

SECTION IX - OVERLAY DISTRICTS

9.1 WELLHEAD PROTECTION DISTRICTS

9.1.1 Purpose

The purpose of this section is to protect the health, safety, and welfare of the community by ensuring that development and redevelopment in this district will not prohibit the siting of a well serving a Public Water System.

9.1.2 Districts Established

For the purposes of this section, there is hereby established in the Town of Wellfleet two Wellhead Protection Districts which are overlay districts superimposed on the zoning districts. The Wellhead Protection Districts consists of:

District I – the land bounded by LeCount Hollow Road from 150 feet west of its intersection with Ocean View Drive to State Route 6; State Route 6 from LeCount Hollow Road to Old County Road; Old County Road from Route 6 to Cahoon Hollow Road; Cahoon Hollow Road from Old County Road to a point 150 feet west of its intersection with Ocean View Drive; a line 150 feet west of Ocean View Drive running from Cahoon Hollow Road to LeCount Hollow Road excluding any land that lies in a Commercial District on the effective date of this bylaw.

District II – the land within a one half-mile radius of the Coles Neck well.

The Wellhead Protection Districts established by this section are shown on a map entitled "Wellhead Protection Districts In the Town of Wellfleet", dated April 2005, which is on file in the office of the Town Clerk. These overlay districts shall apply to all new construction, reconstruction or expansion of existing buildings and new or expanded uses.

9.1.3 Boundaries

If the Wellhead Protection District boundary passes through a lot which cannot be subdivided, the entire lot shall be deemed to be within the Wellhead District. If the Wellhead Protection District boundary passes through a lot which may be subdivided, such lot shall be comprised of a portion of the Wellhead Protection District as delineated by the District boundary; and if such a lot is subsequently subdivided, any created lots will be treated in the same way as a lot which cannot be subdivided.

9.1.4 Use Regulations

9.1.4.1 Allowed:

1. All uses permitted in the underlying zoning districts except those uses specifically prohibited herein shall be allowed in a Wellhead Protection District. Nothing contained

in the following list would prohibit uses customarily incidental to the principal use of land for residential purposes. New residential development, and maintenance, repair and alteration of existing structures are allowed with appropriate permits.

2. Nothing contained in the following list would prohibit uses customarily incidental to the use of land for outdoor recreation, nature study, boating, fishing and hunting where otherwise legally permitted; foot, bicycle and/or horse paths and bridges.

3. For purposes of this Section 9.1, “normal household use and household quantity of hazardous material or waste”, means any or all of the following:

- a) 550 gallons or less of oil on site at any time to be used for heating of a structure or to supply an emergency generator, and
- b) 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, and
- c) a quantity of hazardous waste at the Very Small Quantity Generator level as defined in the Massachusetts Hazardous Waste Regulations, 310 CMR Section 30.353.
- d) change in ownership shall require conversion to a double wall oil tank

4. For purposes of this Section 9.1, “commercial” means use, generation or storage of hazardous materials or waste in quantities greater than those allowed for normal household use and household quantities.

9.1.4.2 Prohibited:

1. Landfills and open dumps as defined in 310 CMR 19.006;
2. Landfilling of sludge or septage as defined in 310 CMR 32.05;
3. Automobile recycling, automobile graveyards and junkyards as defined in MGL c. 140B, Section 1;
4. Stockpiling and disposal of snow and ice from highways and streets located outside of the Wellhead Protection District that contain de-icing chemicals such as sodium chloride, chemically treated abrasives or other chemicals used for snow and ice removal;
5. Sales, storage or transportation of liquid petroleum products of any kind, except those incidental to:
 - a) normal household use,
 - b) the heating of a structure or
 - c) required waste oil retention facilities;
6. Storage of sludge or septage;

7. Storage or disposal of road salt or de-icing chemicals unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
8. Storage of animal manure except when associated with a permitted use, in accordance with the Board of Health standards for Best Management Practices;
9. Facilities that generate, treat, store or dispose of hazardous waste subject to MGL c. 21E except the following licensed or permitted activities:
 - a) Very small quantity generators (VSQG) as defined under 310 CMR 30.00;
 - b) Waste oil retention facilities required by MGL c.21C, Section 52A; and
 - c) Water remediation treatment works approved under 314CMR 5.00;
 - d) Home occupations and Service Trades operating in accordance with VSQG codes and the Wellfleet Zoning By-laws and Board of Health Regulations;
10. Storage of pesticides, herbicides, fertilizers and soil conditioners except for normal household use or for use in agriculture, horticulture, floriculture or viticulture on parcels of land of more than five (5) acres, provided storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
11. The use, generation, storage, treatment or disposal of toxic or hazardous materials or wastes in quantities greater than those associated with normal household use;
12. The removal of soil, loam, sand, gravel or any other mineral substances within four feet of the historical high groundwater table elevation (as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey), unless the substances removed are redeposited within 45 days of removal on site to achieve a final grading greater than four feet above the historical high water mark, and except for excavations for the construction of building foundations or the installation of utility works;
13. Underground fuel storage tanks except as required for the use of liquid propane for normal residential use, the heating of a structure or to supply an emergency generator;
14. Storage for resale of heating fuels, including but not limited to oil, coal, gas and kerosene;
15. Metal plating, finishing and polishing;
16. Chemical and bacteriological laboratories;
17. Commercial boat, motor vehicle, and aircraft cleaning, service and repair;
18. Commercial furniture stripping, painting and refinishing;

19. Treatment or disposal works that are subject to 314CMR 5.00, Groundwater Discharge Permit Program, except the following:

- a) the replacement or repair of an existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s);
- b) the placement of an existing subsurface sewage disposal system(s) with wastewater treatment works with a design capacity no greater than the design capacity of the existing system(s);
- c) treatment works approved by the Department of Environmental Protection (DEP) designed for the treatment of contaminated ground or surface waters;

20. Auto service or repair, trucking and bus terminals, gas stations, commercial laundry, dry cleaning establishments, car washes, airports, commercial accommodations, industrial and commercial uses which discharge process wastewater on-site; parking lots set apart primarily to accommodate off-site activities;

21. Individual sewage disposal systems that are designed to receive more than 110 gallons of sewage per quarter acre under ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, provided that:

- a) replacement or repair of a system, which will not result in an increase in design capacity over the original design capacity of 310 CMR 15.00, whichever is greater, shall be exempted, and
- b) in cluster subdivisions the total sewage flow shall be calculated based on the number of percable lots in the entire parcel;
- c) lots which are protected by the provisions of MGL c. 111 Section 127P as of the effective date of this bylaw shall be permitted to install individual sewage disposal systems in accordance with the applicable provisions of the State Sanitary Code during the period of protection if any;
- d) alternative sewage disposal systems meeting the requirements of and approved by the Board of Health;

22. Any floor drainage systems in existing facilities, in facilities, in industrial or commercial process areas or hazardous material and/or hazardous waste storage areas which discharge to the ground without a DEP permits or authorization. Any existing facility with such a drainage system shall be required to either seal the floor drain (in accordance with the State plumbing code, 248 CMR 2.00), connect the drain to a municipal sewer system (with all appropriate permits and pre-treatment), or connect the drain to a holding tank meeting the requirements of all appropriate DEP regulations and policies;

23. Any other use which involves as a principal activity or use, the generation, storage, use, treatment, transportation or disposal of hazardous materials.

9.1.4.3 Lot Coverage:

Unless the applicant demonstrates that all run-off is recharged on-site, no more than 15% of the total area of any lot shall be rendered impervious by the installation of buildings,

structures and paved surfaces. If all recharge is disposed of on-site, no more than fifty-percent (50%) of the total upland area of any lot shall be made impervious by the installation of buildings, structures, and paved surfaces.

9.1.4.4 Site Clearing

A minimum of thirty (30%) of the total upland area of any lot shall be retained in its natural state. This shall not prevent the removal of dead, diseased or damaged trees.

9.1.4.5 Exemptions

The Zoning Board of Appeals may grant a special permit to exempt a use from the requirements of this section, provided that the applicant demonstrates that the proposed use at that location cannot adversely affect any developed or planned public water supply. Applications for such a special permit shall be referred to the Water Commissioners, Conservation Commission, Planning Board and Board of Health within seven (7) days of their receipt for their review and comment prior to the conclusion of the Zoning Board of Appeals' hearing on the proposal. Failure by any of the above named commissions or boards to respond to the Zoning Board of Appeals within forty-five (45) days shall be considered a confirmatory response.

9.2 MAIN STREET OVERLAY DISTRICT

9.2.1 Purpose and Intent

This by-law enables the development and redevelopment of Wellfleet's village center (a portion of Main Street) in keeping with its historic development patterns, including the size and spacing of structures and open spaces.

9.2.2 Overlay District Defined

The Main Street Overlay District shall extend along the south side of Main Street, one lot in depth, from Bank Street to Holbrook Avenue. The Main Street Overlay District established by this section is shown on a map entitled "Main Street Overlay District In the Town of Wellfleet", dated April 2006, which is on file in the office of the Town Clerk. Within the Main Street Overlay District, special permits are required under this by-law for all uses and structures required to obtain a special permit by the underlying Central District zoning district.

9.2.3 Special Permit Granting Authority

The special permit granting authority for this bylaw shall be the Zoning Board of Appeals.

9.2.4 Special Permit Criteria

In addition to the Special Permit criteria listed in Section 8.4.2 of this Zoning By-law, applicants for Special Permits in the Main Street Overlay District must meet the following requirements:

9.2.4.1 Pedestrian Access. Provision for safe and convenient pedestrian access shall be incorporated into plans for new construction of buildings and parking areas and must be designed in concert with landscaping plans noted below. New construction should be consider of pedestrian access to buildings, sidewalks and parking areas and should be completed with considerations of pedestrian safety, handicapped access and visual quality.

9.2.4.2 Landscaping and Appearance. Landscape design plans should ordinarily be prepared by a landscape architect, although the Zoning Board of Appeals may accept a plan prepared by one other than a landscape architect if it believes the plan meets the design guidelines noted below and is in concert with the intent of this regulation.

(a) A landscaped buffer strip or some other type of screening may be required adjacent to adjoining properties. This buffer strip shall be planted with a combination of grass, appropriate height shrubs, shade trees or other type of screening.

(b) Exposed storage areas, machinery, garbage "dumpsters," service areas, truck loading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings, fences and other methods compatible with the goals of this regulation.

(c) To ensure that landscaped areas are maintained, the Zoning Board of Appeals shall include as a provision of any special permit granted that a condition of said special permit is the maintenance of the landscaping as approved by the Zoning Board of Appeals.

9.3 Height, Setback and Building Coverage within the Main Street Overlay District:

9.3.1 Height

The maximum height of any new or expanded existing structure shall be 28 feet.

9.3.2 Minimum Yard Requirements

The front yard setback of any new or expanded existing structure may be reduced to a zero line setback to continue the existing development pattern. The sideline setback shall be 6 feet, and the rear line setback shall be 15 feet.

9.3.3 Building Coverage

Maximum building coverage within the Main Street Overlay District shall be 33%. Building Coverage shall be calculated using the entire area of the lot (upland and lowland) exclusive of any areas on a street or way open to the public.

9.4 Parking Requirements

Recognizing that parking requirements in the underlying zoning district may hamper development of village-style land use and development, the Zoning Board of Appeals is authorized to reduce or waive the parking requirements specified for the use or structure proposed. In determining the appropriate reduction, if any, the Zoning Board of Appeals may give consideration to the hours of usage of the proposed use or structure, hours of usage of other uses or structures within the Main Street Overlay District, amount of "shared" parking with other uses, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the specific area of the proposed use or structure, as well as other relevant information to assist the Zoning Board of Appeals in determining the need for additional parking for motor vehicles.

9.5 Allowable Uses

Recognizing that village-style development entails a mixture of uses, the Zoning Board of Appeals is authorized to allow a mix of residential and non-residential land uses within the Main Street Overlay District. Allowable uses shall be those listed in the underlying Central District within Section 5.3 of this Zoning By-law and the following:

Conversion of Dwelling Unit	Guesthouse, Private
Arcade	Guesthouse, Public
Inn	Nursing Home
Restaurant, Indoor	

9.6 Severability

The invalidity of any section or sections or parts of any section or sections of this by-law shall not affect the validity of the remainder of Wellfleet's zoning bylaw.