiropractors.

OFFICE, TEMPORARY CONSTRUCTION- An accessory building temporarily used only during the construction period for new or rehabilitated structures.

OPEN LAND- As used in Section 7 and required as a condition of a Cluster Development special permit, land and water or a combination of both which is dedicated in one or a combination of the methods required in Section 7 to achieve the purposes of Section 7.

OVERLAY DISTRICT- A zoning district which overlies other zoning districts. The provisions and restrictions of an overlay district take precedence over those of the underlying zoning district(s).

PARKING SPACE- Designated space adequate to park an automobile. Each space shall be not less than nine feet wide and eighteen feet in length and if unmarked shall consist of at least 350 square feet per vehicle.

PHILANTHROPIC INSTITUTION- An endowed or charitably supported, nonprofit religious or non-sectarian activity maintained for public or semi-public use.

PLOT PLAN- A diagram, not necessarily to scale, showing a parcel and the proposed or existing use of a specific parcel of land and approximate dimensions of existing and proposed structures.

POWER GENERATION, ELECTRICAL- A facility that generates and distributes electrical energy from oil, coal, gas for sale.

PRINCIPAL USE- A primary purpose for which land or a building is arranged, designed, intended or used.

PROCESSED WASTES- Pollutant or combination of pollutants designated as toxic, present in wastewater or inherent to a manufacturing or production process and discharged into the environment.

PROCESSING- Continuous production of large amounts of bulk product (paint, chemicals, etc).

PRODUCT INVENTORY AND MANIFEST SYSTEM- A form prepared by all

generators who transport, or offer to transport, hazardous waste for off-site treatment, recycling, storage or disposal (see EPA Form OMB NO. 2050-0039).

RECHARGE AREA- The area encompassing land and water surface through which precipitation enters the groundwater, and from which groundwater flows naturally or is drawn by pumping into a water well.

RECREATIONAL FACILITY, INDOOR- Any establishment whose main purpose is to provide recreational activities conducted entirely within a building, including arcade, athletic and health clubs, auditorium, bowling alley, club or lounge, community center, conference center, gymnasium, athletic center, pool, tennis court, skating rink or billiard hall.

RECREATION FACILITY, OUTDOOR- A recreational land use conducted outside of a building characterized by potentially substantial impacts on traffic, the natural environment, and the surrounding neighborhood; such uses include but not limited to: athletic fields, miniature golf, skateboard parks, swimming, bathing, wading, tennis, handball, and basketball courts, as well as batting cages and trampoline facilities.

REGIONAL SERVICE- Retail, professional and/or business service activities serving the resident population of the Town and the Upper Cape Region (Sandwich/Mashpee/Falmouth/Bourne).

RESEARCH LABORATORY- Industrial or commercial experimentation, design, and production of prototypes excluding volume, continuous production or retail sales.

RESIDENTIAL USE- Occupation of a single or two-family structure.

RESTAURANT- A business establishment designed for the preparation and serving of food and beverage primarily on the premises, including seating accommodation for all patrons to be served at any one time.

RETAIL SALES/SERVICE, MAJOR- An establishment 2,500 square feet to 9,999 square feet selling or renting goods or services to the general public for personal and household consumption, including but not limited to a barber or beauty shop, business or trade school, clothing rental establishment, coin operated or other self-service dry cleaning establishment, collection station for laundry or dry cleaning, dancing or music school, dressmaking or millinery shop, frozen food storage locker, hand or self service laundry, household appliance sales or repair shop, interior decorating studio, meeting hall for hire, photographic studio, shoe or hat repair shop, electronics sales or repair shop. A convenience store that sells gasoline and auto supplies but does not repair, service, or store vehicles shall be considered a retail business.

RETAIL SALES/SERVICE, MINOR- An establishment less than 2,500 square feet... (see definition above).

RETAIL SALES/SERVICE, REGIONAL- An establishment 10,000 square feet or greater... (see above definition).

RETAINING WALL- a wall designed to resist the lateral displacement of soil or other material. Retaining walls whose exposed faces are oriented toward abutting properties (facing outward) and are greater than seven feet in total height as measured from the bottom of the footing to the highest point of the wall or which have an exposed face exceeding three vertical feet at any point, must meet the setback requirements of Section 2600.

RIDING SCHOOL- A riding academy or riding center used as a school for instruction in equestrianism, or for hiring of horses for pleasure riding.

ROOMING UNIT- A room or suite of rooms in a motel suitable for separate rental.

SEASONAL DWELLING UNIT- summer homes, resort cottages, or other part-time homes that could serve as a residential use occupied for no more than the period April 15st through October 31st.

SEPTAGE- The liquid, solid and semi-solid material that results from wastewater pre-treatment in a septic tank.

SETBACK- The minimum distance that a building or structure and any accessory building(s) shall be separated from the front, rear and/or side lot lines of a Lot.

SHADOW/FLICKER- Caused by sunlight passing through the swept area of the wind turbines blades.

SITE- The parcel of land on which a use or structure is located.

SITE CONTROL- The legal authority to prevent the use or construction of any structure for human habitation within a wireless telecommunication facility's setback areas.

SITE PLAN- A detailed drawing to scale prepared by a Massachusetts registered architect, landscape architect, civil engineer or surveyor showing building footprint, travelways, parking, drainage facilities, sanitary sewer lines, water lines, trails, lighting, landscaping and garden elements.

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

SPECIAL PERMIT- A discretionary authorization by a special permit granting authority to conduct a particular use as set forth in this by-law, subject to the provisions of Section 1 and the Use Regulation Schedule, where applicable.

SPECIAL PERMIT GRANTING AUTHORITY- That body empowered to grant special permits. As specified by the section providing for the granting of the special permit, that body may be the Zoning Board of Appeals or the Planning Board.

SPILL CONTAINMENT- Engineered containment vessel (impermeable wall or pneumatic bladder) designed to contain spills of chemicals, oils, sewage, etc.

STABLES- Premises used for the shelter and feeding of horses.

STORAGE- The use of a room, building or structure for the containment of goods whether liquid or solid.

STORY- That portion of a building that includes the space between the surface of any floor and the surface of the next floor above it, or, if no floor exists above it, the space between such floor and the ceiling next above it. Any portion of a story exceeding fourteen feet in height shall be considered as an additional story for each fourteen feet or fraction thereof. One-half story means any story or space situated wholly or partly in the roof, so designed, arranged, or built to be used for storage or habitation.

STREET- An accepted Town way, or way established by or maintained under County, State or Federal authority; or

- A way established by a subdivision plan approved in accordance with the Subdivision Control Law; or
- A way certified by the Planning Board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land and the buildings erected or to be erected thereon.

STREET ELEVATION- Measured at the edge of pavement directly in front of the center of the building.

STRUCTURE- Anything constructed or erected, the use of which requires fixed location on the ground, or attachment to something on the ground, including all buildings, mobile homes, billboards, towers, swimming pools or tanks that have a capacity of 4,000 gallons or more, or the like, or part thereof; but not including paving, usual lawn accessories, fences or retaining walls six feet in height or less.

SUBDIVISION CONTROL LAW- G. L. c. 41 §81K-81 GG

SUPERMARKET- A large, self-service retail store 10,000 square feet or larger that sells a variety of foods and household goods. A pharmacy may be operated within the premises.

SWIMMING POOL- A pool designed and built for swimming purposes as an accessory use to a principal permitted use, for use primarily by the occupants or tenants of said property. The term includes any permanent in or above-ground pool and any portable pool more than two feet in height or depth and fifteen feet in length or diameter. Pools

having a depth of two feet or more and having a capacity of 4,000 gallons or more in volume shall be considered structures.

TATTOO ESTABLISHMENT/ BODY ART ESTABLISHMENT- A location, place, or business where the practices of body art are performed either for profit or not for profit and as further defined by the Sandwich Board of Health Regulations.

TECHNOLOGY BUSINESS OR SERVICE- Such businesses or services, including communications, data warehousing of any media, sales, service, data collection, research, development, assembly and manufacture of communication products, information service products and other electronic technology-based business or service.

TELECOMMUNICATION FACILITY, WIRELESS- Any structure including all buildings and appurtenances solely intended to house and/or support equipment (equipment shelter), used for transmission and/or reception of electromagnetic radiation, including towers, monopoles, antennas, wiring or other devices attached thereto, including guy wires.

TELECOMMUNICATION PLOTS, RADIAL- As applied to antennae, the result of drawing equally spaced lines (radials) from the point of the antenna, calculating the expected signal and indicating this graphically on a map. The relative signal strength may be indicated by varying the size or color at each point being studied along the radial; a threshold plot uses a mark to indicate whether that point is strong enough to provide adequate coverage. Radial plots concentrate plot points close to the antenna while plot points diverge near the ends of the radials at the outer edge of coverage.

TELECOMMUNICATION PLOTS, TILED COVERAGE PLOTS- Tiled plots calculate the signal at uniformly spaced locations on a rectangular grid, or tile, of the proposed coverage area. Relative signal strength may be indicated by varying the size or color at each point being studied. Tiled plots provide a uniform distribution of points over the coverage area. Tiled coverage plots incorporate more topographic data than radial plots and are the preferred form for coverage mapping.

TELECOMMUNICATION REPEATER- A small receiver/relay transmitter of not more than 20 watts output designed to provide telecommunications service to areas which are not able to receive adequate coverage directly from an existing wireless telecommunication facility.

TELECOMMUNICATION TOWERS- Any guyed, monopole, or self-supported tower, constructed as a free-standing structure proposed to mount one or more antennas intended for transmitting and receiving television, AM/FM radio, digital, microwave, cellular, telephone or similar forms of electromagnetic radiation.

TEMPORARY CONSTRUCTION OFFICE- Mobile home, utility trailer or similar vehicle located on a building site. Such temporary offices shall not be located within view of a public way.

THEATRE, PLAYHOUSE- A large room or hall, usually with a raised platform and tiered seating for an audience, used for lectures and film shows.

TOP OF FOUNDATION- The physical location of the highest point of the foundation above mean sea level (NGVD). The top of foundation is not the location from which building height is to be measured.

TRACT- A defined contiguous area of land comprised of one or more parcels or lots.

TRAILER- A vehicle or object on wheels which has no motive power of its own, but which is drawn by or used in connection with a motor vehicle.

TRAILER, STORAGE- A trailer not on wheels that is designed, constructed and utilized for the principal purpose of storing goods or material and is generally located in a stationary position.

TRAILER, UTILITY- A wheeled trailer which is designed, constructed and utilized for the principal purpose of transporting equipment, goods or material from one location to another.

UNDERSTORY PLANTINGS- Those plantings that form an underlying layer of vegetation.

UPLAND AREA- That area exclusive of wetlands as defined in the Wetland Protection By-laws as defined in Section 7 of the Town of Sandwich By-law and land within the Floodplain Overlay District as defined in the zoning by-law.

WASTEWATER TREATMENT FACILITY- size, treatment level and cannot discharge in the Water Resource Protection Overlay District.

WAY, QUALIFIED- A vehicular or pedestrian thoroughfare, which is either:

1. A public way laid out by a governmental entity or public authority pursuant to Mass General Laws;
2. A way that has been accepted as a public way pursuant to Mass General Laws;
3. A way that is shown on a plan approved and endorsed by the Planning board, and constructed in accordance with the Subdivision Rules & Regulations of the Town; or
4. A way, in existence when the Subdivision Control Law became effective in the Town, that is certified by the Planning Board as having sufficient width, suitable grades, sufficient drainage, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby and to provide for the installation and maintenance of municipal services to serve such land.

WAREHOUSE SALES, WHOLESALE OR RETAIL- one building on one lot occupied by one business for the sole purpose of selling goods or merchandise to both retail and

wholesale customers not to exceed 30,000 square feet of floor area.

WIND ENERGY FACILITY- All of the equipment, machinery and structures together utilized to convert 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 ENERGY FACILITY, SMALL-SCALE- A single device that converts wind to electricity or other forms of energy, typically consisting of a rotor and blade assembly, electrical generator, and tower, or appropriate mounting device, and associated control or conversion electronics which has a rated capacity of not more than 10 kW, located on a single lot, intended as an accessory use in areas zoned to allow residential use in an area zoned residential.

WIND MONITORING OR METEOROLOGICAL TOWER- A temporary tower equipped with devices to measure wind speed and direction, to determine how much electricity a wind energy facility can be expected to generate.

WIND TURBINE- A device that converts kinetic wind energy into rotational energy to drive an electrical generator. A wind turbine typically consists of a tower, nacelle body, and a rotor to extract wind energy.

YARD- A required open space, unobstructed with structures more than thirty inches high, other than fences or other customary yard accessories.

YARD, FRONT- A yard extending between lot sidelines across the front of a lot adjacent to each street it adjoins.

YARD, SIDE- A yard extending from the rear line of the required front yard to the rear lot line adjacent to the lot sideline.

YARD, REAR- A yard extending across the rear of the lot between the inner side yard lines.

YIELD PLAN- For cluster development, a plan that demonstrates the maximum number of units that could be constructed utilizing a conventional grid subdivision design that complies with both the zoning requirements of the district and the Planning Board regulations.

or take any action relative thereto.

Recommended by the Board of Selectmen and Planning Board.

REFERENCE MATERIAL & VOLUNTEER APPLICATION FORM:

A GLOSSARY OF COMMONLY USED TERMS

Appropriation – An authorization granted by a legislative body to make expenditures and to incur obligations for specific purposes. An appropriation is usually limited to a specific amount and identifies the timeframe when it will be expended.

Assessed Valuation – A valuation set upon real estate or other property by a government as a basis for levying taxes. Equalized assessed valuation refers to a municipality's assessed valuation, as determined by local assessors, adjusted by the State Department of Revenue to reflect a full and fair market value ("Equalized Valuation").

Betterment – An addition made to, or change made in, a fixed asset which is expected to prolong its life or to increase its efficiency. The term is also applied to sidewalks, water lines, and highways and the corresponding tax assessment abutters may authorize for repairs to their properties.

Bond – A written promise to pay a specified sum of money, called the face value (par value) or principal amount, at a specified date or dates in the future, called the maturity date(s) together with periodic interest at a specified rate. The difference between a note and a bond is that the latter runs for longer period of time and requires greater legal formality.

Bond Anticipation Note (BAN) – Short-term note of a government sold in anticipation of bond issuance. BANs are full faith and credit obligations.

Bond Ratings – Designations used by bond rating services to give relative indications of credit quality.

Budget – A plan of financial operations embodying an estimate of proposed expenditures for a given period and the proposed means of financing them.

Budget Message – Statement summarizing the plans and policies contained in the budget report, including an explanation of the principal budget items and recommendations regarding financial policy for the upcoming year.

Capital Budget – A plan for expenditure of public funds for capital purposes.

Capital Expenditure – Nonrecurring payments for capital improvements including construction, acquisition, site development and overhead costs. The fees for architects, engineers, lawyers, and other professional services plus the cost of financing may be included.

Cherry Sheet – An annual statement received by the Town from the Department of Revenue detailing estimated receipts for the next fiscal year from various state aid accounts, the lottery, and estimated charges payable in setting the tax rate. Supplemental Cherry Sheets may be issued during the year and there is no guarantee that the estimated receipts and charges shown thereon will not vary from actual receipts and charges. The name was derived from the pink color of the document.

Debt Service – The cost (usually stated in annual terms) of the principal retirement and interest of any particular bond issue.

Enterprise Fund – Those funds which are established for specific uses under M.G.L. c.44, §53F1/2 that require an annual appropriation to operate (i.e. Sandwich Hollows Golf Club).

Excess Levy Capacity – The difference between a community's maximum tax levy limit as established by Proposition 2.5 and its actual tax levy in the most recent year for which the community has set a tax rate. It is the additional tax levy that a community can raise at Town Meeting without going to the voters for an override or debt exclusion.

Exclusions (Debt Exclusion or Capital Expenditure Exclusion) – Proposition 2.5 allows communities to raise funds for certain purposes above the amount of their levy limits or levy ceilings. Subject to voter approval, a community can assess taxes in excess of its levy limit for the payment of certain capital projects and for the payment of specified debt service costs. Such an exclusion increases the amount of property tax revenue a community may raise for a limited or temporary period of time in order to fund the specific project. Unlike overrides, exclusions do not increase the community's levy limit and do not become part of the base for calculating future years' levy limits.

Fiscal Year – The state and municipalities operate on a fiscal year which begins on July 1 and ends on June 30. For example, the FY'04 fiscal year is from July 1, 2003 to June 30, 2004.

Free Cash (Surplus Revenue) – Free cash represents the portion of surplus revenue which the municipality is able to appropriate. It is money that the community raised to spend for a particular item but was left over because the full appropriation was not expended. From this surplus the municipality's liabilities are subtracted (i.e. any unpaid back taxes). The remainder, if any, is certified annually by the Department of Revenue as the community's free cash. Amounts from certified free cash may be appropriated at Town Meeting by the community for expenditures or to offset property taxes.

General Fund – The fund into which the general (non-earmarked) revenues of the municipality are deposited and from which money is appropriated to pay the general expenses of the municipality.

Growth Revenue (New Growth) – The amount of property tax revenue that a community can add to its allowable tax levy from taxes from new construction,

alterations, subdivisions, or changes of use. It is computed by applying the prior year's tax rate to the increase in valuation.

Note – A short-term loan, typically of a year or less in maturity.

Overlay – The amount raised by the assessors in excess of appropriations and other charges for the purpose of creating a fund to cover abatements and state allowed exemptions.

Overrides – Proposition 2.5 allows a community to assess taxes in excess of the automatic annual 2.5% increase and any increase due to new growth by passing an override. A community can take this action as long as it is below its levy ceiling (2.5% of full and fair cash value of community). When an override is passed, the levy limit for the year is calculated by including the amount of the override. Unlike exclusions, the override results in a permanent increase in the levy limit of a community, which becomes part of the levy limit base and increases along with the base at the rate of 2.5% each year.

Proposition 2.5 – M.G.L. c.59, §21C was enacted in 1980 and limits the amount of revenue a city or town may raise from local property taxes each year. This amount is the community's annual levy limit. The law allows the levy limit to increase each year by 2.5% plus any new growth revenue derived from taxes from new construction and alterations. This amount may not exceed the community's levy ceiling. Proposition 2.5 also established two types of voter approved increases in local taxing authority – overrides and exclusions.

Reserve Fund – A fund established by Town Meeting which is under the control of the Finance Committee and from which transfers may be made for extraordinary and unforeseen expenditures. The appropriation cannot be greater than 5% of the tax levy for the prior fiscal year.

Revolving Funds – Those funds which may be used without appropriation and which are established for particular uses under M.G.L. such as continuing education programs, school lunch programs, self-supporting recreation and park services, conservation services, etc. (i.e. Sandwich Marina, Sandwich Community School).

Stabilization Fund – A special reserve account which is invested until used. Towns may appropriate into this fund in any year an amount no more than 10% of the prior year's tax levy. The outstanding balance in the account cannot exceed 10% of the Town's equalized valuation. Generally, it takes a 2/3 vote of Town Meeting to appropriate money from the Stabilization Fund.

Surplus Revenue – See "Free Cash".

TABLE OF BASIC POINTS OF MOTIONS

Rank	Type of Motion	2nd Req'd.	May Debate	May Amend	Vote Req'd.	May Recons.	May Interrupt
	MAIN MOTIONS						
None	Main Motion	Yes	Yes	Yes	Varies	Yes	No
Same	Reconsider or Rescind	Yes	Same	No	Majority	No	No
None	Take from the Table	Yes	No	No	Majority	No	No
None	Advance an Article	Yes	Yes	Yes	Majority	Yes	No
	PRIVILEGED MOTIONS						
1	Dissolve or Adjourn	Yes	No	No	Majority	No	No
	Adjourn to Fixed						
2	Time/Recess	Yes	Yes	Yes	Majority	No	No
3	Point of No Quorum	No	No	No	None	No	No
4	Fix the Time to Adjourn	Yes	Yes	Yes	Majority	Yes	No
5	Question of Privilege	No	No	No	None	No	Yes
	SUBSIDIARY MOTIONS						
6	Lay on the Table	Yes	No	No	2/3	Yes	No
7	The Previous Question	Yes	No	No	2/3	No	No
8	Limit or Extend Debate	Yes	No	No	2/3	Yes	No
9	Postpone to Time Certain	Yes	Yes	Yes	Majority	Yes	No
10	Commit or Refer	Yes	Yes	Yes	Majority	Yes	No
11	Amend (or Substitute)	Yes	Yes	Yes	Majority	Yes	No
12	Indefinitely Postpone	Yes	Yes	No	Majority	Yes	No
	INCIDENTAL MOTIONS						
Same	Point of Order	No	No	No	None	No	Yes
Same	Appeal	Yes	Yes	No	Majority	Yes	No
Same	Division of a Question	Yes	Yes	Yes	Majority	No	No
Same	Separate Consideration	Yes	Yes	Yes	Majority	No	No
Same	Fix the Method of Voting	Yes	Yes	Yes	Majority	Yes	No
Same	Nominations to Committee	No	No	No	Plurality	No	No
Same	Withdraw or Modify Motion	No	No	No	Majority	No	No
Same	Suspension of Rules	Yes	No	No	2/3*	No	No

* Unanimous if rule protects minorities; out of order if rule protects absentees

Source: Town Meeting Time, 3rd Edition

TOWN OF SANDWICH TALENT BANK

Serve Your Community

Town Government needs citizens who are willing to give time in the service of their community. The Talent Bank was adopted by the Board of Selectmen as a means of compiling names of citizens who are willing voluntarily serve on boards, committees, and as resource people. Names in this file are available for use by the public as well as the Selectmen and all Town offices.

Talent Bank files are being updated to include categories consistent with the changing needs of the Town of Sandwich. Please complete the questions listed below, indicate your areas of interest, and either drop the form off at Town Hall or send it to:

Town of Sandwich Talent Bank
Sandwich Town Hall
130 Main Street
Sandwich, MA 02563

Name: _____ Tel. No.: _____

Address: _____

Occupation / Background / Experience: _____

LIST ORDER OF PREFERENCE:

<input type="checkbox"/> Beach Committee	<input type="checkbox"/> Econ. Develop. Comm.	<input type="checkbox"/> Personnel Board
<input type="checkbox"/> Board of Health*	<input type="checkbox"/> Energy Committee	<input type="checkbox"/> Planning Board*
<input type="checkbox"/> Cape Cod Commission	<input type="checkbox"/> Emergency Management	<input type="checkbox"/> Recreation Committee
<input type="checkbox"/> Capital Planning Comm.**	<input type="checkbox"/> Finance Committee**	<input type="checkbox"/> Sandwich Cultural Council
<input type="checkbox"/> Communications Technology	<input type="checkbox"/> Golf Advisory Comm.	<input type="checkbox"/> Sandwich Housing Authority*
<input type="checkbox"/> Conservation Comm.	<input type="checkbox"/> Historic District Comm.*	<input type="checkbox"/> Sandwich Historical Commission
<input type="checkbox"/> Council on Aging	<input type="checkbox"/> Library Trustees*	<input type="checkbox"/> Zoning Board of Appeals
<input type="checkbox"/> Disabilities Commission	Other: _____	

* = Elected

** = Appointed by Moderator