

# TOWN OF YARMOUTH

OFFICE OF THE TOWN CLERK

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Town Clerk

Town of Yarmouth

Pages 1-35

**MATTACHEESE MIDDLE SCHOOL "0" QUORUM**

**OCTOBER 22, 2012**

**ARTICLE 7:** To see if the Town will vote to amend the Zoning Bylaw and the Zoning Map, to create a new Village Centers Overlay Zoning District (VCOD), as follows:

1. Amend the Zoning Map to create a "Village Centers Overlay District" with four districts ("VC1"; "VC2"; "VC3"; and "VC4") with each district including the following parcels:
  - a. **VC1:**  
**Map 31, Parcel:** 132  
**Map 32, Parcels:** 12C, 63, 64, 65, 66, 67, 68, 69, 83, 84, 85C, 86, 87, 88, 89, 90, 91, 92, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 154, 155, 169, 170, 171, 189, 190, and 191.
  - b. **VC2:**  
**Map 32, Parcels:** 93, 94, 95, 110, 111, 112, 113, 114, 115 and 116.  
**Map 33, Parcels:** 34, 35C, 36.1, 38, 39, 40, 41.1, 41.2, 41.3, 42, 50, 63, 64.1, 70, 71, 72, 73, 74, 75, 76, 77C and 107.  
**Map 41, Parcels:** 12, 14C, 15 and 16.
  - c. **VC3:**  
**Map 33, Parcel:** 94  
**Map 41, Parcels:** 17, 18, 19, 20, 21.1, 22, 23, 24.1, 25, 26, 27, 28.1, 46, 47, and 48.  
**Map 42, Parcels:** 21, 22, 23, 32.1, 33.1, 34, 35, 36, 37.1, 37.2, and 38.  
**Map 50, Parcels:** 1, 187, 188, 189.1, 190, 191, 192, 193, 194, 195, 196, 197, and 198
  - d. **VC4:**  
**Map 42, Parcels:** 39, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, and 52.  
**Map 50, Parcels:** 100, 101, 102, 103, 104.1, 105.1, 106.1, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117.1, 173, 184.1.1, 185, and 186
2. Amend Section 103.3 Site Plan Review. – by adding the following new text after "Site Plan Review." as shown:  

103.3 Site Plan Review. *Projects developing or redeveloping under Section 414, VCOD, are not subject to this Section 103.3 and shall be regulated by Section 414.3.2 (VCOD Site Plan Review) and shall follow the procedures and requirements as set forth therein.*
3. Amend various subsections of Section 103.4 Design Review – by amending the subsections as shown.

**[NO CHANGES FOR 103.4.1]**

103.4.2 Applicability and Jurisdiction. All commercial uses located south of Route 6 and all projects subject to the provisions of Bylaw sections 404, **411 and 414** shall be subject to design review.

**[NO CHANGES FOR 103.4.3]**

103.4.4 Design Review Authority.

1. The Planning Board shall review all projects in the Jurisdiction that are located in the HMOD2 for compliance with the Yarmouth Architectural and Site Design Standards, as adopted and from time-to-time amended by the Planning Board. Such review shall take place at a duly posted and advertised hearing and after notification of those proceedings by mail to all abutters and abutters to abutters within 300 feet of a project locus.
2. The Planning Board shall review all projects within the Jurisdiction that are submitted for approval under Bylaw section 411, the R.O.A.D. Bylaw, for compliance with the Yarmouth Architectural and Site Design Standards, as adopted and from time-to-time amended by the Planning Board.
3. ***The Design Review Committee shall review all applications within the VCOD pursuant to Section 414.***
4. The Design Review Committee shall review all other commercial and mixed-use projects within the Jurisdiction and make recommendations based on the Yarmouth Architectural and Site Design Standards. Recommendations shall concern the conformity of the proposed actions with the goals and objectives outlined in section 103.4.3 and may include such items as building style and features, architectural details, lighting, landscaping, materials encouraged, examples of craftsmanship, height and proportions, roof shape and pitch, directional expression, relationship of building and spaces, and other considerations as deemed appropriate by the Design Review Committee.

103.4.5 Design Review Representative. The design review authority shall designate a representative to participate in Site Plan Review, as outlined in section 103.3.3

1. For design review of all projects in the Jurisdiction submitted in conjunction with Bylaw section 404.2, the Motel Bylaw and in conjunction with Bylaw section 411, the Revitalization Overlay Architectural District (R.O.A.D.) Bylaw, A Planning Board member (or its designee) shall act as the Design Review Representative on the Site Plan Review Team.
2. For design review of all other all other commercial and mixed-use projects within the jurisdiction, ***except VCOD***, a Design Review Committee member shall act as the Design Review Representative on the Site Plan Review Team.

103.4.6 Procedures. Design Review must precede Site Plan Review. Applicants for projects submitted in conjunction with Bylaw sections 404 and 411 must submit 8 copies of the architectural building elevations, certified site plan, lighting plans, landscape plans, and sign plans. ***Applicants for development under the VCOD shall provide application materials in accordance with Section 414.3.2.*** Applicants for all other applicable projects within the Jurisdiction must submit only 4 copies of the site plan and architectural elevations but are encouraged to submit lighting plans, landscape plans and sign plans for review. Application materials must be submitted to the Community Development Department for scheduling with the proper Review Authority.

4. Amend Section 104.3 Nonconformancy. - by deleting it in its entirety and replacing it with the following new text as shown:

104.3 Nonconformancy. The lawful use of any structure or land existing at the time of enactment or subsequent amendment of this bylaw may be continued, although such structure or use does not conform with provisions of the bylaw, subject to the following conditions and exceptions, *except for properties developing or redeveloping under Section 414, VCOD, in which nonconformity is regulated by Section 414.4 and not this Section 104.3:*

5. Amend Section 104.3.4 Nonconforming Lots. - by amending paragraph number “4.” as follows:

Amend the title and first sentence by adding the text “*or in the VCOD*” after “In a B1, B2, or B3 District” as shown:

“Business and Industrial Lots. In a B1, B2, or B3 District *or in the VCOD*, any increase in area or frontage . . . .”

Amend the second sentence by adding the text “*or in the VCOD*” after “In a B1, B2, or B3 zoning district” as shown:

“Contiguous lots in common ownership shall be combined and/or re-subdivided . . . . .  
. . . shall not apply to a lot in a B1, B2, or B3 zoning district, *or in the VCOD*, for allowed uses within said zoning districts . . . . .”

6. Amend Section 201.1 Classes of Districts. - by adding the following classes of districts to the list of districts:

*Village Centers Overlay District 1 (VC1)*

*Village Centers Overlay District 2 (VC2)*

*Village Centers Overlay District 3 (VC3)*

*Village Centers Overlay District 4 (VC4)*

7. Amend Section 201.2 Zoning Map. - by adding the text “*all districts of the VCOD*” to the section as shown:

201.2 Zoning Map. B1, B2, B3, AED, MU, APD, MOD, HMOD1, HMOD2, ROAD, *all districts of the VCOD*, and all residential districts . . . . .

8. Amend Section 202.1 Application. – by amending the first sentence by adding the text “, *or in other sections of this bylaw*” to the end of the sentence as shown:

202.1 Application. No building or structure shall be erected and no premises shall be used, except as set forth in the Use Regulations Schedule, *or in other sections of this bylaw*.

9. Amend Section 202.5 Use Regulation Table - by adding four columns denoted as “VC1”, “VC2”, “VC3”, and “VC4” and designating each of the uses in the Use Regulation Table in the “VCOD” districts with the following symbols as per Section 202.4 Symbols:

202.5 Use Regulation Table	VC 1	VC 2	VC 3	VC 4
<b>A. RESIDENTIAL</b>				
A1 Single-family dwelling	no <sup>41</sup>	no <sup>41</sup>	no <sup>41</sup>	no <sup>41</sup>
A2 Two-family dwelling	no <sup>41</sup>	no <sup>41</sup>	no	no
A3 Multi-family dwelling (in Cluster/PRD only)	no	no	no	no
A4 Cluster/Planned Residential development	no	no	no	no
A5 Boarding or Lodging house	no	BA	no	no
A6 Guesthouse, Inn, or Bed & Breakfast Inn	BA	BA	no	no
A7 Hotel or motel	yes	yes	yes	yes
A8 Mobile home	no	no	no	no
A9 Mobile home park	no	no	no	no
A10 Accessory apartments	no	no	no	no
A11 Employee Housing	yes	yes	yes	yes
A12 Multi-family	yes <sup>28</sup>	yes <sup>28</sup>	yes <sup>26</sup>	yes <sup>28</sup>
<b>B. AGRICULTURE</b>				
B1 Agricultural production of Crops	yes <sup>7</sup>	yes <sup>7</sup>	yes <sup>7</sup>	yes <sup>7</sup>
B2 Agricultural production of livestock (except on feed lots - then no)	yes <sup>7</sup>	yes <sup>7</sup>	yes <sup>7</sup>	yes <sup>7</sup>
B3 Agricultural service agencies	no	no	no	no
B4 Forestry, fishing, hunting	yes	yes	yes	yes
<b>C. MINING AND MINERAL EXTRACTION</b>				
C1 Mining & mineral extraction (including sand & gravel pits)	no	no	no	no
<b>D. CONSTRUCTION</b>				
D1 General building contractor's yard	no	no	no	no
D2 Heavy construction contractor's yard	no	no	no	no
D3 Special trade contractor's yard	no	no	no	no
<b>E. MANUFACTURING</b>				
E1 Food & kindred products (*except no manufacturing of fats, oils & shortening)	no	no	no	no
E2 Tobacco products	no	no	no	no
E3 Textile mill products (*except no dying, finishing of yarn & thread mills or coated fabrics)	no	no	no	no
E4 Apparel & other textile products, leather & leather products(*except no for tanning & finishing)	no	no	no	no
E5 Lumber & wood products (*except wood preserving BA, plywood & particle board BA)	no	no	no	no
E6 Furniture & fixtures	no	no	no	no
E7 Paper & allied products (*except BA for manufacture of products from purchased paper & allied material)	no	no	no	no
E8 Printing & publishing (*except BA for printing)	no	no	no	no
E9 Chemicals & allied products	no	no	no	no
E10 Petroleum & coal products	no	no	no	no
E11 (Deleted 12-11-07)	no	no	no	no
E12 Stone, clay & glass products	no	no	no	no

202.5 Use Regulation Table	VC 1	VC 2	VC 3	VC 4
E13 Primary metal industries	no	no	no	no
E14 Fabricated metal products (*except no for coating, engraving & allied services)	no	no	no	no
E15 Machinery, except electrical	no	no	no	no
E16 Electrical & electronic equipment	no	no	no	no
E17 Transportation equipment	no	no	no	no
E18 Misc. manufacturing industries	no	no	no	no
<b>F. TRANSPORTATION AND PUBLIC UTILITIES</b>				
F1 Railroad transportation terminal	no	no	no	no
F2 Local & commuter passenger transportation terminal (incl. bus, cab, rail & other transportation)	no	no	no	no
F3 Trucking & warehousing	no	no	no	no
F4 Water transportation	yes <sup>29</sup>	yes <sup>29</sup>	yes <sup>29</sup>	no
F5 Aviation field	no	no	no	no
F6 Transportation services	BA <sup>2</sup>	no	BA <sup>2</sup>	BA <sup>2</sup>
F7 Communications facilities	BA <sup>20</sup>	BA <sup>20</sup>	BA <sup>20</sup>	BA <sup>20</sup>
F8 Public utility	no <sup>30</sup>	no <sup>30</sup>	no <sup>30</sup>	no <sup>30</sup>
<b>G. WHOLESALE TRADE</b>				
G1 Wholesale of durable or non-durable goods (*except: no for petroleum products. no for chemical & allied products. no for junk yards)	no	no	no	no
<b>H. RETAIL TRADE*</b>				
H1 Building materials & garden supplies	yes	no	yes	yes
H2 General merchandise stores	yes	yes	yes	yes
H3 Food stores	yes	yes	yes	yes
H3A Farmer's Market (as outlined by the Selectmen's Farmers' Market Policy)	yes	yes	yes	yes
H4 Sale of autos, boats, motor cycles, mopeds or other motorized recreational vehicles (includes service as accessory to sales)	no <sup>36</sup>	no <sup>36</sup>	no	no
H5 Sale of trucks, mobile homes or other heavy motorized equipment (includes service as accessory to sales)	no	no	no	no
H6 Motor vehicle fuel & service	no	no	no	no
H7 (Deleted 12-11-07)				
H8 Apparel & accessories	yes	yes	yes	yes
H9 Furniture & home furnishings	yes	yes	yes	yes
H10 Eating & drinking establishments	yes	yes	yes	yes
H11 Miscellaneous retail stores (*except BA for fuel oil dealers; no junk yards in any district)	yes <sup>37</sup>	yes <sup>37</sup>	yes <sup>37</sup>	yes
<b>I. FINANCE, INSURANCE AND REAL ESTATE</b>				
I1 Banking & credit agency office	yes	yes	yes	yes
I2 Security & commodity brokers & services	yes	yes	yes	yes
I3 Insurance carriers, agents & brokers office	yes	yes	yes	yes
I4 Real estate managers, agents & service office & land subdivision	yes	yes	yes	yes

202.5 Use Regulation Table	VC 1	VC 2	VC 3	VC 4
I5 Holding & other investment office	yes	yes	yes	yes
<b>J. PERSONAL SERVICES</b>				
J1 Laundry, dry cleaning & garment services	yes <sup>38</sup>	yes <sup>38</sup>	yes <sup>38</sup>	yes
J2 Photographic studios	yes	yes	yes	yes
J3 Beauty & barber shops	yes	yes	yes	yes
J4 Funeral home	no	no	no	BA
J5 (Deleted 12-11-07)				
J6 Miscellaneous personal services	yes <sup>23</sup>	yes <sup>23</sup>	yes <sup>23</sup>	yes <sup>23</sup>
<b>K. BUSINESS SERVICES</b>				
K1 Advertising agencies	no	no	yes	yes
K2 Consumer credit reporting agencies	no	no	yes	yes
K3 Mailing, reproduction, commercial art & stenographic services	no	no	yes	yes
K4 Building cleaning & maintenance services	no	no	yes	yes
K5 Extermination services	no	no	no	yes
K6 News syndicates	no	no	yes	yes
K7 Personnel supply services	no	no	yes	yes
K8 Computer & data processing	no	no	yes	yes
K9 Detective agencies & guard services	no	no	yes	yes
K10 Motion picture production, distribution & services	no	yes	yes	yes
K11 Misc. Businesses	no	no	yes <sup>9</sup>	yes <sup>9</sup>
<b>L. MOTOR VEHICLE SERVICES</b>				
L1 Auto, bus, truck & trailer rental (no vehicle servicing allowed)	no	no	no <sup>39</sup>	no
L2 Commercial parking lots	yes <sup>31</sup>	yes <sup>31</sup>	yes <sup>31</sup>	yes <sup>31</sup>
L3 Mechanical repair shop	no <sup>40</sup>	no <sup>40</sup>	no	yes
L4 Auto body & paint shop	no	no	no	no
L5 Other auto services	no	no	no	no <sup>32</sup>
L6 Junk yard or similar	no	no	no	no
L7 Medical Services Appurtenant Parking	no	no	no	no
<b>M. MISCELLANEOUS REPAIR SERVICES</b>				
M1 Electrical repair (including refrigeration & air conditioning)	no	no	yes	yes
M2 (Deleted 12-11-07)				
M3 Reupholstery & furniture repair (*except no for paint stripping)	no	no	no	yes
M4 Misc. repair shops & related services	BA	no	BA	BA
<b>N. AMUSEMENT &amp; RECREATION SERVICES*</b>				
N1 Movie & drive-in theaters	BA <sup>33</sup>	BA <sup>33</sup>	BA <sup>33</sup>	BA <sup>33</sup>
N2 (Deleted 12-11-07)				
N3 Theatrical productions, including bands, orchestras & entertainers	yes	yes	yes	yes
N4 Bowling alleys & billiard establishments	no	no	yes	yes
N5 Professional sports establishments	no	no	yes	yes
N6 Public golf course	no	no	no	no

202.5 Use Regulation Table	VC 1	VC 2	VC 3	VC 4
N7 Coin-op amusement arcade	BA	BA	yes	yes
N8 Private sports & recreation club	BA	no	BA	BA
N9 Municipal recreation use	yes	yes	yes	yes
N10 Temporary (not to exceed 9 days) outdoor recreation	yes	yes	yes	yes
N11 Other miscellaneous amusement & recreation services	yes	no	yes <sup>34</sup>	yes
N12 Adult Entertainment Enterprises, pursuant to section 410 of this Bylaw	no	no	no	no
<b>O. PROFESSIONAL SERVICES</b>				
O1 Doctors & dentists offices	yes	yes	yes	yes
O2 Legal office	yes	yes	yes	yes
O3 Engineering & architectural office	yes	yes	yes	yes
O4 Accounting, auditing & book keeping office	yes	yes	yes	yes
O5 Management, consulting & public relations office	yes	yes	yes	yes
O6 Research & development office (except yes for medical purposes in the MOD)	yes	no	yes	yes
O7 Veterinary office (including kennel)	no	no	no	no
O8 Other professional office	BA	BA	BA	BA
<b>P. INSTITUTIONAL SERVICES</b>				
P1 Educational institutions	yes	yes	yes	yes
P2 Religious institutions	yes	yes	yes	yes
P3 Cemetery	no	no	no	no
P4 Hospital	no	no	no	no
P5 Nursing & personal care facility	no	no <sup>35</sup>	no	no <sup>35</sup>
P6 Social service facility	no	no	no	no
P7 Day Care Center	yes	yes	yes	yes
P7A Family Day Care Home	no	BA	no	no
P8 Non-profit private club, civic or fraternal organization	yes	yes	no	no
P9 Museum, art gallery, botanical or zoological garden	yes	BA	yes	yes
P10 Municipal use (Municipal Use may include installation and operation of Municipal Wind Energy Facilities)	yes	yes	yes	yes
<b>Q. ACCESSORY USE</b>				
Q1 Temporary construction trailer	yes	yes	yes	yes
Q2 Parking for more than 2 cars	yes	yes	yes	yes
Q3 Other accessory uses if customarily incidental to any of the above permitted uses and not detrimental to the neighborhood	yes	BA	yes	yes
Q4 Parking or storing of vehicles or trucks with 12 wheels or more or vehicles capable of hauling a unit of 12 wheels or over except for the purpose of constructing a home or structure or making a delivery or pickup	no	no	no	no
Q5 Neighborhood convenience store in PRD	no	no	no	no

10. Amend Section 202.5 FOOTNOTES: - to add the following new footnotes to Section 202.5 as shown:

- 28. Only allowed pursuant to the Housing Provisions in the VCOD as listed in Section 414.
- 29. Water Transportation is limited to establishments primarily engaged in providing water transportation of passengers such as water taxis.
- 30. Except "yes" for public wastewater treatment plant.
- 31. Includes "yes" for parking garage pursuant to the regulations set forth in Section 414.
- 32. Except "BA" for car wash facility. Said car wash facility shall meet the requirements of a drive-through as provided for in Section 414.
- 33. Except "no" for drive-in theaters.
- 34. Includes a water park allowed pursuant to regulations set forth in Section 414.
- 35. Except "PB" for Assisted Living Retirement Communities.
- 36. Except "BA" for boat sales and service.
- 37. Except "No" for fuel oil dealers.
- 38. Except "No" for dry cleaning establishments that perform cleaning on-site.
- 39. Except "BA" for car rental as an accessory use.
- 40. Except "BA" for boat repair services.
- 41. Except "Yes" for residences above commercial (top of shop).

11. Amend Section 203.3 Front Yard. – by deleting it in its entirety and replacing it with the following text as shown:

203.3 Front Yard. *Except for properties developing or redeveloping pursuant to Section 414, VCOD, no building need be set back more than thirty percent (30%) of the depth of the lot nor more than the average of the setbacks of the buildings on the lots next thereto on either side. A vacant lot or a lot occupied by a building set back more than the required front yard setback is counted as though occupied by a building at the setback line. This section does not apply to VCOD development.*

12. Amend Section 203.4.1 (*Building Height*) - by deleting the first paragraph in its entirety and replacing it with the following new text as shown:

203.4.1 *Unless otherwise indicated in this Bylaw, in all zoning districts, building height shall not exceed that which is outlined in Section 203.4.2 Table of Maximum Building Height. No building, except as outlined in Section 404 or in Section 414, shall contain more than three stories, except that the building height for motels that are not subject to the provisions of Section 404 or in Section 414 shall not exceed thirty (30) feet or contain more than two stories. In buildings intended solely for single-family residential use, a third story above grade may occur in a habitable attic. In no other buildings will a third story be allowed to be habitable, except in buildings to which Section 404 or Section 414 applies. Platforms, lofts and other structures constructed to provide a surface higher than the floor of the second story in any building except single-family residential buildings and buildings to which Section 404 or Section 414 applies, shall not be habitable.*



13. Amend Section 203.4.2 Table of Maximum Building Height - by adding a row to the beginning of the table as shown:

203.4.2 Table of Maximum Building Height

Structure	In FEMA Flood Zones A or V	On Upland with a Negative Slope (C)	On Upland with a Positive or Neutral slope (C)
<b><i>VCOD (all districts)</i></b>	<b><i>Per Section 414</i></b>		

14. Amend Section 203.5 Table of Dimensional Requirements (A) - by adding a row to the end of the table as shown:

<b><i>VCOD (all districts)</i></b>	<b><i>The Village Centers Overlay District (VCOD) overlays other districts and the dimensional requirements of Section 414 shall govern.</i></b>
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15. Amend Section 301.2 Applicability. (*Parking and Loading Requirements*) - by adding the text “*Except for projects developing or redeveloping under Section 414, VCOD,*” to the beginning of the first sentence as shown:

301.2 Applicability. *Except for projects developing or redeveloping under Section 414, VCOD, buildings, structures, and land uses . . . .”*

16. Amend Section 301.2 Applicability. (*Parking and Loading Requirements*) – by adding a second paragraph to the section as shown:

***Projects developing or redeveloping under Section 414, VCOD, are not subject to this Section 301. (Parking and Loading Requirements) and shall be regulated by Section 414.7. (Parking Requirements) for the VCOD and shall follow the procedures and requirements as set forth therein.***

17. Amend Section 302.2 by revising the first sentence by adding the text, “, *or in the VCOD,*” after the words, “B2, B1 or B3 zones” as shown:

302.2 In order to prevent dust, erosion, silting or other instability, and storm water diversion onto adjoining properties, no lot or portion of a lot containing a commercial or industrial use or located in the B2, B1 or B3 zones, ***or in the VCOD,*** may be cleared of vegetation without issuance of a clearing permit by the Building Inspector.

18. Amend Section 303.1 Goals and purposes (*Signs*) – by adding a second paragraph to Section 303.1 as shown:

***See Section 414.8.11 (Signage) for supplemental regulations specific to development under Section 414, VCOD.***

19. Amend Section 303.5 Signs Allowed Only in B1, B2 And B3 Zones - by re-titling the section to now add “*and the VCOD*” and adding the following text beneath the re-titled section as shown:

***303.5 Signs Allowed Only in B1, B2 And B3 Zones and the VCOD.***

***See Section 414.8.11 (Signage) for supplemental regulations specific to development under Section 414, VCOD.***

20. Amend Section 401.3 Commercial Outdoor Display. - by deleting it in its entirety and replacing it with the following text as shown:

*Except in the VCOD, the outdoor display of any of the following items for sale or rent, shall not be allowed at any commercial establishment in any district: clothing, household furnishings and all other items not intended for outdoor use. No outdoor displays are allowed to be placed in the required buffer zones of any commercial lot. **Outdoor display of retail goods in the VCOD shall only occur along the façade of those commercial or mixed use structures where the goods are sold, shall not be within a public right of way, and shall not occur outside of normal business hours.***

21. Amend Section 402.3 Applicability. - by adding a second paragraph to Section 402.3 as shown:

***Section 402 shall not be applicable to projects developing or redeveloping under Section 414, VCOD.***

22. Amend Section 408.7.5 Scenic Landscape and Vistas - by adding a paragraph “3.” to the Section with the following text as shown:

***3. Personal Wireless Service Facilities shall not be located within the Viewshed as designated and located in the VCOD.***

23. Amend Section 411.3 Applicability. (ROAD) - by deleting it in its entirety and replacing it with the following new text as shown:

***411.3 Applicability. The district shall be superimposed over that property or lots which are within the B1, B2, or B3 zoning districts south of Route 6. Projects developing or redeveloping under Section 414, VCOD, shall not be permitted to submit a proposal under the Revitalization Overlay Architectural District.***

24. Amend Section 412.1.2 Applicability. (Affordable Housing) - by adding the text, “414 Village Centers Overlay District,” to the first sentence after the words “404 Motels,” as shown:

***412.1.2 Applicability. This bylaw section is applicable to affordable housing units created in accordance with Bylaw sections 404 Motels, 414 Village Centers Overlay District, 412.2 Inclusionary Zoning, 412.5 Affordable Lots or by a Special Permit Granting Authority.***

25. Amend Section 412.2.2 Applicability. (Inclusionary Zoning) - by adding a paragraph numbered “4” under the second numbered paragraph of Section 412.2.2, under heading, “This bylaw section is not applicable to:” as shown:

***4. Assisted Living Retirement Communities as applicable under Section 414, VCOD, pursuant to Section 202.5 Use Regulation Table (Use P5) and defined in Section 500.***

26. Amend Section 412.2.4 Bonus Density. (Inclusionary Zoning) – by revising the first sentence as shown:

***412.2.4 Bonus Density. Except for cluster subdivision as outlined in Sec 402 of this Bylaw, and for projects developing under VCOD regulations of this bylaw, a bonus density shall be allowed, provided the affordable housing units are restricted in perpetuity.***

27. Amend Section 413.3.7.2.3. Scenic Landscape and Vistas. - by adding a paragraph “3.” with the following new text:

***3. Wind Energy Facilities shall not be located within the Viewshed as designated and located in the VCOD.***

28. Amend Section 500. Definitions. - by adding the following new definitions:

**ASSISTED LIVING RETIREMENT COMMUNITIES** – As allowed for in the VCOD, a town operated, state or federally aided housing development, or self-contained retirement community, which consists of multi-family dwellings designed and reserved specifically to accommodate the semi-independent elderly population. Such multi-family housing shall include group facilities for dining, food preparation, and social interaction. Elderly shall mean those persons aged fifty-nine (59) or older. Assisted Living Retirement Communities shall be made up of (1) or two (2) bedroom units. Such units shall be designed to accommodate one (1) or two (2) elderly persons. Aside from the bedroom(s) and bath(s), the unit may have, but is not required to have, a small kitchen and/or small living room. Assisted Living Retirement Communities shall have no more than twenty percent (20%) two (2) bedroom units. Units developed under Assisted Living Retirement Communities shall not be subject to Section 412.2, Inclusionary Zoning.

**COMMERCIAL TENANT** - For the purposes of the VCOD bylaw, meaning an individual business, corporation, owner or tenant.

**INDOOR WATER PARK** - A commercial recreational facility, enclosed by walls and a roof, engaged in activities including but not limited to facilities for aquatic recreation, such as water slides, swimming pools, splash pads, water playgrounds, and other recreational water activities.

**VIEWSHED** - An area that is aesthetically and/or culturally valuable due to its visual significance and is visible from public roads.

29. Amend the Zoning Bylaw by adding the following new Section 414:

**414. VILLAGE CENTERS OVERLAY DISTRICT (VCOD)**

**414.1 Purpose.** The purpose of the Village Centers Overlay District (VCOD) is to guide and encourage growth and redevelopment to areas with significant opportunities for infrastructure in order to preserve and revitalize the Town of Yarmouth's natural, cultural and economic resources, while supporting sustainable development that enhances and improves the community's character and sense of place. The district will provide incentives for economic development that will promote year round tourism and employment while requiring strict design standards including compliance with the Yarmouth Architectural and Site Design Standards as adopted and amended by the Planning Board.

The district will establish a series of contiguous but distinctive mixed use village centers that will create both a destination for tourists and a neighborhood for residents and business owners. Site and building design will encourage pedestrian and bicycle traffic by:

- reducing the number of curb cuts,
- providing walkable connections between properties,
- incorporating centralized parking facilities,
- allowing shared parking,
- encouraging public transportation facilities, and bike paths; and
- requiring sidewalks, and attractive lighting and streetscape design reflective of Yarmouth's community character.

414.1.1 Villages in the Overlay District - The Village Centers Overlay District has been divided into four (4) distinct classes of districts:

1. Village Center 1 (VC1) – The purpose of VC1 is to encourage development and redevelopment that will enhance the character of Parker's River, promote public recreational activities and create a mix of uses in a village setting that encourages pedestrian activity.
2. Village Center 2 (VC2) – The purpose of VC2 is to encourage development and redevelopment that focuses on residential uses with a mix of compatible, smaller commercial uses that will encourage people to live, work and shop in the district to promote a walk-able, livable neighborhood.
3. Village Center 3 (VC3) – The purpose of VC3 is to create opportunities for economic development that will provide year-round family-oriented activities that are appealing to residents and visitors, and create jobs for local residents.
4. Village Center 4 (VC4) – The purpose of VC4 is to encourage opportunities for economic development and redevelopment that focuses primarily on commercial uses that support year-round residents and provide year-round companion commercial businesses and accommodations to enhance the family-oriented activities area of VC3.

**414.2 Applicability.** The provisions of this subsection shall apply to those properties or lots which are located within the Village Centers Overlay District as shown on the map entitled "Zoning Map of the Town of Yarmouth," as most recently amended.

414.2.1 Overlay. The VCOD shall be construed as overlaying other existing zoning districts. The VCOD confers additional development opportunities that may be pursued at the discretion of the property owner and through the permit processes described herein. VCOD provisions may be voluntary or required in accordance with the following conditions:

1. Where a site has not been previously reviewed and developed under the VCOD provisions, development may occur in accordance with the underlying zoning or the VCOD and submittal for VCOD development applications shall be voluntary.
2. Where development activity for a given site was reviewed and approved as part of VCOD provisions, but a building permit has not been issued by the Town of Yarmouth, future review for development applications on the site may either be under the VCOD provisions or those of the underlying district.
3. Where development activity for a given site has been reviewed and approved as part of the VCOD provisions, and a building permit has been issued by the Town of Yarmouth, any future development applications shall be reviewed in accordance with the procedures and standards of the VCOD.

414.2.2 Conflicts. If the applicant chooses development under this Section 414, and where conflicts exist between this Section 414 and the rest of the Town of Yarmouth Zoning Bylaw, this Section 414 and regulations specifically referencing the VCOD shall apply.

414.2.3 Motels/Hotels. Motels and Hotels that are located within the VCOD and also located within and meet the applicability of Section 404.1 (Hotel/Motel Overlay District 1 (HMOD1)), may opt for development under Section 404.1 (HMOD1) or this Section 414.

414.2.4 ROAD Applicability. Development pursued under this Section 414 shall not be permitted to submit a proposal under the Revitalization Overlay Architectural District (ROAD) under Section 411 (ROAD).

414.2.5 Severability. The provisions of this Section 414 and other sections relating to the VCOD and classes of districts therein are severable and, in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

**414.3 Permit Review Thresholds** The following permit thresholds shall be used to determine which permit process is required for any proposed VCOD development.

414.3.1 Building Commissioner Review. Applications for as-of-right VCOD development with the following characteristics shall be reviewed by the Building Commissioner.

1. The proposal would create less than 1,000 square feet of new or reconfigured floor area;  
or
2. The proposal would create or require fewer than five (5) new or additional parking spaces.

414.3.2 VCOD Site Plan Review. Applications for as-of-right development that exceed the thresholds for Building Commissioner review shall be reviewed by the Planning Board in accordance with the procedures and requirements listed in Section XVI of the Operational Regulations of the Yarmouth Planning Board. The Building Commissioner shall not issue a building permit without Planning Board Site Plan Review. No application for Special Permit under Section 414 may be filed prior to completion of the Planning Board Site Plan Review process. Any appeal of Planning Board Decision on Site Plan Review shall be made to the Zoning Board of Appeals.

414.3.3 Special Permits. The Board of Appeals shall be the Special Permit Granting Authority (SPGA) for all districts within the VCOD except where otherwise specifically noted. All application materials customarily prepared for VCOD Site Plan Review shall be submitted to the SPGA. The SPGA shall consider the following criteria when acting on a Special Permit application and may use these criteria to approve, approve with conditions, or deny said application:

1. Where applicable, the Planning Board Site Plan Review Decision;
2. The development provides for or supports Mixed Use development, where appropriate;
3. The development maintains or improves pedestrian access and outdoor public spaces;
4. The development provides for open space;
5. The development uses low impact design techniques to mitigate hydrologic impacts consistent with any applicable town standards for erosion and sediments control, soil protection, and stormwater management;
6. The development eliminates or minimizes curb cuts on Route 28;
7. The development provides for or contributes to alternative transportation or travel demand management;
8. Any relief granted in yard setback requirements creates a better alignment of buildings, improves the design of the building façade, or where necessary better accommodates shop entrances, plazas, sidewalk cafes, and pocket parks;
9. Any relief granted in yard setback requirements creates a safe and visually attractive walkable access/egress to parking areas;
10. The relief granted in yard setback requirements will not create significant interruption of the alignment of any sidewalk constructed on public or private property or will not otherwise interfere with pedestrian access;
11. The development provides for public access to Swan Pond, Parker's River, or public walkways and/or boardwalks;

12. The proposed development preserves significant viewshed to the Parkers River through site design and building scale and placement;
13. No undue nuisance, hazard or congestion will be created and there will be no substantial harm to the established or future character of the neighborhood or town;
14. The granting of a Special Permit would be consistent with the purpose of this Section 414;
15. The granting of a Special Permit would not decrease the degree to which the proposed development is consistent with the Yarmouth Architectural and Site Design Standards as adopted and amended; and
16. The granting of a Special Permit does not cause any violation of the Design Standards provided in Section 414.8.

Additionally, the SPGA shall follow other applicable criteria and procedures as set forth under the specific section of the Yarmouth Zoning Bylaw for which a Special Permit is being sought.

#### **414.4 Non-Conforming Structures, Uses & Lots.**

Lawfully pre-existing non-conforming structures; lawfully pre-existing non-conforming lots; and lawfully pre-existing non-conforming uses, may be continued, but shall not be extended or altered except as allowed for in the provisions stated herein:

##### **414.4.1 Non-Conforming Lots:**

414.4.1.1 Lawfully pre-existing structures; other than single-family or two-family structures which are provided for in 414.4.4 below; located on lawfully pre-existing non-conforming lots that are rendered dimensionally non-conforming by the minimum lot area or minimum lot frontage, may be extended, altered, or razed and replaced *by right* provided that:

- (a) the resulting development, in its whole, complies with all other applicable provisions of this Section 414, including bringing any existing structural non-conformity into conformity. Acquiring a special permit for any structural relief shall constitute structural conformity; and
- (b) the lot, at the time of recording or endorsement, whichever occurred sooner, conformed to the then existing lot area and frontage requirements; and
- (c) the lot has at least eight thousand five hundred (8,500) square feet of area and fifty (50) feet of frontage; and
- (d) the lot is not held in common ownership with any other contiguous lot, or was not held in common ownership with any other contiguous lot at the time of, or since, the effective date of the increased requirements.

If a Special Permit is required pursuant to other applicable provisions of this bylaw other than for minimum lot area or minimum lot frontage; then relief from minimum lot area or minimum lot frontage shall not be an element of the Special Permit application provided that the above (a) through (d) requirements are met. No variances are required if a Special Permit is obtained.

414.4.1.2 Single family and two-family structures on lawfully pre-existing non-conforming lots may be developed in accordance with Section 104.3.2(1) and 104.3.2(2) and shall not be developed under the VCOD Bylaw.

414.4.1.3 Lots which do not conform to the dimensional requirements of this bylaw, as amended, shall not be individually built upon unless combined and/or re-subdivided so as to meet the revised dimensional requirements except as provided for in this Section 414.4 or as provided for in Section 104.3.4 of this bylaw.

414.4.1.4 Other Adjoining Non-conforming Lots. Lots which do not meet the exception of this Section 414.4 or Section 104.3.4, may be combined and/or re-subdivided pursuant to Section 104.3.5.

414.4.2 Non-Conforming Uses: Lawfully pre-existing non-conforming uses sited in lawfully conforming or lawfully pre-existing non-conforming structures may be continued but may not be extended or altered except as allowed for in the provisions as stated herein.

414.4.2.1 Abandonment. A non-conforming use which has been abandoned or discontinued for the period of two (2) years or more, from the date of adoption of this Section 414 bylaw shall not be reestablished under VCOD regulations, and any future use shall conform with this bylaw.

414.4.2.2 The change of a nonconforming use to another nonconforming use is prohibited in the VCOD.

414.4.2.3 The Building Commissioner shall decide whether uses are lawfully conforming or lawfully, pre-existing non-conforming.

414.4.2.4 Lawfully pre-existing non-conforming uses; (except a non-conforming use due to Maximum Commercial Tenant Size which follows the provisions as set forth in Section 414.4.3. below); sited in lawfully conforming or lawfully pre-existing non-conforming structures, may be extended, or altered, *by right*, if the following requirements are met:

- (a) the resulting development, in its whole, complies with all applicable provisions of this Section 414, including bringing any existing structural non-conformity into conformity. Acquiring a special permit for any structural relief shall constitute structural conformity; and
- (b) the lawfully pre-existing non-conforming use is a permitted use in the underlying zoning district in which the property is located; and
- (c) there is no change of use to a non-conforming use of the VCOD.

If a Special Permit is required pursuant to other applicable provisions of this bylaw other than the lawfully pre-existing non-conforming use; then relief from the non-conforming use shall not be an element of the Special Permit application provided that the above (a) through (c) requirements are met. No variances are required if a Special Permit is obtained.

414.4.3 Maximum Commercial Tenant Size. A non-conforming use based solely on a Maximum Commercial Tenant Size non-conformity, located on a lawfully conforming lot or a lawfully pre-existing non-conforming lot, may alter, extend, or raze and replace the structure housing the non-conforming Maximum Commercial Tenant Size use *by-right* if the following requirements are met:

- (a) the resulting development, in its whole, complies with all other applicable provisions of this Section 414, including bringing any existing structural non-conformity into conformity, other than Maximum Commercial Tenant Size use. Acquiring a special permit for any structural relief shall constitute structural conformity; and
- (b) the current tenant size unit may be decreased, but not increased; and
- (c) the existing use housed in the non-conforming tenant size unit is a permitted use either in the VCOD or in the underlying zoning district as provided for in the Table of Uses in Section 202.5 and

If a Special Permit is required pursuant to other applicable provisions of this bylaw other than the lawfully pre-existing non-conforming use of Maximum Commercial Tenant Size; then relief from the non-conforming Maximum Commercial Tenant Size shall not be an element of the Special Permit application provided that the above (a) through (d) requirements are met.

**414.4.4 Change, Extension or Alteration of Single and Two-Family Structures:**

Lawfully pre-existing non-conforming single- and two-family structures, and lawfully pre-existing single-family and two-family structures located on non-conforming lots, may be altered, extended or razed and replaced in conformance with Section 104.3.2(1) and 104.3.2(2) and shall not be developed under the VCOD Bylaw.

**414.4.5 Restoration.** Repairs and rebuilding shall be pursuant to Section 104.3.3 of this bylaw.

**414.5 Allowed Uses.** Allowed uses within the VCOD are referenced in Section 202.5, Use Regulation Table of this bylaw. The provisions of Section 202, Use Regulations, in its entirety, shall apply to all development within the VCOD. No use variances will be allowed in the VCOD.

**414.5.1 Additional Use Regulations.** The following additional regulations on use shall apply within the VCOD and districts therein.

1. **Mixed Use.** In keeping with the purpose of the VCOD, mixed use is not only allowed but encouraged with the following provisions:
  - a. The residential component of any Mixed Use development shall encompass between 40% and 70% of the Gross Floor Area of the development.
  - b. In VC1, 3 and 4, non-transient residential use (dwelling units) shall not be allowed on the ground floor of properties that have their frontage on Route 28.
  - c. In VC1, 3 and 4 non-transient residential use (dwelling units) shall not be allowed on the ground floor of properties that have their frontage on a public way that existed prior to October 22, 2012, other than Route 28, unless a Special Permit is granted by the Board of Appeals.
  - d. No commercial uses shall be allowed above a Residential Dwelling Unit.
2. **Maximum Commercial Tenant Size.** Within the VC1, there shall be a Maximum Commercial Tenant Size of 5,000 square feet calculated as Tenant Floor Area, as defined below, for each individual commercial use. Where an individual structure contains more than one tenant, these tenants shall be counted separately.

**Tenant Floor Area:** Tenant Floor Area to determine the maximum tenant size shall be calculated as follows:

For an individual commercial tenant, the sum of the area of all stories within the perimeter of a unit measured from the exterior face of the outside walls, or centerline of shared walls with no deductions for accessory unoccupied areas such as hallways, stairs, closets, thickness of walls, columns or other such features. Basements, mezzanines, attics, and crawl spaces used for storage and not designed for human occupancy shall not count towards Tenant Floor Area. Outdoor areas used for terraces, patios, uncovered decks, stoops, storage, sales, service, and display shall also be excluded from determining Tenant Floor Area. The Building Commissioner shall determine the Tenant Floor Area of any unit or structure.



3. Wastewater facilities. Public and private wastewater treatment facilities, including those shared by multiple property owners, shall be considered an accessory use to all uses served by said facility.
4. Parking Garages. Parking garages, including underground parking garages, public parking garages as a primary use, and parking garages as an accessory use to a commercial use are allowed in the VCOD pursuant to Section 414.7.8(4) (Parking Garages/Structures).

414.5.2 Housing Provisions in the VCOD. The following housing provisions shall apply in the VCOD. Hotel / Motel conversions redeveloping or converting under Section 404.1 (HMOD1) of the bylaw are not subject to these provisions and shall be subject to the provisions as set forth in Section 404.1 (HMOD1).

1. Maximum Residential Density. Residential dwelling unit density in each district of the VCOD shall be as provided for in Section 414.6.3(1) – Table of Dimensional Requirements.
2. Unit Size. All residential dwelling units constructed under the provisions of this Section 414 shall consist of the following minimum square footage:
  - a. 400 square feet for a studio unit.
  - b. 700 square feet for a one-bedroom unit.
  - c. 900 square feet for a two-bedroom unit.
  - d. 1,200 square feet for three or more bedroom units.

Studio Unit Limit: The number of studio units allowed in a development shall be limited to less than, or equal to, twenty-five (25%) of the total number of residential units in the development.

3. Inclusionary Housing: The provisions of Section 412 (Affordable Housing) of the bylaw including the provisions of inclusionary housing therein shall fully apply for VC1, VC3, and VC4. The provisions of Section 412 shall fully apply in VC2 for projects developing less than 30 residential dwelling units. The provisions of Section 412 shall not apply in VC2 for projects developing 30 or more residential dwelling units for a period of 5-years from the passing of this Bylaw. After the end of the 5-year exclusionary period (October 22, 2017), the number of affordable housing units required shall be reduced by 50% from those outlined in Section 412.2.3 only in VC2 for projects developing 30 or more residential dwelling units. Applicants must have completed the VCOD Site Plan Review process and the Planning Board Decision issued within the 5-year period to be eligible for the exclusion. Any approval by the Planning Board for Site Plan Review will expire 2 years after the Decision has been issued. A project proponent may renew the approval by majority vote of the Planning Board anytime within the 2 year period. It is strongly recommended that project proponents give notice to the Planning Board of their desire to extend the approval at least 60-days before the expiration date. No Planning Board Site Plan Review Decision may be extended to a date beyond October 22, 2019.

#### **414.6 Intensity of Use Regulations**

414.6.1 Building Height. Building height in the VCOD shall not exceed that which is outlined in the Table of Maximum Building Height below.

1. Table of Maximum Building Height within the VCOD

	VC1(B)	VC2(B)	VC3(B)	VC4(B)
0 – 50 feet from all lot lines	35 feet 3 stories	35 feet 3 stories	35 feet 3 stories	35 feet 3 stories
Beyond 50 feet from all lot lines	35 feet (A) 3 stories	48 feet 4 stories	48 feet 4 stories	48 feet 4 stories

- (A) Accessory uses associated with the marina may extend to 48 feet in height where these uses are enclosed and situated at least 50 feet from the district boundary.
- (B) Height shall be measured from the existing average natural grade at the street side of the foundation. No lot may be filled to a height greater than 4', as measured from natural grade at the street. If the building is located in a FEMA Flood Zone A, height shall be measured from 1 foot above Base Flood Elevation (BFE). If located in a FEMA Flood Zone V, height shall be measured from the top of the "freeboard", as defined in the Massachusetts Building Code 780 CMR (as amended).

414.6.2 Indoor Water Park. In VC3, a height of 65 feet is allowed for the specific use of an Indoor Water Park. This height of 65 feet is allowed for the indoor water slide component of the Indoor Water Park being necessary for the proper use and function of the water slide. If the Indoor Water Park includes an attached hotel and hotel amenities complex, the height of 65 feet shall also be allowed for the attached hotel complex; being necessary for the proper economic viability and aesthetic integration of the Indoor Water Park and hotel complex.

This 65 feet maximum height is allowed only for location within the property being 350 feet or more from the front lot line and being 100 feet or more from all other lot lines. For the remaining portions of the site, other than the Indoor Water Park and hotel complex, if applicable, the requirements as set forth in the Table of Maximum Building Height above shall apply.

414.6.3 Table of Dimensional Requirements. All buildings and structures within the VCOD shall meet the minimum requirements set forth in the following Table of Dimensional Requirements unless otherwise expressly provided for within this bylaw or by G.L. ch. 40A, sec. 6, as amended.

1. Table of Dimensional Requirements.

	VC1	VC2	VC3	VC4
Lot Size Minimum: (A)	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.
Frontage Minimum:	125 ft.	125 feet	125 feet	125 feet
Yard Setbacks: (B) (C) (D)				
• Front Yard Setback Minimum: (E) (F)	10 ft.	30 ft.	10 ft.	10 ft.
• Front Yard Setback Maximum: (G)	15 ft.	n/a	25 ft.	25 ft.
• Side Yard Setback: (H) (I)	at zero (0) ft. <i>or</i> 15 ft. minimum	25 ft.	at zero (0) ft. <i>or</i> 15 ft. minimum	at zero (0) ft. <i>or</i> 15 ft. minimum
• Rear Yard Setback Minimum: (I)	20 ft.	20 ft.	20 ft.	20 ft.
Impervious Coverage Maximum: (J)	<ul style="list-style-type: none"> <li>• 90% for lots less than ½ acre;</li> <li>• 85% for lots ½-1 acre;</li> <li>• 80% for lots greater than 1 acre</li> </ul>	80%	85%	80%
Maximum Commercial Tenant Size:	See Section 414.5.1(2)	NA		
Maximum Residential Density (K) (L) (M)				
• Residential development only	8 units/ acre	16 units/ acre (N)	8 units/ acre	8 units/acre
• Mixed Use development (as part of)	16 units/ acre	16 units/ acre (N)	16 units/ acre	16 units/acre

Footnotes:

- A. One hundred percent (100%) of the minimum lot size required must be upland (i.e., not a bank, beach, bog, dune, marsh, swamp or wet meadow under M.G.L. ch. 131, sec. 40).
- B. The following are specifically excluded from these regulations:
  - 1. Fences, decorative walls, poles, posts, paving and other customary yard accessories, ornaments and furniture, ramps, landings and similar structures needed for compliance with the Americans with Disabilities Act.
  - 2. Cornices, window sills, belt courses and other ornamental features may project not more than eighteen (18) inches; bay/bow windows, greenhouse windows and eaves may project not more than twenty four (24) inches, and chimneys may project not more than thirty two (32) inches into any required yard.
  - 3. Any stairway and associated landing may project into a required yard setback if it is less than thirty (30) inches in height.
- C. Side and rear yard setbacks for accessory buildings less than one hundred fifty (150) square feet and single story shall be six (6) feet in all districts, but in no case built closer than twelve (12) feet to any other building.
- D. For an Indoor Water Park, any tube slides protruding from a wall or roof shall be included and shall comply with the yard setback regulations.
- E. Any building located within 100 feet of the intersection of Parker's River and Route 28 shall be set back from Route 28 a minimum of 30 feet.
- F. The front setback minimum provided in this table is applicable only to those properties that have their frontage on Route 28 or on a public way that existed prior to October 22, 2012. Front yard setbacks are required along Route 28 to ensure a contiguous broad line of passage for pedestrians and/or bicyclists along the corridor. For lots with frontage on interior roads (not on Route 28 or on a public way that existed prior to October 22, 2012) the minimum front yard setback shall be zero provided all standards for pedestrian and bicycle circulation are met.
- G. A minimum of 75% of the building façade shall comply with the maximum setback requirements. Up to 25% of the façade may be recessed up to thirty (30) feet farther from the maximum front yard setback to accommodate alcoves for seating areas, public art, display areas or fountains.
- H. For those districts where an absolute at zero (0) side setback is allowed, this zero (0) side setback will be allowed only upon an agreement with an abutting property owner is entered into wherein the abutting property owner, and the developing parcel owner, shall (re)develop at an absolute zero (0) side setback on said side thereby creating an adjoining building to visually reinforce a building façade line of the street. Said agreement shall include provisions and plans for access and egress to any individual and/or shared parking areas. Said agreement shall be presented with site development plans at the time of applying for Site Plan Review, and/or Design Review and/or Special Permit relief.

If a proposal does not meet the above requirements for developing at a side setback of an absolute zero (0), then the side setback requirement shall be at the fifteen (15) foot minimum where the building frontage is on a public way that existed prior to the adoption of this Section 414 (October 22, 2012). For buildings that front on interior drives or roads created under this Section 414, side yard setbacks may be smaller than fifteen (15) feet but shall not result in separated buildings being closer together than

- I. Where the side or rear yard setback is applied to a structure that is adjacent to a residential district, the setback shall be in accordance with the value in the table or equal to the height of the structure, whichever is greater.
- J. Impervious surface calculations shall include the developed footprint of impervious surfaces (structures, pavement, etc.) including any unpaved parking areas. Pervious paving shall be counted as impervious in lot impervious coverage calculations. Impervious Coverage maximum shall be calculated based on the upland.
- K. Under the provisions and requirements as set forth in Section 414.5.2. In calculating the number of residential dwelling units permitted, the calculation shall be based on upland only. Any fractional units shall be rounded to the nearest whole number.
- L. Residential Density is calculated in addition to the commercial development of a mixed use development.
- M. Residential density limits apply to residential dwelling units, not to hotel, motel or other transient residential uses.
- N. Density may be increased to 20 units/acre for lots with 100,000 square feet or more of upland.

**414.6.4 Dimensional Relief:** Within the VCOD, the SPGA may provide relief from minimum lot size, minimum lot frontage, minimum front yard setback, maximum front yard setback, minimum yard side setback, minimum rear yard setback, and maximum impervious coverage. The SPGA shall consider the criteria listed under Section 414.3.3 (Special Permits) when reviewing any Special Permit application for dimensional relief. No dimensional variances are required if dimensional relief is provided through a Special Permit.

**414.6.5 Signs:** No sign shall be erected nor maintained except as specifically allowed in Section 303 of the Town of Yarmouth Bylaw and in compliance with Section 414.8.11 (Signage).

#### **414.7. – Parking Requirements**

##### **414.7.1 – Table of On-Site Parking Requirements**

The following table shall apply to development proposals. Where on-street parking exists or is proposed along the lot line of any use, all spaces along that lot line shall be counted.

Use (1)	Use Table Code (1)	Minimum Parking Spaces Required (2, 3)	Maximum Allowable Parking Spaces (3)
Residential	A1, A2	1 space/unit	2 spaces/unit
	A5-A7	1 space/unit	1.2 spaces/unit
	A11, A12	1 space/unit	1.5 spaces/unit
Retail Trade	H10 (5)	1 space/3 occupants (4)	1 space/3 occupants (4)
	H1-H9; H11	1 space per 700 square feet of floor area	1 space per 350 square feet of floor area
Finance, Insurance, and Real Estate	I1-I5	1 space per 700 square feet of floor area	1 space per 200 square feet of floor area
Personal Services	J1-J5	1 space/4 occupants (4)	1 space/3 occupants (4)
Business Services	K1-K10	1 space per 1,000 square feet of floor area	1 space per 300 square feet of floor area
Motor Vehicle Services	L1, L3	1 space per 1,000 square feet of floor area	1 space per 300 square feet of floor area

Services		feet of floor area	feet of floor area
Amusement and Recreation Services	N1-N12	1 space/4 occupants (4)	1 space/3 occupants (4)
Professional Services	O1	1 space/3 occupants (4)	1 space/2 occupants (4)
	O2-O6	1 space per 500 square feet of floor area	1 space per 250 square feet of floor area
Institutional Services	P1-P10(6)	As determined to be adequate by the Building Commissioner on advice by the Site Plan Review Team.	NA
Other (incl. uses N6, 9, 11 & uses not elsewhere classified)		As determined to be adequate by the Building Commissioner on advice by the Site Plan Review Team.	As determined to be adequate by the Building Commissioner on advice by the Site Plan Review Team.

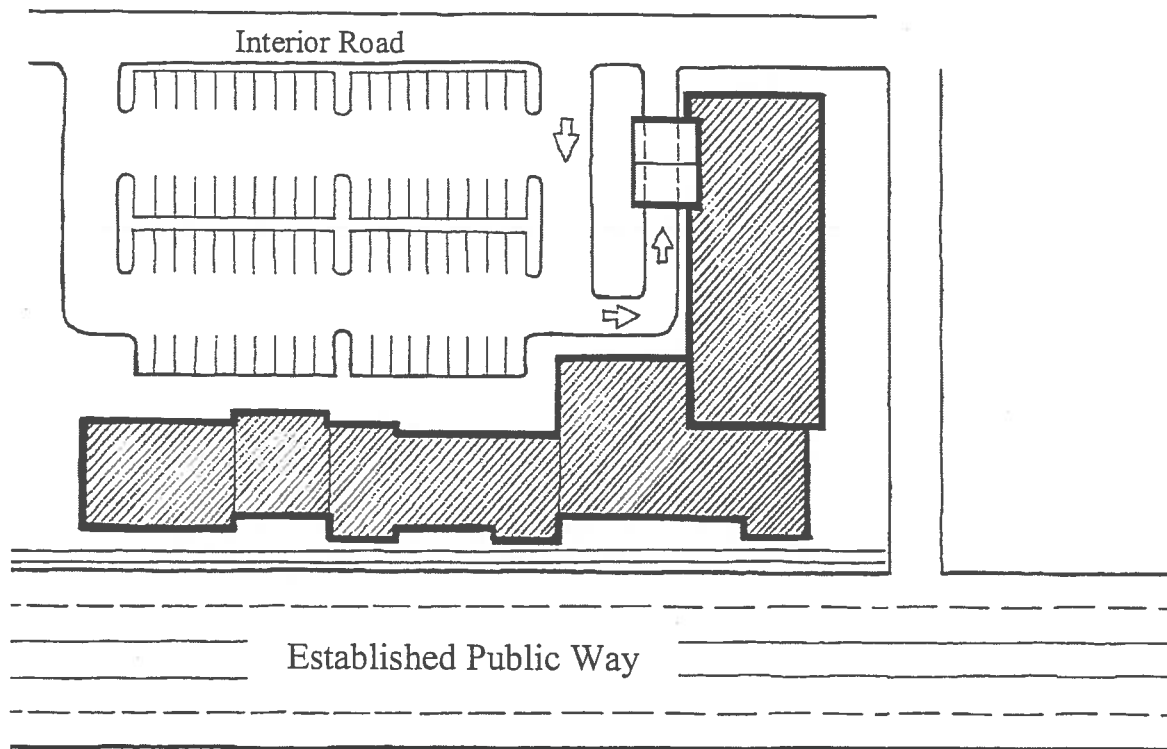
Notes:

1. As listed in Section 202.5 Use Regulation Schedule.
2. Where a development proposal shows that a lot will only contain one structure, the proposal must demonstrate that the minimum amount of required parking shall be provided on-site.
3. Where parking spaces are based on occupancy, occupancy loads shall be tabulated in accordance with Massachusetts Building Code.
4. In cases where planned occupancy is to be below allowable occupancy, parking spaces may be constructed at a reduced number provided that the lot shall be capable of expansion to the spaces required in the table above. When the occupancy load of a building increases, the additional required spaces shall be constructed or identified.
5. Parking requirements for outside restaurant seating shall be calculated in the same manner as those for inside restaurant seating.
6. Parking for Day Care Centers: one parking space for every 8 children allowed at the facility, based on the maximum permitted occupancy, is required, plus 1 space for every 3 full-time employees.

414.7.2 Loading Requirements. Adequate off-street loading facilities and space must be provided to service all regular needs created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Facilities shall be so sized and arranged that no vehicles need regularly back onto a public way or be parked on a public way while loading, unloading or waiting to do so.

414.7.3 Drive-through Facilities: Businesses utilizing drive-through facilities must provide stacking lanes pursuant to Section 301.8. Drive-through service windows shall only be located on the side or in the rear of properties which are internal to the block or accessible from an alley. An acceptable configuration example is shown in Figure 1 below.

Figure 1. Example of acceptable drive-through configuration.



414.7.4 Shared Parking for Non-Residential Uses. Where an applicant cannot meet the minimum parking requirements on-site pursuant to Section 414.7.1 (Table of On-Site Parking Requirements), the applicant may present evidence to the Planning Board as part of Site Plan Review that the configuration of uses and parking areas will be adequate based on a shared parking analysis. While residential use may share parking as part of a mixed use development, reduction in parking spaces for residential use on-site shall not be allowed. Evidence that shared parking areas will be adequate for more than one non-residential use shall be in the form of calculations that show acceptable reductions based upon whether different uses compete for the same parking area as part of daily operations.

1. For Two Non-Residential Uses Sharing Parking Areas:

- (a) Where peak parking demands for two non-residential uses overlap, the aggregate parking space requirement between those uses may be reduced by up to thirty (30) percent.
- (b) Where peak parking demands for two non-residential uses do not overlap, the aggregate parking space requirement may be served exclusively by the higher parking demand associated with an individual use.

*Sample Calculations for Parking Areas Serving Two Non-Residential Uses*

Competing Uses

1. Baseline Parking Demand Determination		
Use	Building Size/Occupancy	Minimum Demand
Bank	3,000 square feet	4 spaces
Doctor's Office Building	6,000 square feet	24 spaces*
Aggregate Parking Demand		28 spaces
2. Reduction		
30% Reduction		20 spaces

## Non-Competing Uses

<b>1. Baseline Parking Demand Determination</b>		
Use	Building Size/Occupancy	Minimum Demand
Doctor's Office Building	6,000 square feet	24 spaces*
Restaurant (dinner service only)	120 occupancy	40 spaces
Aggregate Parking Demand		64 spaces
<b>2. Reduction</b>		
Larger Individual Demand		<b>40 spaces</b>

\*Based on assumed occupancy rate.

### 2. For More than Two Non-Residential Uses:

- (a) Where a proposed development would contain more than two non-residential uses and the applicant wishes to use shared parking to meet the minimum requirements of Section 414.7.1 (Table of On-Site Parking Requirements), the applicant shall first determine reductions for those uses with competing peak demands in accordance with the methodology in Section 414.7.4(1) (Shared Parking).
- (b) The result of competing peak demand calculations shall then be compared to determine which set of competing demands shall be used to provide the overall parking space count. For example, daytime demands may exceed nighttime demands and, in that case, the daytime demand would serve as the overall parking demand for that site.

### *Sample Calculations for Parking Areas Serving More than Two Non-Residential Uses*

#### Sample Mixed Use Plaza Profile:

- Medical Office (10,000 square feet)
- Grocery Store (14,000 square feet)
- Retail, Daytime (5,000 square feet)
- Restaurant, Dinner Only (90 occupants)
- Restaurant, Lunch and Dinner (60 occupants)
- Bank (5,000 square feet)

#### Step 1: Competing Uses (Daytime)

<b>1. Baseline Parking Demand Determination (Daytime Peak)</b>		
Use	Building Size/Occupancy	Minimum Demand
Medical Office	10,000 square feet	42 spaces*
Grocery Store	14,000 square feet	20 spaces
Retail, Daytime	5,000 square feet	7 spaces
Restaurant, Lunch and Dinner	60 occupants	20 spaces
Bank	5,000 square feet	7 spaces
Baseline Parking Demand		96 spaces
<b>2. Reduction Comparison (Daytime Peak)</b>		
30% Reduction		<b>67 spaces</b>

\*Based on assumed occupancy rate.



## Step 2: Competing Uses (Nighttime)

<b>1. Baseline Parking Demand Determination (Daytime Peak)</b>		
Use	Building Size/Occupancy	Minimum Demand
Restaurant, Lunch and Dinner	60 occupants	20 spaces
Restaurant, Dinner Only	90 occupants	30 spaces
Grocery Store	14,000 square feet	20 spaces
Baseline Parking Demand		70 spaces
<b>2. Reduction Comparison (Nighttime Peak)</b>		
30% Reduction		49 spaces

## Step 3: Non-Competing Uses (Nighttime vs. Daytime)

Daytime Demand	<b>67 Spaces (larger demand is chosen)</b>
Nighttime Demand	49 Spaces

**414.7.5 Off-Site Parking for Residential or Non-residential Use.** Where an applicant cannot meet the minimum parking requirements on-site pursuant to Section 414.7.1 (Table of On-Site Parking Requirements), the applicant may present evidence to the Planning Board as part of Site Plan Review that supplementary parking in the amount required to meet or exceed the minimum standard will be provided off-site. The Planning Board may approve off-site provision of up to 100% of the required on-site parking provided the following conditions are met:

1. Any parking required to meet the provisions of the Americans with Disabilities Act is provided on-site.
2. At least one parking space with a width of ten (10) feet shall be provided in close proximity to the primary structure to allow for loading and unloading of goods, people, and/or deliveries. Additional such parking spaces may be required on-site depending on the size and use of the development.
3. The off-site parking area shall be within 500 feet walking distance from the building which it will serve. The distance between the off-site parking and the building it is intended to serve shall be measured along an established pedestrian route from the nearest edge of the building to the nearest edge of a parking space. The pedestrian route shall be well-finished, safe, and unobstructed.
4. Where off-site parking is proposed, applicants shall provide a signed agreement between the property owners clearly stating the terms of the agreement to allow for parking access. Where the agreement may have an expiration date, failure to renew or to provide other acceptable arrangements shall place the subject property in non-conformity with regard to parking requirements.

**414.7.6 Bicycle Parking Requirements.** Bicycle parking facilities shall be provided along the front or side edge of each primary structure or within subsurface parking facilities. These may include bicycle racks or dedicated bicycle parking areas that have racks or other structures designed for securing bicycles. Four bicycle spaces shall be provided at a minimum for each primary structure, with an additional space for every ten (10) automobile parking spaces required.

**414.7.7 Exceeding the Parking Maximum.** An applicant who wishes to provide more parking than the maximum allowable standard in Section 414.7 (Parking Requirements) on-site may do so in accordance with the following:

1. Exceeding the maximum may occur by-right through the provision of underground parking or through the use of structured elevated parking.
2. Exceeding the maximum may be allowed by the Building Commissioner upon

that special circumstances render a larger maximum provision necessary for typical parking needs.

3. Exceeding the maximum may be allowed through a Special Permit granted by the Board of Appeals.
4. In making any determination, the permitting authority shall consider present, as well as proposed and potential future parking needs, and such determination and/or special permit may contain any restrictions, limitations or conditions reasonably necessary to carry out the intention and purpose of this bylaw. Such restrictions, limitations, and conditions may include, among other things:
  - a. Provisions for establishing maximum allowable occupancy.
  - b. Provisions for expiration or forfeiture of the determination/permit upon stated conditions or upon substantial change of the "special circumstances" upon which the determination/permit was granted.
  - c. Provisions limiting the duration.
  - d. Such other provisions as are reasonably related to pursuing and carrying out the intent and purposes of this bylaw.

The burden of proof shall be on the applicant to demonstrate to the Town that there is evidence demonstrating a clear, regular need for such parking, that the purposes of this district are maintained, and that the design of these parking areas complies with the provisions of this section of the Zoning Bylaw.

#### 414.7.8 Parking Lot Design Standards.

1. Relationship to Section 301 (Parking and Loading Requirements) of the Zoning Bylaw

Standards related to parking area design located in Section 301 of the Zoning Bylaw shall not apply to VCOD development.

2. Parking Space and Travel Lane Dimensions

For the purposes of this Bylaw, minimum parking space and travel lane dimensions for surface parking areas shall comply with the following table. Parking spaces and travel lanes in structured parking facilities may use different dimensions as may be necessary to construct the facility and provide safe passage for vehicles parking therein.

#### **Minimum Parking Space and Travel Lane Dimensions**

Parking Angle	Stall Width (parked car width)	Stall Depth*	Travel Lane (one way)	Travel Lane (two way)
<b>Parallel</b>	10.0'	22.0'	12.0'	24.0'
<b>45°</b>	10.0'	16.0'	11.0'	21.0'
<b>60°</b>	10.0'	17.0'	15.0'	21.0'
<b>75°</b>	10.0'	17.5'	17.0'	21.0'
<b>90°</b>	10.0'	18.0'	22.0'	24.0'

\*Parallel parking depth is measured as the length of the space parallel to the adjacent travel lane. All other stall depth values are measured perpendicular to the adjacent travel lane.

All parking areas shall be designed with enough maneuvering space so that vehicles need not back onto a public way, the required screens, buffers, tree plots or other parking spaces. Driveways subject to this section shall have two hundred fifty (250) feet visibility in each travel direction and shall be comprised of two (2) travel lanes each not more than twelve (12) feet nor less than ten (10) feet in width; a minimum curb radius of 25 feet shall be provided.

### 3. Landscaping Requirements

Landscaping of parking areas shall be provided in accordance with the requirements in Section 414.8.9. The landscaping requirements in this section are intended to provide a set of standards toward reducing the visual impacts of large areas of pavement, improving the overall environment of parking areas by providing areas for shade and heat reduction, and enhancing the overall aesthetic appeal of parking areas.

### 4. Parking Garages/Structures

Parking garages/structures or entrances to such facilities shall not be located along the frontage of Route 28. On lots with frontage on Route 28, these structures shall be set back behind other buildings or integrated into the structural design of those buildings along the arterial frontage. All other dimensional requirements shall apply.

## **414.8. – VCOD Design Standards**

Applicants for new development or redevelopment who elect the use of VCOD provisions relative to use, intensity of use, parking and other applicable standards provided as part of this section of the Zoning Bylaw shall comply with the following design standards. Compliance with these standards shall be demonstrated through Site Plan Review materials as required in the Operational Regulations of the Yarmouth Planning Board. Members of the Site Plan Review Team, the Design Review Committee, and the Planning Board shall also use the most recent version of the Town of Yarmouth Architectural and Site Design Standards to review applications within the VCOD. Compliance with the Yarmouth Architectural and Site Design Standards shall be mandatory for all VCOD projects.

### 414.8.1. Site Design.

The location of buildings, parking areas, walkways, outdoor gathering places, landscaping, utilities, loading areas, dumpsters, automobile access, travel lanes, and signs shall reflect a thoughtful approach that focuses primarily on providing optimal access and mobility for pedestrians on and between sites. The following standards shall apply:

1. Parking areas and travel lanes shall not be allowed within the front yard setback with the following exceptions:
  - a. Driveways connecting the property to the street and running perpendicular to the lot line, which are used to access parking areas to the side or rear of the building, are allowed in the front yard setback.
  - b. In VC2, where adequate buffers are provided pursuant to the landscaping requirements of this bylaw, a travel lane may be allowed in the front yard setback along any public way established prior to October 22, 2012.
2. Parking areas shall allow for easy access between lots for automobiles and pedestrians. Where feasible, parking lots shall be connected by a travel lane within the rear yard to provide an opportunity for pedestrians and motorists to pass from one site to another without using established rights of way.
3. Where an adjacent lot is not yet developed or the design of an adjacent lot precludes the ability to connect parking areas from one lot to another, the applicant shall identify on Site Plan Review materials the location where a future connection could take place.
4. Within the front yard setback, clear pedestrian pathways shall be provided between buildings and across automobile driveways in the form of raised or distinct surfaces such as stamped concrete or grid pavers, arcades, colonnades or other similar features. The developer shall provide a minimum six (6) foot wide sidewalk on the project property along the entire frontage abutting Route 28. Where the sidewalk surfacing may be integrated with out onto the street, it shall be designed to be visually distinct from the street surfacing.

feet. When proposing different sidewalk materials, the applicant shall demonstrate a consistent design with sidewalks on neighboring properties where those sidewalks are consistent with the objective of the VCOD. Applicants are encouraged to explore opportunities to reconfigure existing sidewalks to better accommodate pedestrian and/or bicycle traffic.

5. Pursuant to Section 401.3, outdoor display of retail goods shall only occur along the façade of those commercial or mixed use structures where the goods are sold, shall not be within a public right of way, and shall not occur outside of normal business hours. No outdoor display of goods shall occur in a manner that precludes a minimum four (4) foot wide clear pedestrian passage along the sidewalk.
6. In complexes with multiple principal buildings, landscaped areas with walkways, courtyards or arcades shall be used in conjunction with compact site design to bring buildings closer together and enhance connectivity between them for residents and customers.
7. Building placement on lots adjacent to the Parkers River shall be set back in a manner that preserves viewsheds to the river from the public right of way to the maximum extent practicable. Buildings shall have their narrowest profile oriented to the street where such orientation will increase visibility to the river from the street. Any building located within 100 feet of the intersection of Parker's River and Route 28 shall be set back from Route 28 a minimum of 30 feet.

#### 414.8.2 Circulation Standards.

1. Pedestrian connections between buildings shall be provided as safe, broad and easily identifiable ways of walking through areas that may also be occupied by automobiles. These walkways shall be designed to clearly show the space is primarily dedicated to pedestrian traffic through the use of raised or alternative surfaces, signage or raised landscaped islands that may serve as a safe resting area for pedestrians between automobile travel lanes.
2. Travel lanes and driveways developed interior to the site shall incorporate speed reduction techniques where travel lanes are adjacent to the edge of a building. Where a travel lane will be used solely for the purposes of loading or other maintenance activities, these features shall not be required. Speed bumps, raised cross walks, or other traffic calming measures shall be provided at a minimum frequency of one for every seventy (70) feet along the building edge.
3. All travel lanes within VCOD development shall make provision for bicycle travel. Lanes shall either be designed to show a dedicated bicycle lane(s) distinct from automobile travel lanes, at a minimum of four (4) feet in width, or coincident travel of bicycles and automobiles may be indicated with striping or shall incorporate bicycle sharrows (pavement markings).

#### 414.8.3 Building Size and Modulation.

1. In order to modulate their scale, multi-story buildings shall clearly articulate the base, middle and top of the building through the use of cornices, stepbacks, borders of distinct material or other articulating features on every visible surface of the building.
2. Larger buildings with long façades shall articulate the façade with varied rooflines, distinct signage for multiple tenants, awnings, arcades, pilasters, columns, recessed spaces and/or entrances and any other features that serve to add texture to these longer façades. Unbroken façades in excess of fifty (50) feet shall not be allowed.
3. Large, flat, unadorned, blank walls shall not be allowed for any side or rear walls of buildings except where a rear wall is accessible only to service vehicles. Windows are required in sidewalls for buildings that front on Route 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100.

feasible for other buildings, raised or recessed vertical surfaces may be used in conjunction with awnings, window-shaped depressions and decorative lighting to make these surfaces more attractive.

4. Awnings shall be made of canvas and/or weather-coated materials. Awnings along continuous building lines that are separated shall be distinct from one building to another. Continuous awnings may only be allowed over a maximum of three contiguous storefronts.

#### 414.8.4 Entranceways.

1. All buildings shall have a principal façade and entry (with operable doors) facing a street or other area dedicated to pedestrian circulation. Buildings may have more than one principal façade and/or entry. Primary entrances not facing a street shall open onto sidewalks or other pedestrian features at least ten (10) feet in width.
2. Main entrances shall incorporate architectural features that draw attention to the entrance. These features may include covered porches, distinct sidewalk surfacing, porticos, recessed doorways and awnings.
3. Street level frontage shall be primarily devoted to entrances, shop windows or other displays. Street level frontage that incorporates setback areas beyond the minimum required in Section 414.6.3 (Table of Dimensional Requirements) shall incorporate seating and trash receptacles that are accessible to pedestrians to the extent practicable.

#### 414.8.5 Fenestration.

1. The width-to-height ratio of bays in façades above street level shall be a minimum of 1:2 except where acceptable dormer variations may require a different ratio. Multiple bays may be placed immediately adjacent to one another in order to create larger window areas.
2. For commercial use, windows on the ground floor shall begin no lower than two (2) feet from street level and shall extend at a minimum height of seven (7) feet from street level. Windows may be closer to street level where they serve as a secondary entrance to outdoor seating or similar areas.
3. Mullion pattern and thickness shall reflect traditional New England design with broad decorative surfaces between windows. Highly reflective or industrial finish mullions are prohibited.
4. For commercial use, clear, non-reflective glass with minimal tinting shall be used at street level to allow maximum visual interaction between pedestrians and the interior of the building.
5. For commercial use, street level façades shall have a transparency of at least sixty (60) percent.
6. For commercial use, all windows (except storefront windows) shall be operable.

#### 414.8.6 Dormers.

1. On pitched rooflines, dormers shall be used to break up roof surfaces.
2. Dormer styles may include doghouse, eyebrow or shed dormers.
3. Windows shall fill the face wall of the dormer to the maximum extent practicable and match the architecture of windows in the rest of the building.

#### 414.8.7 Roofline Articulation. Roof design shall provide a variety of building heights and varied roofline articulation.

1. Acceptable roof models in VC 1 and 2 include gables, gambrels, and any jointed configuration of these styles.

2. Acceptable roof models in VC 3 and 4 include gables, gambrels, mansards, and flat roofs. Where flat roofs are proposed, these rooflines shall have decorative cornices or parapets that extend from the roof edge to provide a decorative and articulated edge.
3. Decorative spires or towers may also be used to articulate rooflines and to provide focal points within a complex of principal buildings.
4. Industrial style metal roofing visible from the street shall not be permitted. Metal roofing that uses decorative finishes and textures may be used to accent individual architectural features such as roof trim, window bays or other projecting features.
5. Downspouts shall match gutters in material and finish.
6. Utilities and protuberances through or on the front of roofs are highly discouraged and should generally be shielded from view.

414.8.8 Building Materials. Materials and building treatments shall be used that reduce the visibility of buildings from distant vantage points and shall be consistent and compatible with traditional New England design as follows:

1. Where more than one material is used, traditionally heavier materials (stone, brick, concrete, etc.) shall be located below lighter materials (wood, fiber cement board, siding, etc.). The change in material shall occur along a horizontal line, preferably at the floor level.
2. Natural materials, such as brick, stone, wood/concrete clapboards and shingles, and slate are the preferred materials for building siding and trim. Vinyl, PVC, cementitious, or other synthetic materials may be used for siding and trim where these applications imitate traditional materials such as clapboard or shingling. The burden of proof shall be on the applicant to demonstrate that the quality of the imitation material complies with the purpose of the bylaw. Industrial materials such as unfinished concrete, sheet metal, asphalt shingles (except for roofing), and insulated steel doors shall not be used except where essential to the proper function of a building feature as related to safety, security or proper mechanical function.

414.8.9 Landscaping. All areas of a site that are not used for structures, parking, circulation, or other hardscape amenities shall be landscaped. Landscaping may occur as installed or retained vegetation in accordance with the following standards.

1. Plant Selection.
  - a. No tree, shrub or plant shall be proposed that has been identified as an Invasive Species by the Massachusetts Plant Advisory Group in the latest version of *The Evaluation of Non-Native Plant Species for Invasiveness in Massachusetts (with annotated list)*, has been identified as invasive or banned on the *Massachusetts Prohibited Plant List* as periodically updated by the Massachusetts Department of Agricultural Resources, or in any other reputable scientific publication that may be acceptable to the Board.
  - b. Landscaping shall be designed to remain functional and attractive during all seasons through a thoughtful selection of deciduous, evergreen, berrying and flowering plant varieties. Applicants are encouraged to consult the latest version of *The Vascular Plants of Massachusetts: A County Checklist* as published by the Massachusetts Division of Fisheries and Wildlife and Natural Heritage & Endangered Species Program to determine which plants are native to Barnstable County.
  - c. Plant varieties shall be selected for resistance to drought, moisture, salt, urban conditions, or insects and other pests depending on the location of landscaping and the specific stressors anticipated for different areas of the site. Plants shall be selected so that landscaping can be maintained with...

watering, pesticides or fertilizers can be minimized or eliminated. Applicants are encouraged to consult The Massachusetts Nursery and Landscape Association's *Pocket Guide to Native and Low Maintenance Woody Plants*.

- d. The use of turf shall be minimized and shall not be planted in strips less than six (6) feet wide. Lawn seed mixes shall be drought resistant. To achieve a high level of drought tolerance, lawn mixes may include, but shall not be limited to, a predominance of fine fescues.

## 2. *General Standards.*

- a. Where landscaped areas do not include planted materials, other decorative materials or features shall be used such as walkways, gathering places, or areas for public art. Unplanted areas shall not be filled with uniform gravel applications or riprap unless approved as part of stormwater management practices.
- b. Landscape features shall provide a clearly defined edge between the vegetated areas and areas reserved for pedestrian or automobile travel through the use of hardscape elements that may include, but shall not be limited to, fencing, curbing, or decorative stone.
- c. Any free-standing electrical structures, HVAC structures, or waste receptacles (e.g., dumpsters, grease traps, etc.) shall be fully screened from view through the use of evergreen vegetation, fencing, or a combinations thereof.

## 3. *Buffers.*

- a. Landscaping shall be required between VCOD developments and residentially zoned areas with no less than a twenty (20) foot wide buffer.
- b. Within the twenty (20) foot buffer to a residentially zoned area, a vegetated, virtually opaque screen shall be provided by a minimum six (6) foot wide planting strip maintained with densely planted shrubs not less than six (6) feet in height. Shrubs shall be at least seventy-five percent (75%) evergreens however the use of tall, monoculture, and uniformly planted rows of evergreens or other similar species shall not be used.
- c. The area of the buffer to a residentially zoned area that is not dedicated to the provision of a virtually opaque screen shall be landscaped in accordance with the other applicable standards of this bylaw.
- d. Fences or walls may be a part of the required screening where deemed necessary, and as approved by the Town.
- e. Earthen berms may be used in the buffer design, provided such side slopes are adequately stabilized by vegetation.
- f. Breaks in the buffer may also be incorporated into the design where designated pedestrian or bicycle crossings or other features specifically designed to provide attractive visibility or connections to surrounding neighborhoods are part of the approach to site-wide circulation.
- g. Trees shall be planted in buffer areas and along frontage lines at a minimum frequency of one every thirty (30) linear feet measured along the buffer or lot line.

## 4. *Parking Areas.*

- a. Developments with proposed parking areas of six (6) spaces or more shall provide a minimum of ten percent (10%) of landscaped open space within the area designated for parking inclusive of any landscaped borders surrounding the parking lot. Parking garages/structures shall not be subject to this requirement.
- b. The ends of parking aisles in surface lots that are more than fifteen (15) spaces in length shall incorporate landscape islands at either end of the row. Each island shall include at least one tree. Where the length of a parking aisle exceeds twenty-five

This interval shall not be more than every thirteen (13) spaces. Where arced semi-circle islands, triangles or similar shapes are proposed, the width of landscaped islands perpendicular to adjacent spaces shall be no less than eight (8) feet at their widest point. Where oval shaped islands are proposed, the width of the island shall be no less than six (6) feet.

- c. Trees shall be selected and placed in landscaped areas so that all parking areas can reasonably be expected to receive 30% canopy coverage. The expected canopy radius of each selected tree shall be noted in the required site plan materials.
- d. Parking areas for five (5) or more cars or any travel lane shall be separated from any other property line interior to the VCOD by a minimum ten (10) foot wide landscaped buffer. The width of this buffer may be reduced, or the buffer may be eliminated entirely, where the applicant can demonstrate that the reduction or elimination of such buffer will not cause nuisance or undue harm to abutting properties and is specifically designed to:
  - i. Improve pedestrian, bicycle and/or vehicular circulation and/or reduce curb cuts;
  - ii. Allow for the placement of driveways and/or buildings in a manner that better meets the design standards in Section 414.8 (VCOD Design Standards);
  - iii. Anticipate improvements to abutting properties that will be complementary to the alternative buffer design.
- e. Parking areas or travel lanes that extend to a property line and lie adjacent to any sidewalk on a public way shall be separated from the sidewalk by a minimum twelve (12) foot wide landscaped buffer. This buffer shall be designed to provide separation between the parking area and the sidewalk while maintaining visual awareness between the two areas. The parking area shall not be fully screened from the pedestrian way. Separation may be achieved through the use of low fencing, trees that maintain a canopy height of at least eight (8) feet, and/or low lying shrubs that will not exceed three (3) feet in height. The buffer may be interrupted by breaks designed to provide pedestrian connections from the parking area to the sidewalk.

5. *Sight Lines.*

- a. With the exception of street trees, no hedge or other vegetation over three (3) feet in height above the adjacent ground shall be maintained within eight (8) feet of any street lot line unless the Town finds that such vegetation will not restrict visibility in such a way to hinder the safe entry of a vehicle from any driveway to the street.
- b. At no street intersection in any district shall an obstruction to vision exceeding two and one-half (2.5) feet in height above the street grade be placed or permitted to grow on any lot within the triangle formed by the street lot lines abutting the intersection and a line connecting points on these street lot lines at a distance of thirty-five (35) feet from the point of intersection of the street lot lines.

6. *Tree Specifications.*

- a. All proposed shade or canopy trees shall have a minimum 3" caliper.
- b. Shade or canopy trees shall not be less than twelve (12) feet in planted height above grade.
- c. Ornamental or flowering fruit trees shall not be less than seven (7) feet in planted height above grade unless specific dwarf varieties have been selected that require the planting of a smaller specimen.
- d. Evergreen trees used for screening shall not be less than six (6) feet in planted height above grade.



- e. At the time of planting, shrubs shall be well established and shall stand at least one (1) foot tall above grade.
- f. All plant materials shall be hardy to the appropriate temperature zone as defined by the American Standards for Nursery Stock.
- g. Any existing trees of four-inch (4") caliper or greater shall be retained where they are coincident with proposed landscaping areas. Such trees shall be removed if they are identified as an invasive species or if their health is clearly compromised at the time of application.
- h. Trees that are included in any landscaping plan, which die subsequent to development, shall be replaced.

7. *Decorative Walls and Fencing*

- a. Chain link fencing shall be prohibited in all districts unless it is necessary for compliance with security purposes unique to an individual use, is vinyl coated, and completely screened from view through the use of opaque evergreen trees or through a second layer of wooden fence material.
- b. In all districts, decorative fencing associated with commercial or mixed use properties may be wooden or vinyl where simulated picket or rail fence designs are used. Where wooden or vinyl fencing associated with commercial or mixed use is used, the fencing shall not be opaque, and shall not exceed four (4) feet in height except where screening utilities or waste receptacles in accordance with Section 414.8.9(2.) Fencing for structures that are exclusively residential (including hotel) may also be wooden, but may be opaque and up to six (6) feet tall. Such fences for residential areas shall only be allowed in the side or rear yard setbacks.
- c. In VC 1 and 2, decorative free-standing (not "retaining") walls shall not exceed three (3) feet in height and shall be constructed of natural stone material in a manner that resembles traditional early New England stone walls. Masonry binder material may be used to secure stones, but shall not be visible on the sides of the wall. Bricks shall not be used in VC 2 for the construction of decorative walls.
- d. Only in VC 3 and 4, decorative fencing associated with commercial or mixed use properties may be steel, cast aluminum, or other similar finished metal material (customarily used to imitate traditional cast iron fencing). These fences shall not be opaque and shall not exceed five (5) feet in height except where screening utilities or waste receptacles in accordance with Section 414.8.9(2). Posts shall be constructed of brick or stone.
- e. In VC 3 and 4, decorative free-standing (not "retaining") walls shall not exceed four (4) feet in height and may be constructed of bricks or cut stone material.

414.8.10 Lighting. In addition to any applicable standards for lighting associated with parking areas or signs, the following shall apply. Limitations on the height of lighting shall be measured to the highest point of the light structure.

- 1. In VC 1 and 2, light standards for lights along public roads shall not exceed twelve (12) feet in height and may only include one (1) fixture per light standard. Lights in rear or side parking areas shall not exceed fifteen (15) feet in height and may include multiple fixtures per light standard;
- 2. In VC 3 and 4, light standards shall not exceed sixteen (16) feet in height and may include multiple fixtures per light standard;
- 3. Traditional New England "period" light posts and fixtures shall be used. Such lighting shall be decorative in shape, scale, and finish, with detailed, articulated treatments for the base, post, fixture and crown. Lighting shall not use standard industrial-finish poles or shades. Applicants are encouraged to reference the discussion of lighting poles and

fixtures within the Cape Cod Commission's "*Designing the Future to Honor the Past, Design Guidelines for Cape Cod.*"

4. Lighting installed or directed at the ground level shall not exceed a lumen density of 50,000 lumens per acre of developed area.
5. In commercial or mixed use development, trespass of light at property boundaries shall not exceed 0.1 foot candles. Where commercial or mixed use development abuts a residential district, trespass of light at that boundary shall not exceed 0.05 foot candles.
6. In development areas that are exclusively residential, trespass of light at property boundaries shall not exceed 0.05 foot candles.
7. Non-decorative lighting shall be tinted amber or in some manner acceptable to the Town in order to reduce the glare that would otherwise emanate from standard white bulbs and clear lenses.

414.8.11 Signage. The following standards for signage are provided as a supplement to existing standards in the Zoning Bylaw (Section 303 - Signs). Where there may be a perceived conflict between these two sections, the following standards shall apply.

1. Signs shall not be located in a dedicated pedestrian or bicycle way or in any manner that interrupts intended patterns of pedestrian/bicycle circulation.
2. Wall mounted or projected signs shall be located above the ground floor storefront and just below the second floor windows. Signs shall be integrated by structural design and finish with the design of the building and shall not obscure architectural features or windows.
3. Projecting signs shall be located to provide a minimum of 8' of clearance, shall not exceed 4 square feet in size and shall not project more than 4' from the building. Projecting signs used to advertise businesses on the second floor space shall be in addition to allowed wall signs and free standing signs.
4. Window signs are allowed in accordance with Section 303.5.3 but may only be wooden, corkboard, or chalkboard signs hanging or posted inside the building or stenciled lettering.
5. Sign colors should be selected to enhance sign legibility for both day and nighttime viewing consistent with the requirements of Section 303.5.4.3. Sign colors and finishes shall be compatible with the color of the building or development.
6. Sign materials shall be of high quality and compatible with the design of the building and façade on which they are placed.
7. Externally illuminating signs shall have downward-directed, wall mounted lights with fully-shielded decorative lamps that do not obscure the graphics of the sign.
8. Internally illuminated plastic or fiberglass cabinet (can) signs are not allowed. Where back-lighting is proposed, solid letters (reverse channel or halo) shall be used.
9. Signage on awnings is permitted only on the apron portion of the awning for business identification or to advertise particular goods and/or services.
10. Free-standing, single pole (lollipop) signs are not allowed. Free-standing monument or structured signs are only allowed in VC 2, 3 and 4. Where these signs are located at the entrances to plazas or centers with multiple tenants, the size shall not exceed the area required to hold a sign for each tenant that measures up to three (3) square feet, and in no case shall the total area of the sign exceed forty-eight (48) square feet. Where a free-standing sign is used for a single tenant, the area of the sign shall not exceed twenty-four (24) square feet. Free-standing signs shall incorporate design details, materials and colors of the associated buildings. The base or support elements of freestanding signs shall be integrated with the surrounding environment, contribute to the functionality of pedestrian features and incorporate ornamental landscaping where possible.

11. Gateway signs as defined in Zoning Bylaw Section 303 (signs) shall be allowed within the VCOD.
12. Neon signs are not allowed.

Acting on Article 7.

On motion made by James Quirk, and duly seconded, the Board of Selectmen, Finance Committee and Planning Board recommend, to move Article 7 as printed in the warrant.

On motion made by Donna Hill, and duly seconded, to amend Article 7 to strike Village 3 from the article.

On motion made by Evelyn Hayes to call the vote on the debate of the amendment.

The vote to end the debate carries by the 2/3rds majority.

9:07

The vote on the amendment of Article 7 does not carry.

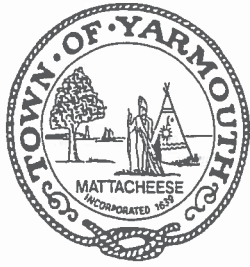
9:07 PM

On motion made by John Howard, and duly seconded, to move Article 7.

The vote on Article 7 carries by the requisite 2/3rd majority.

If seven or more members of Town Meeting may challenge such declaration at which I can call the tellers to take a count, there being none I declare the requisite 2/3rds majority.

9:08 PM



# TOWN OF YARMOUTH

OFFICE OF THE TOWN CLERK

1146 ROUTE 28, SOUTH YARMOUTH, MA 02664

TELEPHONE (508) 398-2231 FAX (508) 760-4842

Jane E. Hibbert, CMC/CMMC

## MATTACHEESE MIDDLE SCHOOL "0" QUORUM

OCTOBER 22, 2012

**ARTICLE 8:** To see if the Town will vote to rezone certain parcels by amending the Zoning Map as follows:

Amend the Zoning Map by rezoning the following parcels from B1 Commercial to R-25 Residential:

***Map 32: Parcels 102, 103, 104, 105, 106, 107, 108, and 109***

***Map 33: Parcels 32 & 33***

Acting on Article 8.

On motion made by James Quirk. and duly seconded, the Board of Selectmen, Finance Committee and Planning Board recommend, to move Article 8 as printed in the warrant.

The vote on Article 8 carries by the requisite 2/3<sup>rd</sup> majority.

If seven or more members of Town Meeting may challenge such declaration at which I can call the tellers to take a count, there being none I declare the requisite 2/3rds majority.

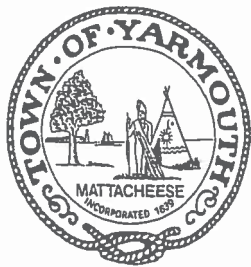
9:10 PM

A True Copy Attest:

Jane E. Hibbert, CMC/CMMC

Town Clerk

Town of Yarmouth



# TOWN OF YARMOUTH

OFFICE OF THE TOWN CLERK  
1146 ROUTE 28, SOUTH YARMOUTH, MA 02664  
TELEPHONE (508) 398-2231 FAX (508) 760-4842

Jane E. Hibbert, CMC/CMMC

## MATTACHEESE MIDDLE SCHOOL "0" QUORUM

OCTOBER 22, 2012

**ARTICLE 9:** To see if the Town will vote to rezone certain parcels by amending the Zoning Map as follows:

Amend the Zoning Map by rezoning the following parcels from B1 Commercial to R-25 Residential.

**Map 33: Parcels:** 88, 89, 90, 91, 92, 93, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 195, 196, 197, 198, 199, 200, 201, 220, 221, 253, 286, 287, 288, 289, and 290

**Map 34: Parcels:** 46, 47, 48, 49, and 50

**Map 41: Parcels:** 28.2, 28.3, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, and 43

**Map 42: Parcels:** 1, 24, 25, 26, 27, 28, 29, 30, and 31.


Acting on Article 9.

On motion made by James Quirk, and duly seconded, the Board of Selectmen and Finance Committee and the Planning Board recommend, to move on Article 9 as printed in the warrant.

The vote on Article 9 carries unanimously.

9:11 PM

A True Copy Attest:

  
Jane E. Hibbert, CMC/CMMC

Town Clerk  
Town of Yarmouth



# VILLAGE CENTERS OVERLAY DISTRICT

