ed parking spaces easily accessible from a paved driveway on the property for each professional person occupying or using said office. Each such space shall be not less than two hundred (200) square feet paved area, exclusive of driveway.

(c) Nursing Care Home and Rest Homes: there shall be not less than one paved parking space easily accessible from a paved driveway on the property for each four hundred (400) square feet of total floor area of the building.

(d) All off street parking spaces in excess of 1,000 square feet shall be screened on each side, adjoining residential premises, except that such screening shall not be required where the parking area is already screened from the residential premises by a natural terrain feature. Such screening shall be a solid wall or fence, not less than five (5) feet in height. In lieu of such fence, a compact evergreen hedge of not less than three (3) feet in height at time of original planting may be used. The fence, wall and/or hedge shall be maintained in good condition and no advertising shall be placed thereon. The screening shall be designed so that vehicle sight distance shall not be affected at entrances, exits, or at street intersections.

This section added by 1970 An 105, approved by the Atty. Gen. June 19, 1970.

T. OPEN SPACE RESIDENTIAL DEVELOPMENT—

1. Purpose.

In order to provide for the public interest by the preservation of open space in perpetuity, variety in residential housing development patterns which allow for development more harmonious with natural features and town growth policies than traditional residential development, to promote the maximum possible protection of open space, visual quality and watershed protection, and to encourage efficient provision of necessary utilities and community services, the following regulations are established for Open Space Residential Development within the Town of Barnstable. In making any and all determinations under this bylaw the Planning Board shall always compare the impact of an open space development with potential conventional development, and may approve open space development if the impact is no more adverse than conventional development.

2. Applicability.

Open Space Residential Development shall be allowed within all residential zoning districts subject to the requirements of this bylaw for those districts, and in accordance with the additional requirements specified herein.

3. General Requirements.

(a) Any parcel of land located within a zone permitting Open Space Residential Development which would accommodate at least four dwelling units under the provisions of the underlying zoning district may be considered for an Open Space Residential Development subject to a special permit issued by the Planning Board.

(b) After an Open Space Residential Development application has been submitted, no utility installations, no ditching, grading or construction of roads, no grading of land or lots, no excavation except for purposes of soil testing, no dredging or filling, and no construction of buildings or structures shall be done on any part of the development site until the application has been reviewed and approved as provided by these regulations.

(c) No Open Space Residential Development will be approved within an established single-family residential neighborhood if the Planning Board determines that such land use would have a detrimental effect upon the surrounding property.

(d) It is a general policy of the Town of Barnstable to encourage the development of interior land parcels when appropriate in Open Space Residential Development projects. Correspondingly, the development of land along existing road frontage shall be discouraged, in order to retain and enhance the visual quality of the Town and to maintain the safety and efficiency of public ways.

(e) It shall be the responsibility of an applicant for an Open Space Residential Development special permit to demonstrate to the Planning Board that this form of land development will be as or more appropriate than traditional patterns of residential development for the particular site being considered.

4. Permitted Uses.

(a) Detached one-family dwellings.

(b) Uses permitted within the Common Open Space as described in these regulations.

(c) Recreational facilities exclusively for Open Space Residential Development purposes.

5. Minimum Requirements.

(a) Density: The total number of residential units allowable on a site proposed for Open Space Residential Development shall not exceed the number of units that would be allowed in the zoning district in which the site is located, [except as otherwise permitted in this section.] Wetlands and water bodies shall not be included in the overall area when calculating density. The burden of proof shall be upon the applicant in determining the allowable number of units.

The total number of units allowed shall be determined by one of the following methods to be selected by the applicant:

1. Dividing eighty-five (85%) of the total upland area of the tract by the minimum lot size of the underlying zoning district; or,

2. Layout by a preliminary sketch plan in accordance with subsection VIII A 1., showing the total number of lots which could be obtained by utilizing a conventional grid subdivision.

(b) Intensity Regulations: The Planning Board may grant a reduction of up to 75% on all intensity regulations of the underlying zoning regulations for all portions of an Open Space Residential Development, if the Planning Board finds that such reduction will result in better design, improved protection of natural and scenic resources, and will otherwise comply with these regulations, provided that in no instance shall any lot contain less than 5,000 square feet or have less than twenty

(20) feet of frontage, or front, side and rear setbacks of less than seven and one-half (7.5') feet. Normally, a 50-foot perimeter strip will be required but may be reduced to 20 feet by the Planning Board. Such perimeter strip should have natural vegetation whenever possible, and be properly maintained. Bicycle paths, riding trails or walkways within the perimeter strip are permitted, but only a minimum number of curb cuts will be permitted, in accordance with subsection V.C., below. The perimeter strip shall be considered to be a part of open space.

(c) Development Standards: Prior to the issuance of a special permit for an Open Space Residential Development, the applicant shall submit the information necessary to demonstrate that the following development standards have been met:

1. Curb cuts: It is a policy of the Town of Barnstable to limit the number of curb cuts on public ways. Within an Open Space Residential Development, normally only two (2) curb cuts will be allowed, although the Planning Board may approve additional curb cuts if the applicant can demonstrate that they are necessary for the site and will not result in traffic hazards or congestion. In all instances, it will be the responsibility of the applicant to demonstrate that the location, number and design of curb cuts are both necessary and the most appropriate for the site.

2. The development will not cause unreasonable traffic congestion or unsafe conditions and will comply with Town standards for parking, access, road design and construction.

3. The development will provide for and maintain convenient and safe emergency vehicle access to all buildings and structures at all times.

4. The nature of the soils and subsoils shall be suited for the intended purposes. This determination shall focus upon, but shall not be limited to the location, design and construction of roadways, buildings, surface water drainage systems and on-site sewage disposal systems. Soil borings or test pits may be made on each lot, to provide information on soil texture, color, percolation rates and depth to the ground water table at its maximum elevation. Maximum ground water elevation shall be determined using data available from the United States Geological Survey publication "Probable High Ground Water Levels on Cape Cod", when applicable.

5. The development shall either be connected to Town sewer or shall comply with the provisions of 310-CMR 15.00, of the State Environmental Code (Title 5) and the Town of Barnstable Health Regulations, with regard to on-site waste water disposal. On-site sewage disposal system shall be located so as to minimize the impact on surface and subsurface water resources. In evaluating this issue, the Planning Board shall take into consideration both the direction of groundwater flow and the distance between any such system and a water supply or other water resource. On-site sewage disposal systems shall not be located within one hundred fifty (150) feet from any wetland or surface water body. In no instance shall a variance be granted from Title 5 of the

State Environmental Code or Town Health Regulations in regard to depth to groundwater or distance to wetlands, buildings and water supply wells.

6. Any parcel to be serviced by on-site sewage disposal systems located wholly or partially within the recharge area of any public water supply or the recharge area of any inland water body shall be subject to the following additional requirements:

a. No more than six (6) units shall be clustered together and a one hundred (100) foot, naturally-vegetated buffer area shall be provided between all such groups of units, unless sufficient hydrogeological information is supplied by the applicant to demonstrate that ground water discharges from on-site sewage disposal systems will be spread across the ground water contours to the maximum extent possible so as to avoid the development of a concentrated effluent plume.

b. The use of septic tank sewage disposal systems designed to service more than one unit is prohibited.

For the purposes of this subsection, the recharge areas of public water supplies and surface water bodies shall be determined from the following maps which are on file with the Town Clerk: "Water Table Contours and Public Water Supply Well Zones of Contribution", prepared by the Cape Cod Planning and Economic Development Commission, dated 1982, and "Surface Water Recharge Areas Barnstable Conservation Commission", dated March, 1984.

7. Public water supply shall ordinarily be required in Open Space Residential Developments, unless the applicant demonstrates that it cannot reasonably be made available to the site. In that event, on-site wells may be allowed in accordance with all applicable provisions of state law and Town of Barnstable regulations, provided that it is demonstrated that there will be a sufficient supply of potable water as well as sufficient water for fire protection for the proposed development. In determining this issue, the Planning Board may require the applicant to submit written statements of the Fire Chief and the chief water supply official in the district or districts in which the site is located.

8. Filling, dredging and placement of utilities or structures within the one hundred year flood plain as shown on the current Flood Insurance Rate maps shall be avoided. If conditions of the site are such that compliance with this paragraph would be impracticable, such activities may be allowed in conformity with Section O of this bylaw.

9. Anticipated storm water runoff from the site shall not exceed peak runoff from the site prior to development. The applicant shall submit formal drainage calculations by a registered professional engineer for this purpose.

10. Proper soil erosion and sedimentation control measures shall be employed to minimize sedimentation and siltation of existing surface water bodies and wetlands. In areas where the land slopes downward towards any surface water body, coastal or freshwater wetland, proposed filling, cutting, clearing, or grading shall be minimized and all such development activities shall be carried out in such a

way as to retain the natural vegetation and topography wherever possible. The Planning Board shall require that an erosion and sedimentation control plan, approved by the Conservation Commission in cases in which it otherwise has jurisdiction, be submitted if significant regrading is anticipated in slope areas.

11. The site design shall preserve and, where possible, enhance the natural features of the property, including scenic views, by adapting the location and placement of structures and ways to the existing topography in order to minimize the amount of soil removal, tree cutting and general disturbance to the landscape and surrounding properties.

12. The development shall comply with all other provisions of the Subdivision Rules and Regulations of the Planning Board and any other land use regulations of the Town in effect at the time of application, insofar as they are apt.

6. Open Space Use and Design Standards.

(a) Within an Open Space Residential Development, no less than thirty (30%) percent of the total land area shall be devoted to common open space. The common open space shall not include land set aside for roads and/or parking uses.

(b) The Common Open Space shall be designed and maintained in accordance with the following standards:

1. Naturally-existing woods, fields, meadows and wetlands shall be maintained and improved in accordance with good conservation practices.

2. Common Open Space shall be planned as large, contiguous units whenever possible. Strips or narrow parcels of Common Open Space shall be permitted only when necessary for access or as vegetated buffers along the site's perimeter.

3. Common Open Space may be in more than one parcel provided that the size, shape and location of such parcels are suitable for the designated uses.

4. No more than twenty (20%) percent of the Common Open Space shall be covered by impervious surfaces.

5. Common Open Space may be used for active and passive recreation, conservation, forestry, agriculture, natural buffers, structures necessary to approved uses, utilities and other facilities necessary for the convenience and enjoyment of the residents, subject to approval by the Planning Board.

6. Use of Common Open Space shall in all instances require approval by the Planning Board, and all structural improvements and impervious surfaces must be shown on the definitive Open Space Residential Development plan.

7. There shall be a minimum setback of fifty (50) feet between any Common Open Space structures and all property lines of the site.

8. In cases where the Open Space has been environmentally damaged prior to the completion of the development as a result of

soil removal, harvesting of trees or other natural features, refuse disposal or any other activity deemed inappropriate with proposed uses of the Common Open Space, the Planning Board may require the developer to restore or improve the condition and appearance of the Common Open Space, and may require the posting of a bond or other appropriate form of performance guarantee to ensure such restoration or improvement.

7. Common Open Space Ownership and Management.

(a) Common Open Space in an Open Space Residential Development shall be conveyed to: the Town and may be accepted by it for park or open space use; to a non-profit corporation, the principal purpose of which is the conservation of open space; or to a corporation or trust owned or to be owned by the owners of lots or residential units within the development. If a corporation or trust owned by the owners of lots or residential units is utilized, ownership thereof shall pass with the conveyances of the lots or units. In any case where such land is not conveyed to the Town, a restriction enforceable by the Town shall be recorded providing that such land shall be kept in open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadway.

(b) If the Common Open Space is not to be conveyed to the Town, the application for an Open Space Residential Development special permit must include a program describing how the Common Open Space will be maintained in perpetuity to standards satisfactory to the Planning Board. The applicant shall also provide as part of the Common Open Space proposal an agreement empowering the Town of Barnstable to perform maintenance of the Common Open Space in the event of failure to comply with the program included in the application pursuant to the preceding sentence, providing that, if the Town is required to perform any maintenance work, the owners of lots or units within the Open Space Residential Development shall pay the cost thereof and that the cost shall constitute a lien upon their properties until said cost has been paid.

8. Review Procedures.

All applications for Open Space Developments shall be submitted in conformity with the requirements and procedures for submission and review under the Subdivision Rules and Regulations of the Planning Board and the following additional requirements:

(a) The Planning Board shall be the special permit granting authority for all Open Space Residential Development applications. Applicants shall submit preliminary materials to the Planning Board and Board of Health prior to filing a formal special permit application, in order to obtain a consensus regarding the suitability of the site for Open Space Residential Development general design concepts, and to determine allowable density prior to preparation of further materials. In addition to the materials normally required for submission of a preliminary plan under the Subdivision Rules and Regulations, these preliminary materials shall include

1. Four (4) copies of a sketch plan showing the allowable

number of units in accordance with the underlying zoning. The sketch plan shall include ten (10) foot contours of existing topography, approximate area and dimensions of all lots, ways and wetlands in conformance with the underlying zoning. The sketch plan shall be necessary only if the applicant chooses this method of determining density under subsection 5. (a).

2. Four (4) copies of a soils map or other suitable information regarding the nature of the soils within all areas of the proposed development.

3. Six (6) copies of an overall development concept plan showing the location and dimensions of all building lots, the nature and extent of the Common Open Space, the location and use of any common facilities or structures, the location of all ways and easements, existing and proposed drainage areas, public and private water supply wells within the site boundaries and on adjacent properties and, where applicable, the limits of any defined water recharge area as specified in subsection V.5. of this section, and such other improvements as may be proposed.

4. Supporting documents describing the proposed uses of the Common Open Space and the preferred form of ownership and maintenance thereof, and of any facilities to be owned in common.

5. Any documentation tending to establish that the proposed plan is better suited to the site than a conventional subdivision plan, including matters relating to the layout of ways and open space in relationship to the surrounding property and the site, the degree to which the plan provides for protection of important natural features including wetlands, steep slopes and agricultural land, the extent to which the plan provides for development of those areas best suited for building purposes.

(b) Within sixty (60) days after the receipt of preliminary materials as specified herein, the Planning Board shall give its approval, with or without modifications, or shall disapprove the proposal stating its reasons. The Town Clerk shall be notified in writing of such approval or disapproval. Preliminary approval for an Open Space Residential Development shall be valid for a period of six (6) months.

(c) The Planning Board shall base its review of the requirements for granting a special permit on the provisions of subsection 5 (c) of this section. A special permit shall not be granted unless the applicant demonstrates compliance therewith. All other improvements shall comply with the Subdivision Rules and Regulations, insofar as apt.

(d) Applicants for special permits for Open Space Residential Developments shall, at the time of filing the application, submit a definitive development plan in conformity with the Subdivision Rules and Regulations of the Planning Board, which plan shall be derived from the approved overall development concept plan required under subsection (a), above. In addition to the materials required for submission of a definitive subdivision plan, the following documents and information shall be provided:

1. Six (6) copies of the definitive development site plan, accurately showing the proposed layout of all lots, ways and common areas and structures in relationship to the Common Open Space. The Common Open Space shall be accurately depicted on the plan and a note shall appear on the plan to the effect that "No lot as shown on this plan and approved in accordance with the Open Space Residential Development provisions of the zoning bylaw of the Town of Barnstable shall be further subdivided."

2. Regrading and erosion control plans, where required.

3. Information as to the degree to which the proposed plan departs from the requirements of the underlying zoning, and the reasons why such departures are deemed to be in the public interest.

4. Drafts of proposed deeds, management plans for all common areas and structures, and the proposed open space restriction, if any.

(e) Upon receipt of an Open Space Residential Development application, the Planning Board shall proceed as with applications for special permits under chapter 40A of the general laws. Hearing on applications under this section may be held simultaneously with subdivision review hearings.

9. Duration of Approval.

(a) Notwithstanding the provisions of Section Q., Subsection 5., of this bylaw, any special permit granted by the Planning Board for an Open Space Residential Development shall become void within two years from the date of issue, which two years shall not include time required to pursue or await determination of an appeal referred to in section 17 of chapter 40A of the general laws, unless any construction work contemplated thereby shall have commenced and proceeded in good faith continuously to completion, except for a good cause. All open space shall be dedicated at the time the permit holder proceeds with construction under a building permit.

(b) If at any time before, during or after construction of the proposed development unforeseen conditions make it necessary or preferable to modify the project as described in the approved definitive Open Space Residential Development application, the Planning Board may authorize such modifications provided that they are within the spirit of the original proposal and comply with these regulations.

Recision of prior Section T, new Section T inserted by An 1 Sp May 8, 1984. Approved by Atty. Gen. July 31, 1984.

U. SIGNBOARDS

1. Purposes, Prohibition

This section is adopted for the regulation and restriction of billboards, signs and other advertising devices within the town on public ways or on private property within view of a public way or public park in order to protect and enhance the visual environment of the town and the safety, convenience and welfare of its residents. Signs which are erected or otherwise created without a permit from the sign officer, as herein provided, or are maintained except in conformity with this section are prohibited.