

# **TOWN OF DRACUT**

**Incorporated February 26, 1701**

## **ZONING BY LAWS**

With Amendments through June 2, 2025 Annual Town Meeting

Prepared by the Dracut Town Clerk's Office

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## **Section 1. Authority and Purpose**

### **1.1 Authority.**

This By-law which shall be known as the Town of Dracut Zoning By-law is adopted pursuant to Chapter 40A of the General Laws of the Commonwealth of Massachusetts and Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

### **1.2 Purpose.**

The purpose of this By-law is to implement the zoning powers granted to the Town of Dracut pursuant to the Constitution of the Commonwealth and Statutes of the Commonwealth and includes, but is not limited to the following objectives:

- A. to lessen congestion in the streets; to conserve health;
- B. to secure safety from fire, flood, panic and other dangers;
- C. to provide adequate light and air;
- D. to prevent overcrowding of land;
- E. to avoid undue concentration of population.
- F. to encourage housing for persons of all income levels.
- G. to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements;
- H. to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment;
- I. to encourage the most appropriate use of land throughout the Town of Dracut, including consideration of the recommendations of the land use plan adopted by the Planning Board, and the plans of the Northern Middlesex Council of Governments; and
- J. to preserve and increase amenities and to preserve and enhance the natural scenic and aesthetic qualities of the Town of Dracut.

### **1.3 Applicability**

- A. **Other Laws.** Where the application of this By-law imposes greater restrictions than those imposed by any other regulations, permits, easements, covenants or agreements, the provisions of this By-law shall control.
- B. **Minima.** The regulations set by this By-law shall be the minimum regulations and shall apply uniformly to each class or kind of structure or use and, particularly:
- C. No building, structure, or land shall hereafter be used or occupied, and no building or structure shall be erected, raised, moved, placed, reconstructed, extended, enlarged or altered except in conformity with the regulations specified herein for the district in which it is located.
- D. No building shall hereafter be used, erected, or altered to accommodate or house a greater number of households; to exceed the height of bulk requirements; or to have narrower or smaller front, rear, and side yards than is specified herein

E. No yard or other open space: off-street parking or loading area, or any portion thereof, provided for any building, structure, or use in conformity with this By-law shall be included as part of the yard, open space or off-street parking or loading area similarly required for any other building, structure or use unless specifically allowed in this By-law.

#### 1.4 Amendments

This By-law may from time to time be changed by amendments, additions, or repeal of the Town Meeting in the manner provided in Chapter 40A of the General Laws of the Commonwealth, as amended.

#### 1.5 Appeals

Any person aggrieved by a decision of the Board of Appeals or any Special Permit granting authority, whether or not previously a party to the proceeding, or any municipal officer or board may as provided in Mass General Laws Section 17, Ch 40A appeal to the Superior court of Land Court by bringing action within twenty days after the decision has been filed in the office of the Town Clerk.

#### 1.6 Severability

The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

## **Section 2. Administration and Procedures**

### **2.1 Administration**

#### **2.1.1 Enforcement.**

This By-law shall be enforced by the Building Inspector of the Town of Dracut. The Building Inspector, upon being informed in writing of a possible violation of this By-law or on their own initiative, shall make or cause to be made an investigation of facts and an inspection of the premises where such violation may exist. If the Building Inspector is so informed in writing and declines to act, he shall within fourteen (14) days of their receipt of such information give to their informant, in writing, their reasons for refraining from taking any action. The Building Inspector, on evidence of any violation after investigation and inspection, shall give written notice of such violation to the owner and to the occupant of such premises, and the Building Inspector shall demand in such notice that such violation be abated within such reasonable time as may be given by mail addressed to the owner at the address appearing for him on the most recent real estate tax records of the Town of Dracut and to the occupant at the address of the premises of such seeming violation. If, after such notice and demand, such violation has not been abated within the time specified, the Building Inspector shall institute appropriate action or proceedings in the name of the Town of Dracut to prevent, correct, restrain or abate any violation of this By-law.

#### **2.1.2 Compliance Certification.**

Buildings, structures, or signs may not be erected, substantially altered, moved, or changed in use and land may not be changed in principal use without certification by the Building Inspector that such action is in compliance with then applicable zoning, or without review by him regarding whether all necessary permits have been received from those governmental agencies from which approval is required by federal, state, or local law.

#### **2.1.3 Building Permit.**

No building shall be erected, altered, moved, razed or added to in Dracut without a written permit issued by the Building Inspector. Such permits shall be applied for in writing to the Building Inspector. The Building Inspector shall not issue any such permit unless the plans for the building and the intended use thereof in all respects fulfill the provisions of the Town of Dracut Zoning By-law (and other applicable town by-laws) except as may have been specifically permitted otherwise by action of the Town of Dracut Board of Appeals, provided a written copy of the terms governing any exception so permitted be attached to the application for a building permit and to the building permit issued therefor. One copy of each such permit, as issued, including any conditions or exceptions attached thereto, shall be kept on file in the office of the Building Inspector.

In addition to the information required above, a plot plan shall indicate provisions for all other physical requirements of this By-law, including, but not limited to, off-street parking, screening and fencing.

Upon granting a permit the Building Inspector shall cause a copy to be posted on the property to which it relates in a conspicuous place.

#### **2.1.4 Professional Inspection.**

Construction on projects under a single building permit involving either one or more structures (other than one and two family dwellings) each containing 35,000 cubic feet of volume or more, or involving 50 or more dwelling units, irrespective of type, shall be done with the inspection of a registered professional engineer or architect, retained by the developer. Such engineer or architect shall periodically, as requested by the Building Inspector, attest that all work being done under their

supervision is being done in accordance with the plans as approved for a building permit, in accordance with any stipulations of applicable permits, special permits, or variances, and in accordance with all applicable Town and State codes and regulations. Discrepancies from the above noted by such engineer or architect shall be reported forthwith to the Building Inspector.

#### 2.1.5 Penalty.

Any person violating any of the provisions of this By-law, any of the conditions under which a permit is issued, or any decision rendered by the Board of Appeals shall be fined not more than \$100.00 for each offense. Each day that such violation continues shall constitute a separate offense.

### 2.2 Board of Appeals

#### 2.2.1 Establishment.

The Board of Appeals shall consist of five members and two associate members, who shall be appointed by the Town Manager and shall act in all matters under this By-law in the manner prescribed by Chapters 40A, 40B, and 41 of the General Laws of the Commonwealth of Massachusetts.

Within four (4) weeks of the beginning of each calendar year, the Zoning Board of Appeals shall organize and elect a Chairperson, Vice-Chairperson, and Clerk from within its own membership.

A member of the Board of Appeals may be removed for cause by the Town Manager only after written charges have been made and a public hearing has been held.

Vacancies caused by dismissal, resignation, death, or any other cause shall be filled in the same manner as Zoning Board of Appeals members are appointed.

#### 2.2.2 Powers and Duties of the Board of Appeals.

The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-law. The Board's powers are as follows:

##### 2.2.2.1. Variances.

To hear and decide petitions for variances from the terms of this By-law, not including variances for use, with respect to particular land or structures. Such variance shall be granted only in cases of where the Board of Appeals finds all of the following:

A literal enforcement of the provisions of this By-law would involve a substantial hardship, financial or otherwise, to the petitioner or appellant.

The hardship is owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located.

Desirable relief may be granted without either substantial detriment to the public good; or nullifying or substantially derogating from the intent or purpose of this By-law.

##### 2.2.2.2 Appeals.

Appeals will be heard and decided by the Board of Appeals when taken by:

- A. Any person aggrieved by reason of their inability to obtain a permit or enforcement action from any administrative officer under the provisions of Ch. 40A, G.L.;

- B. The Northern Middlesex Council of Governments;
- C. Any person including any officer or board of the Town of Dracut or of any abutting town, if aggrieved by any order or decision of the Building Inspector or other administrative official, in violation of any provision of Ch. 40A, G.L.; or this By-law; or
- D. Any persons by reason of the inability to obtain a permit or enforcement action from the Building Inspector.

2.2.2.3 To issue comprehensive permits.

Comprehensive permits for construction may be issued by the Board of Appeals for construction of low- or moderate-income housing by a public agency or limited dividend or non-profit corporation, upon the Board's determination that such construction would be consistent with local zoning, building, health, or subdivision requirements, as authorized by M.G.L. Ch. 40B, Sec. 20-23.

2.2.2.4 Nonconforming Use and Structure Section 6 Findings.

To make findings relative to alterations of nonconforming single- and two-family residential structures and the reestablishment of nonconforming residences after two years pursuant to M.G.L. Ch. 40A Sec. 6.

2.2.3. Effective Date of Variance.

No variance or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex County Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

2.2.4 Public Hearings.

The Board of Appeals shall hold public hearings in accordance with the provisions of Massachusetts General Laws Chapters 40A, 40B, and 41 on all appeals and petitions brought before it.

2.2.5 Repetitive Petitions.

Repetitive petitions for Special Permits, appeals and petitions for variances, and applications to the Board of Appeals and other Special permit Granting Authorities shall be as provided in Massachusetts General Laws Chapter 40A, Section 16.

2.3 Special Permits.

2.3.1. Designated Special Permit Granting Authorities

The Board of Selectmen or the Planning Board shall be the special permit granting authorities as specified in the various sections of this By-law and shall hear and decide applications for special permits upon which they are empowered to act under this By-law.

The Planning Board, when acting as a special permit granting authority, shall consist of those members provided pursuant to the Town Charter and one associate member, who shall be appointed by the Town Manager, and when designated by the chairman of the Planning Board, shall sit on the board for the purposes of acting on special permit application in the case of absence, inability to act, or conflict of interest on the part of any member of the planning board or in the event of a vacancy on the board. The associate member shall be appointed for a three-year term of office.

### 2.3.2 General Rules.

Application - Any party who desires to obtain a special permit shall submit a written application in accordance with M.G.L. Ch. 40A Sec. 9, Section 2.3.12, and the rules and regulations of the Special Permit Granting Authority. Each application shall be accompanied by the information required by the Special Permit Granting Authority and this By-law.

### 2.3.3 Regulations and Fees.

The Special Permit Granting Authority shall adopt and may amend Rules and Regulations, not inconsistent with the provisions of this By-law or Chapter 40A of the General Laws or other applicable provision of the General Laws and shall file a copy of said Rules and Regulations with the Town Clerk. Such rules shall prescribe as a minimum the size, form, contents, style and number of copies of plans and specifications, and the procedure for submission and approval of such permits. The Special Permit Granting Authority may adopt, and from time to time amend, fees sufficient to cover reasonable costs incurred by the Town in the review and administration of special permits.

### 2.3.4 Reports from Town Boards or Agencies.

The Special Permit Granting Authority shall transmit or cause to be transmitted forthwith a copy of the application and plan(s) to other boards, departments, or committees as it may deem necessary or appropriate for their written reports.

At a minimum, unless waived pursuant to Section 2.3.13, all applications for special permits pursuant to this section shall be submitted to the Planning Board, the Board of Selectmen, the Building Inspector, and Conservation Commission. Other referrals may involve at the Special Permit Granting Authority's discretion the Police Chief, the Fire Chief, the Highway Surveyor and others whose input it determined to be of value in the decision-making process. Any such board or agency to which petitions are referred for review shall make such recommendation or submit such reports as they deem appropriate and shall send a copy thereof to the Special Permit Granting Authority and to the applicant. Failure of any such board or agency to make a recommendation or submit a report within 35 days of receipt of the petition shall be deemed a lack of opposition.

### 2.3.5 Public Hearing and Decision.

The Special Permit Granting Authority shall hold a public hearing no later than 65 days after the filing of an application. The Special Permit Granting Authority shall have the power to continue a public hearing under this section if it finds that such continuance is necessary to allow the petitioner or applicant to provide information of an unusual nature and which is not otherwise required as part of the special permit application. The Special Permit Granting Authority shall issue a decision no later than 90 days following the close of the hearing. Failure by a Special Permit Granting Authority to take final action upon an application for a special permit said 90 days following the close of the public hearing shall be deemed to be a grant of the permit applied for.

### 2.3.6 Mandatory Findings by Special Permit Granting Authority.

- A. The Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed use:
- B. Is in harmony with the purpose and intent of this By-law.
- C. Will not be detrimental or injurious to the neighborhood in which it is to take place.

- D. Adequate operational and safety provisions for all modes of travel.
- E. Adequacy of utilities.
- F. Is appropriate for the site in question. Complies with all applicable requirements of this By-law.

#### 2.3.7 Special Permit Conditions.

The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

- A. Screening of parking areas or other parts of the premises from adjoining premises or from the street by specified walls, fences, plantings or other devices;
- B. Modification of the exterior features or appearances of the structure(s);
- C. Limitation of size, number of occupants, method and time of operation, and extent of facilities;
- D. Regulation of number, design and location of street openings and drive-up windows and other traffic features;
- E. Requirement for off-street parking and other special features;
- F. Requirement for performance bonds or other security; and Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given use of land.

#### 2.3.8 Time Limitation on Special Permit.

A special permit shall lapse if a substantial use thereof has not commenced or if construction has not commenced; except for good cause within a period of time to be specified by the Special Permit Granting Authority, not to exceed three years from the date of grant thereof.

#### 2.3.9 Effective Date of Special Permit.

No special permit or any modification, extension or renewal thereof shall take effect until a copy of the decision has been recorded in the Middlesex County Registry of Deeds. Such decision shall bear the certification of the Town Clerk that 20 days has elapsed after the decision has been filed in the office of the Town Clerk and no appeal has been filed, or that if such an appeal has been filed, it has been dismissed or denied.

#### 2.3.10 Conditioning by the Special Permit Granting Authority.

Unless otherwise specified, special permits shall survive a transfer of ownership; however, the Special Permit Granting Authority may limit the term of a special permit to be conditioned upon specific ownership of the property and/or structure or time of use.

The Special Permit Granting Authority may also require a resubmission of documentation concerning the conditions in evidence at the time of the original granting or subsequent thereto if for said good reason a re-evaluation of items concerning the health, safety and welfare of the inhabitants of the Town of Dracut is in order. Said re-evaluation must be so stated and fixed in period during the original granting.

### 2.3.11. Special Permit Applicability.

Special Permits shall be required in all instances as follows:

- A. As specified Section 3.3 Table of Permitted Uses as requiring Special Permits and for all accessory uses thereto.
- B. Where the gross floor area of an existing building is increased 1,200 square feet or more for uses designated as requiring Special Permit in Section 3.3 Table of Permitted uses.
- C. Where a use designated as requiring Special Permit on the Table of Permitted Uses is expanded in ground area by 1,200 square feet or more of either impervious material, open storage or any area of the site devoted to the conduct of the principal accessory use.
- D. For any development of land in excess of 1,200 square feet of gross floor area located in an area along the Merrimack River from the river's edge to 500 feet from Merrimack Avenue (State Route 110) north and west.

### 2.3.12 Application Contents.

An application for Special Permit as indicated in Section 2.3.2 of this By-law shall be accompanied by the following:

- A. A written statement detailing the proposed use, the extent of the building coverage and open space, drainage calculations and calculations of the volume of earth to be removed, if any.
- B. Site Plan(s) prepared by a Registered Professional Engineer or Registered Land Surveyor, as appropriate to the data, showing all lot lines and setbacks, zoning district boundaries including flood plain; all wetlands and wetland buffer zones; all areas designated as open space; all existing and proposed topography at two foot intervals, buildings, structures, signs, parking and loading spaces; the limits of all paving and open storage areas and all facilities for sewage, waste disposal and drainage. The Site Plan shall include that portion of any adjacent land owned or used by the applicant on which the use is similar to or connected with the use for which the Special Permit is sought.
- C. A Landscape Plan(s) shall be prepared by a Registered Landscape Architect in all cases where the plan(s) specifies a proposed facility of 10,000 square feet or more of gross floor area, or a facility requiring 40 or more parking spaces. In any case, a Landscape Plan(s) shall show the limits of work, the existing tree line and all proposed landscape features and improvements including walks, planting areas with size and type of stock for each shrub or tree; walls, fences, outdoor lighting, and existing and proposed contours of the land at two-foot intervals.
- D. A Building Elevation Plan(s) shall be prepared by a Registered Professional Engineer in all cases where the plan specifies a facility of 10,000 square feet or more of gross floor area. In any case, a Building Elevation Plan(s) shall show the elevations of the building and its height; and floor plan(s) for the building(s) showing the layout of each floor with a tabular summary of the net floor area used to calculate the required parking and the proposed uses to be conducted on each floor.
- E. Such other information as the Special Permit Granting Authority may reasonably require including special studies or reports, such as traffic or hydrological impact studies and any other information or material required by virtue of any other part of this By-law.

2.3.13 Special Permit Waiver of Application Contents.

The applicant may request in writing to the Special Permit Granting Authority, a waiver of one or more of the requirements of Section 2.3.12 by submitting sufficient justification in support of said waiver request(s). The Special Permit Granting Authority shall in its sole discretion determine whether to grant or deny said waiver request(s).

2.3.14 Modification, Clarification or Any Other Action Taken with Regard to the Conditions of an Existing Special Permit.

Upon request by the applicant to the Special Permit Granting Authority for a field change to the plan or the Special Permit conditions of approval, the Special Permit Granting Authority may make a determination that said modifications are de minimis and does not require a modification of the Special Permit. Absent said determination, a modification of the Special Permit application shall follow the same procedural requirements for the issuance of the Special Permit.

2.3.15 Quantum of Vote.

Adoption of any Special Permit modification, clarification or any other action taken with regard to the conditions of an existing Special Permit must have a supermajority vote of at least four members of the Board unless the vote involves a use as specified in M.G.L. Chapter 40A, Section 9, where a simple majority shall be the required quantum of vote. The record shall show the vote of each member upon each question or, if absent or failing to vote, indicate such fact.

Failure by the Special Permit Granting Authority to take final action within said ninety days or extended time, if applicable, shall be deemed to be a grant of the Special Permit modification. The petitioner who seeks such approval by reason of the failure of the Board of Selectmen to act within such time prescribed, shall notify the Town Clerk, in writing within fourteen days from the expiration of said ninety days or extended time, if applicable, of such approval and that notice has been sent by the petitioner to parties in interest by mail and each such notice shall specify that appeals, if any, shall be made pursuant to M.G.L. Ch. 40A, Sec. 17 and shall be filed within twenty days after the date the Town Clerk received such written notice from the petitioner that the Board of Selectmen failed to act within the time prescribed. After the expiration of twenty days without notice of appeal pursuant to Sec. 17, or, if appeal has been taken, after receipt of certified records of the court in which such appeal is adjudicated, indicating that such approval has become final, the Town Clerk shall issue a certificate stating the date of approval, the fact that the Special Permit Granting Authority failed to take final action and that the approval resulting from such failure has become final, and such certificate shall be forwarded to the petitioner. The Special Permit Granting Authority shall cause to be made a detailed record of its proceedings, indicating the vote of each member upon each question, or if absent or failing to vote, indicating such fact and setting forth clearly the reason for its decision and of its official actions, copies of all which shall be filed within fourteen days in the office of the Town Clerk and shall be deemed a public record and notice of the decision shall be mailed forthwith to the petitioner, applicant or appellant, to the parties in interest designated in Section Eleven, and to every person present at the hearing who requested that notice be sent to him and stated the address to which such notice was to be sent. Each such notice shall specify that appeals, if any, shall be made pursuant to M.G.L. Ch. 40A, Sec. 17 and shall be filed within twenty days after the date of the filing of such notice in the office of the Town Clerk, or act in any other way relative thereto.

### 2.3.16 Waivers.

The Special Permit Granting Authority may allow for waivers of Section 6.1. Off Street Parking and Loading and Section 4.5. Buffering, Screening, and Grading. The waiver request must be specific in nature and the Special Permit Granting Authority must make specific findings to waive any of these requirements. Consideration will be given as to the necessity to meet the realistic requirements of the proposed development and satisfy the objectives of the Zoning Bylaw. The Special Permit Granting Authority will base its findings on the stated requirements of those sections of the bylaw listed above as well as standards that are established by other professional organizations, such as but not limited to, parking standards published by the Institute of Transportation Engineers, standards of the American Society of Highway and Transportation Officials, Commonwealth of Massachusetts agencies (DEP Storm Water Policy, for example), Urban Land Institute publications, and American Planners Association publications.

## 2.4 Site Plan Review

### 2.4.1 Statement of Purpose

The purpose of this section is to provide for Planning Board review of certain construction projects to ensure that sound site utilization principles are used to provide for and protect the public health, safety, and general well-being, in accordance with Massachusetts General Laws, Chapter 40A.

### 2.4.2 Applicability

A. The following types of activities and uses require site plan review by the Planning Board:

1. New construction or reconstruction of any multi-family, community facility, commercial, industrial or business building; or any additions or alterations in excess of twenty-five hundred (2,500) square feet or thirty (30) percent (%) of the existing gross floor area, whichever is less, which has been constructed within the consecutive two-year period;
2. Any change or intensification of use which increases the parking requirement by ten (10) spaces and/or triggers the requirement of a new loading zone;
3. Grading, clearing, or land development activity that disturbs 5,000 square feet or more except for the following: work incidental to agricultural activities; clearing necessary for percolation and other site tests; work in conjunction with an approved Definitive Subdivision Plan, or an earth removal permit.
4. for any development of land in excess of 1,200 square feet of gross floor area located in an area along the Merrimack River from the river's edge to 500 feet from Merrimack Avenue (State Route 110) north and west
5. Large Scale Solar Photovoltaic Facility
6. Any activity or use that is indicated elsewhere in this bylaw as requiring site plan review.

### 2.4.3 General Standards

In the review of any site plan conducted under this Section, the Planning Board shall determine that reasonably adequate provisions have been made by the applicant for the following:

- A. Traffic circulation and access;
- B. Pedestrian safety and access;

- C. Off-street parking and loading which is in compliance with the applicable requirements of the Protective Zoning Bylaw;
- D. Emergency vehicle access;
- E. Storm water drainage, based upon a professional engineering report, utilizing on-site absorption, and low impact development integrated stormwater management practices wherever practical;
- F. Water supply and sewage disposal adequate to support the intended use(s);
- G. Screening, including the use of natural land features, plantings, and erosion control;
- H. Protection and preservation of existing natural features and vistas;
- I. Signage and exterior lighting;
- J. Visual impact of parking storage or other outdoor service areas;
- K. Consistency with character and scale of surrounding buildings; and
- L. Energy, water and resource efficient design, through appropriate building orientation, landscaping and use of resource efficient materials and energy-and-water-efficient systems.

#### 2.4.4 Submission Procedure

- A. Anyone seeking approval of a site plan shall obtain an application and checklist from the Planning Board's Office. Prior to submitting the application, the owner of the subject property, or their agent, shall meet with the Planning Director or the designee of the Planning Board for the purpose of reviewing the application and the site plan review checklist. Depending on the nature of the application, the applicant may be encouraged to meet with the Planning Board prior to making a formal submission of plans, to discuss site plan requirements and possible waivers. The Planning Board may provide a set of guidelines to assist the applicant in meeting site plan, architectural, and landscaping objectives. The applicant shall submit an application and fee to the Planning Board, a copy of which application shall forthwith be filed by the applicant with the Town Clerk. Within five (5) business days of receipt by the Board or its designee, the Board shall distribute copies of the application and accompanying documentation to all appropriate Town boards, departments and commissions. Any comment by such boards, departments or commissions shall be filed with the Board within twenty (20) days of its receipt.
- B. The Board shall hold a public hearing on the application within thirty (30) days of its receipt. Notice of the hearing shall be given by publication in a newspaper of general circulation in the Town and by posting such notice in a conspicuous place in the Town Hall. Notice of public hearing shall also be provided to abutters and abutters to the abutters within 300 feet of the property line by certified mail as per M.G.L. Chapter 40A. All costs for publication of the public hearing shall be borne by the applicant.
- C. Within sixty (60) days of the date of filing of the application with the Town Clerk, the Board shall approve, approve with conditions or disapprove the site plan as submitted or as amended, unless the site plan review application is submitted coincident with a special permit application, in which case the site plan review submission shall be acted upon within the same time period

as the special permit application. If the Board does not approve or disapprove the site plan within this period, the site plan shall be deemed approved. If the Board votes to disapprove, the applicant shall be notified in writing and the specific reasons for disapproval shall be stated.

#### 2.4.5 Submission Requirements

A formal application for site plan review shall contain at least the following exhibits and information:

- A. A fully executed and signed copy of the application for site plan review.
- B. Eight (8) copies of a site plan stamped by a professional engineer, surveyor or landscape architect and drawn at a scale sufficient to allow review of the items listed under the proceeding general standards, but at not greater than fifty (50) feet to the inch for that portion of the total tract of land being proposed for development, and showing the following:
  1. Owner's name, address and signature;
  2. Applicant's name, address and signature if not the owner of the property;
  3. Names and addresses of all abutting property owners;
  4. Locus map showing general location of the site with the Town;
  5. Boundary of the entire parcel held in common ownership by the applicant regardless of whether all or part is being developed at this time;
  6. The bearings and distances of all property lines;
  7. Zoning classifications(s) of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts;
  8. The location of all existing and proposed buildings with all setbacks;
  9. The location, size, and type of all signs and exterior lighting;
  10. The lot area of the parcel and street frontage;
  11. The location of all existing and proposed buildings (including size and height), driveways, sidewalks, parking spaces, loading areas, open spaces, trees of six (6) caliper inches or greater, open drainage courses, signs, exterior lighting, service areas, easements, and landscaping;
  12. The approximate location of all buildings, intersection roads, and driveways within two hundred (200) feet of the parcel;
  13. A stormwater drainage plan showing:
    - a. The existing and proposed method of handling storm water run-off;
    - b. The direction of flow of the run-off through use of arrows;
    - c. The location, elevation, and size of all catch basins, drywells, drainage ditches, swales and other low impact development integrated stormwater management facilities, retention basins, and storm sewers; and

- d. Engineering calculations used to determine drainage requirements based upon the two (2), ten (10), twenty five (25) and one hundred (100) year storm frequencies;
- 14. Existing and proposed topography of the site at one (1) foot contour intervals;
- 15. A plan showing all provisions for water supply and wastewater disposal including the size and location of all piping, holding tanks, leach field, etc.;
- 16. An elevation plan of all proposed buildings, including proposed building materials and façade treatment; and
- 17. Location of wetlands, streams, water bodies, areas subject to flooding and unique site features such as specimen trees, view sheds from public ways, and other features.

C. Copies of any proposed or existing easements

2.4.6 Security Posting

The Board may require the posting, prior to approval of any plan, of security in such form as permitted by Massachusetts General Laws Chapter 41, Section 81U, and in such amounts as are deemed by the Board as being reasonably necessary to ensure completion of all improvements required as conditions of approval of such plan.

2.4.7 Technical Consultant Services

The Board may engage the services of a technical consultant(s) to review any site plan when it believes professional review is necessary to accomplish the purpose of this section. The costs for any professional review (other than Town staff review) shall be borne by the applicant. Costs shall be reasonable and in conformance with M.G.L., Chapter 44, Section 53G.

2.4.8 Waiver

The Board may waive, by an affirmative vote of three (3) out of five (5) members, any of the submission requirements of Section 2.4.5 if it determines that the requirement does not apply or that strict compliance with this application will, because of the size or special nature of the proposed building or structure, create an undue hardship on the applicant and not be in the public interest.

2.4.9 Compliance

- A. Except as described in 2. below, no final occupancy permit shall be issued for any building or structure, or portion(s) thereof, until:
  - 1. The Building Inspector receives certification from a registered architect, engineer, or land surveyor, that all construction, including utilities, has been done in accordance with the approved site plan; and
  - 2. The Building Inspector verifies that all conditions of the approved site plan have been met.
- B. Occupancy permits may be issued for a portion of any building or structure, if the only incomplete work shown on the site plan is landscaping and/or roadway top course, and surety in an amount approved by the Planning Board is posted to ensure that the incomplete landscaping and/or roadway top course is completed within a reasonable time. The Planning Board may allow surety to

be posted for site work in addition to landscaping and the roadway top course, if an unusual or unexpected event prevents the applicant from completing the site work.

#### 2.4.10 Maintenance

All access ways, parking areas, fences, walls, landscaping, lighting, drainage, low impact development integrated stormwater management facilities and waste disposal areas shall be adequately maintained and repaired or replaced wherever and whenever necessary to ensure continued compliance with the approved site plan.

#### 2.4.11 Site Lighting

Access ways, parking areas, and pedestrian walkways shall have adequate lighting for security and safety reasons. Lighting shall be energy-efficient and arranged and shielded so as to be Dark Sky Compliant preventing glare and light overspill from the site shining onto abutting properties and into the sky.

#### 2.4.12 Site Landscaping

- A. Site landscaping shall conform to the requirements of this Section. The minimum total square feet of landscaping for any project approved under this Section shall be twenty (20) percent (%) of the total impervious surface of the proposed project. The calculated square footage shall be marked clearly on the submitted site plan. Landscaping shall be provided in the following areas of the site:
  1. Foundation plantings at entry and at building façade facing roadways;
  2. Parking lot interior (such as planting islands);
  3. Screening parking areas, loading areas, rubbish removal bins, and outside storage, if applicable;
  4. Street line plantings, and perimeter lot line plantings, where applicable.

- B. To the extent feasible or practicable, landscaping should be designed in an environmentally sensitive manner with non-invasive drought tolerant plants, as well as with salt tolerant species where exposed to runoff from parking lots and driveways, so as to promote on-site infiltration of stormwater runoff, and to reduce irrigation, heating and cooling needs.

#### 2.4.13 Modifications to Approved Site Plans

To request a modification to an approved site plan, an applicant shall submit to the Planning Board a written description and /or site plan of the proposed modifications. If the Board determines that a particular modification is not significant and is consistent with the previously approved site plan, the Board may decide the change is minor and no further action is required. In the event the Board determines the change is not minor it shall, be subject to the same submittal, review and hearing procedures as was the original filing.

#### 2.4.14 Application and Checklist

The Board shall adopt an application form, checklist and regulations to assist applicants in complying with these provisions.

### **Section 3. District Regulations**

#### **3.1 Establishment of Districts**

For the purpose of this By-law, the Town of Dracut is hereby divided into the following districts:

Residential	Residential 1	(R-1)
	Residential 2	(R-2)
	Residential 3	(R-3)
Business and Commercial	Business 1	(B-1)
	Business 3	(B-3)
	Business 4	(B-4)
	Business 5	(B-5)
Industrial	Industrial 1	(I-1)
	Industrial 2	(I-2)
Special Overlay Districts	Flood Plain District	(FP)
	Wellhead Protection District	(WPD)
	Mill Conversion Overlay District	(MCOD)
	Dracut Center Neighborhood Overlay District	(DCNOD)

The boundaries of each district are herein established, defined, and bounded as they appear on the Town's Geographic Information System (and as maintained in an electronic format by the Town Clerk's Office), as of October 31, 2008, and further amended from time to time by Town Meeting action, or corrected by Town Engineer.

#### **3.2 Regulation of Uses**

##### **3.2.1 Application.**

No building or structure shall be erected and no premises shall be used except as herein set forth in the following sections.

##### **3.2.2 Uses Not Listed.**

If a particular use or activity is not listed in Section 3.3 Table of Uses and further identified in Section 9, Definitions such use is prohibited. If an activity might be classified under more than one of the Principal Use Definitions, the more specific definition shall determine whether the use is permitted. If the activity might be classified under equally specific definitions, it shall not be permitted unless both Principal Uses are permitted in the district. Principal Use Regulations pertaining to Special Overlay Districts are contained in Section 5 Overlay Districts. Uses accessory to the principal use by zone are listed in Section 3.4

##### **3.2.3 Multiple Uses**

Multiple principal uses or activities on a lot are permissible in accordance with the provisions of the District the lot is located

### 3.3 Table of Permitted Uses

Principal Uses	Residential			Business				Industrial	
	R-1	R-2	R-3	B-1	B-3	B-4	B-5	I-1	I-2
<b><u>General uses</u></b>									
Agriculture	P	P	P	P	P	P	P	P	P
Conservation	P	P	P	P	P	P	P	P	P
Earth Removal	0	0	0	0	0	0	0	BOS(#1)	BOS(#1)
Recreation	P	P	P	P	P	P	P	P	P
<b><u>Residential Uses</u></b>									
Single Family Dwelling	P	P	P	P	0	0	0	0	0
Two Family Dwelling	0	0	PB(#2)	PB(#2)	0	0	0	0	0
Multi-Family Dwelling	0	0	PB(#3)	0	0	0	0	0	0
<b><u>Governmental, Institutional, &amp; Public Service Uses</u></b>									
Municipal	P	P	P	P	P	P	P	P	P
Museums	0	0	0	P	P	P	P	P	P
Non Profit Educational	P	P	P	P	P	P	P	P	P
For Profit Educational	PB	PB	PB	PB	P	P	P	P	P
Religious	P	P	P	P	P	P	P	P	P
Nursing Home	0	0	PB	PB	P	P	P	0	0
Public or Private Utility Facilities	0	0	0	0	0	0	0	BOS	BOS
Hospitals	0	0	0	PB	PB	PB	PB	0	0
Correctional Facilities	0	0	0	0	0	0	0	PB	PB
Cemeteries	P	P	P	0	0	0	0	P	0
Post Office	0	0	0	P	P	P	P	PB	0
Assisted Living Facility	0	0	0	0	PB	PB	PB	0	0
<b><u>Business Uses (#4)</u></b>									
Retail Store <5,000 G.S.F.	0	0	0	P	P	P	P	PB	0
Retail Store >5,000 G.S.F.	0	0	0	0	PB	PB	PB	0	0

Principal Uses	Residential			Business				Industrial	
	R-1	R-2	R-3	B-1	B-3	B-4	B-5	I-1	I-2
<b><u>Business Uses (cont'd)</u></b>									
Professional Office	0	0	0	PB	P	P	P	0	0
Financial Service	0	0	0	PB	P	P	P	0	0
Restaurant	0	0	0	PB	P	P	P	PB	0
Restaurant – Fast Food	0	0	0	0	PB	P	P	PB	0
Hotel, Inn or Motel	0	0	0	0	P	P	P	BOS	0
Combined Business or Dwelling	0	0	0	PB	PB	P(#11)	P(#11)	0	0
Lodge or Club	BOS	BOS	BOS	BOS	P	P	P	P	P
Funeral Home	0	0	PB	0	P	P	P	0	0
Veterinary Care	0	0	0	0	P	P	P	0	0
Commercial Kennel	0	0	0	0	0	BOS	BOS	BOS	BOS
Personal Services	0	0	0	PB	P	P	P	PB	0
General Services	0	0	0	0	P	P	P	P	0
Studio	0	0	0	PB	P	P	P	P	0
Building Trade Shop	0	0	0	0	P	P	P	P	0
Commercial Recreation	0	0	0	0	BOS	BOS	BOS	BOS	0
Lounge or Pub	0	0	0	0	BOS	BOS	BOS	0	0
Commercial and Trade School	0	0	0	0	PB	P	P	PB	0
Amusement Facility Indoor	0	0	0	0	BOS	BOS	BOS	0	0
Amusement Facility Outdoor	0	0	0	0	BOS	BOS	BOS	0	0
Motor Vehicle Service Station	0	0	0	PB	PB	PB	PB	PB	PB
Car Wash	0	0	0	0	PB	PB	PB	0	0
Motor Vehicle Repair or Body Shop	0	0	0	0	PB	PB	PB	P	P
Light Vehicle Sales	0	0	0	0	BOS	BOS	BOS	0	0
Vehicle Equipment Sales	0	0	0	0	PB	P	P	PB	0
Motor Vehicle Rental Agency	0	0	0	0	PB	0	0	0	0

Principal Uses	Residential			Business				Industrial	
	R-1	R-2	R-3	B-1	B-3	B-4	B-5	I-1	I-2
<b><u>Business Uses (cont'd)</u></b>									
Parking Facility	0	0	0	0	PB	PB	PB	0	0
Commercial Breeding Facility	0	0	0	0	0	0	0	BOS	0
Zoo	0	0	0	0	BOS	BOS	BOS	BOS	0
Commercial Broadcast Facility (not including studio)	0	0	0	0	PB	PB	PB	PB	P
Airport – Fixed Wing	0	0	0	0	0	0	0	PB	PB
Aircraft – Heliport	0	0	0	0	PB	PB	PB	PB	PB
Rifle Range (outdoor)	0	0	0	0	0	0	0	BOS	BOS
Boarding House	0	0	PB(#3)	0	0	0	0	0	0
Day Care Facility	PB	PB	PB	PB	PB	0	0	0	0
Body Art Establishment	0	0	0	0	BOS(#10)	BOS(#10)	BOS(#10)	0	0
Shooting Range (Indoor)	0	0	0	0	0	P	0	0	0
Domestic Pet Services	0	0	0	0	PB	PB	PB	PB	0
<b><u>Industrial Use (#5)</u></b>									
Research/Office Park	0	0	0	0	0	0	0	PB	PB
Warehouse	0	0	0	0	0	0	0	PB	P
Mini-Warehouse	0	0	0	0	PB	PB	PB	PB	PB
Construction Yard	0	0	0	0	0	0	0	PB	PB
Lumber Yard	0	0	0	0	PB	PB	PB	PB	PB
Heating Fuel Sales/Service	0	0	0	0	0	PB	PB	PB	PB
Heavy Manufacturing	0	0	0	0	0	0	0	0	PB
Light Manufacturing	0	0	0	0	0	0	0	P	P
Waste Treatment	0	0	0	0	0	0	0	0	BOS
Waste Recovery	0	0	0	0	0	0	0	0	BOS
Waste Transfer Facility	0	0	0	0	0	0	0	BOS	BOS
Slaughter House & Similar	0	0	0	0	0	0	0	0	BOS

Principal Uses	Residential			Business			Industrial	
	R-1	R-2	R-3	B-1	B-3	B-4	I-1	I-2
<b><u>Industrial Use (cont'd)</u></b>								
Telecommunications Facility	0(#9)	0(#9)	0(#9)	0/9	0(#9)	0(#9)	PB(#9)	PB(#9)
Marijuana Establishment	0	0	0	0	0	0	BOS	0
Heavy Vehicle Sales or Repair Garage	0	0	0	0	0	BOS	0	BOS
Natural Materials Operation	0	0	0	0	0	0	PB	PB
<b><u>Other Uses</u></b>								
Storage	0	0	0	0	0	0	0	PB
Containerized Temp. Storage	PB	PB	PB	PB	PB	PB	PB	PB
Truck Terminal	0	0	0	0	0	0	0	0
Solid Waste Disposal	0	0	0	0	0	0	PB	PB
Biological Research	0	0	0	0	0	0	PB	PB
Adult Entertainment Establishments	0	0	0	0	0	0	0	BOS
Fairs, Carnivals, Etc. (#6) (#7)	0	0	0	0	BOS	BOS	BOS	BOS
First Accessory Dwelling Unit	P (#8)	P (#8)	P (#8)	P (#8)	P (#8)	P (#8)	P (#8)	P (#8)
Additional Accessory Dwelling Unit (# 12)	PB(#8)	PB(#8)	PB(#8)	PB(#8)	PB(#8)	PB(#8)	PB(#8)	PB(#8)
Student Transit Vehicle Parking	0	0	0	0	0	0	PB	PB
Large Scale Solar Photovoltaic Facility	PB	0	0	0	0	PB	PB	PB
Non-Solar Battery Energy Storage Systems	PB	0	0	0	0	PB	PB	PB
Quarry Manufacturing	0	0	0	0	0	0	0	PB
Biotech and/or Pharmaceutical/Health Manufacturing and Distribution	0	0	0	0	0	0	0	PB
Research/Office	0	0	0	0	0	0	0	PB
Distribution Center	0	0	0	0	0	0	0	PB

CODES:

P - A Permitted Use

0 - A Prohibited Use

PB - Special Permit – Planning Board

BOS - Special Permit – Board of Selectmen

FOOTNOTES:

#1 - See Section 6.3 Soil, Vegetation, Rock and Gravel Removal

#2 - Requires 1.5 X Base Lot Area of the R-3 Zone

#3 - See Section 7.2 Special Permits – Multi Family Development

#4 - See Section 8.1 Site Plan Review – Major Business Use

#5 - See Section 8.2 Site Plan Review – Major Industrial Use

#6 - See Section 8.3 Fairs, Carnivals, and Similar Events

#7 - Not allowed in these Zones except when approved by the Board of Selectmen on municipally owned land

#8 - Accessory Dwelling Units shall only be allowed in conjunction with a dwelling.

#9 - Or in an existing church steeple, or other existing structure of sufficient height, approved by the Board of Selectmen

#10 - Not within 500 ft. of zones R1, R2, R3 or within 500 ft. of a public or private school

#11 - Notwithstanding anything to the contrary in this Zoning Bylaw, a Single Family Dwelling Use and Structure existing as of June 1, 2011 shall be permitted by right to be located on the same Lot as other principal uses allowed in a B-4 Zoning District, provided that such other non-Single Family Dwelling uses and structures comply with the requirements of the B-4 Zoning District as well as other provisions of the Zoning Bylaw. Any modification to said Single Family Dwelling after June 1, 2011, whether or not another use permitted in the B-4 District is located on such Lot, shall be subject to approval by Site Plan Special Permit issued by the Planning Board.

#12 - See Section 7.4.2.D.

### 3.4 Accessory Use Regulations

#### 3.4.1 Accessory Uses Permitted

Accessory uses shall be permitted in all districts on the same lot with the principal use subject to the following provisions:

##### A. Accessory Uses Permitted to Residential Use in All Districts

1. Private garage or carport for not more than four motor vehicles, solar system, greenhouse, tool shed or barn; swimming pool or tennis court provided that such recreational facilities are used only by the residents and their guests.
2. Home occupations shall be considered accessory uses to the principal residential use of a dwelling and shall be conducted by a resident or residents of the dwelling. A home occupation shall be incidental to the principal use as a residence but need not be a use that is customarily associated with residential use.
3. A Home Occupation may be allowed as of right provided that it:
  - a. is conducted solely within a dwelling home, an existing accessory building or at off-site locations such as a client's office, jobsite, etc.;
  - b. is solely operated by the person(s) occupying the dwelling as a primary residence;
  - c. is clearly incidental and secondary to the use of the premises for residential purposes and does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
  - d. does not utilize exterior storage of material or equipment;
  - e. does not exhibit any exterior indication of its presence or any variation from residential appearance;
  - f. is registered as a business with the Town Clerk.
4. The keeping of more than one small animal per four-thousand square feet of lot area upon which said animals are kept or more than one large animal, in excess of four-hundred pounds, per ten-thousand square feet of lot area upon which they are kept, excepting domestic dogs and cats which are not regulated herein.
5. Inground swimming pools and above ground swimming pools with a depth greater than 24 inches shall be no closer than fifteen (15) feet from a side or rear lot line and thirty (30) feet from a front yard lot line.
6. Above-ground Pools (Greater than 24" in depth): Same setbacks shall apply for an above-ground pool with a depth greater than 24" as the inground pools.
7. Utility/Storage Shed shall be an accessory use to all single- and two-family dwellings when said structure is 120 square feet or less (10 x 12). The structure shall require setbacks of 30'(feet) front yard, not less 10'(feet) side and rear.

B. Uses Accessory to Permitted Non-Residential Uses

1. The rental of automobiles, light trucks or trailers and similar light motor vehicles provided that such rental is secondary to the operation of a motor vehicle service station permitted under Section 3.3 Table of Use Regulations.
2. Accessory Uses Permitted in the Business 3 and 4 Districts. Uses necessary or desirable in connection with the operation of an Assisted Living Facility including uses necessary or desirable for residents or staff of an Assisted Living Facility.

C. Accessory Uses Permitted in the Light Industrial District I-1

1. Uses necessary in connection with scientific research or scientific development or related production may be authorized by special permit from the Planning Board.

D. Accessory Uses Permitted in the General Industrial District I-2

1. Rental of heavy trucks including truck-trailers and industrial equipment provided such rental service is secondary to a heavy vehicular sales establishment permitted under Section 3.3, Heavy Vehicular Sales or Repair Garage.

E. Accessory Uses Permitted in any Zoning District

1. Wind machines designed to serve a principal use on a lot may be authorized by special permit from the Planning Board provided the Planning Board finds that the wind machine is set back from all lot lines at least the distance equal to the height of the tower from its base on the ground to the highest extension of any part of the wind machine. The Planning Board may allow the wind machine to exceed the maximum height limitations established by this By-law provided that the setback requirement stated above is met.
2. A mobile home may be placed on the site of the residence which has been rendered uninhabitable by accident provided it is used for a period not to exceed 12 months as the primary residence of the owners of the residence which has been rendered uninhabitable.
3. Farm products grown on the premises may be sold on the premises.
4. Where not otherwise permitted, a greenhouse may be authorized by special permit from the Planning Board where the principal use of the property is agriculture
5. Roof Mounted and Small-Scale Solar Energy Systems accessory to a principal use are allowed in all zoning districts subject to all local and other government requirements.
6. Medium Scale Ground Mounted Solar Energy Systems accessory to a principal use are allowed by Special Permit from the Planning Board subject to all local and other government requirements.

3.5 Nonconforming Lots, Uses, and Structures

3.5.1 Nonconforming Lots.

Existing Lots. Any lot which complied with the minimum area, frontage, and lot width requirements, if any, in effect at the time the boundaries of the lot were defined by recorded deed or plan, may be built

upon or used for single family residential use, notwithstanding the adoption of new or increased lot area, frontage or lot width requirements, provided that:

- A. At the time of the adoption of such new or increased requirements or while building on such lot was otherwise permitted, whichever occurs later, such lot was held, and has continued to be held, in ownership separate from that of adjoining land; and
- B. The lot had at least 5,000 square feet of area and 50 feet of frontage at the time the boundaries of the lot were defined; and
- C. Any proposed structure is situated on the lot so as to conform with the minimum yard requirements, if any, in effect at the time the boundaries of such lot were defined. In the case where no minimum yard requirements were in effect at the time the boundaries of such lot were defined, the minimum front yard shall be 20 feet and the minimum side and rear yards shall be 10 feet.

#### 3.5.2 Nonconforming Uses and Structures Applicability.

This Zoning By-Law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by M.G.L. c40A, s.5 at which this Zoning By-Law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

#### 3.5.3 Nonconforming Uses.

The Planning Board may, issue a finding pursuant to M.G.L. Chapter 40A, Section 6, to permit a change or extension of a nonconforming use in accordance with this section only if it determines that such change or extension shall not be more detrimental than the existing nonconforming use to the neighborhood. Improvements that do not change the use or the basic characteristics or appearance of the building or structure are allowed. Such improvements include but are not limited to the installation or replacement of roof mounted solar energy systems. The following types of changes to nonconforming uses may be considered by the Planning Board:

- A. Change or substantial extension of the use;
- B. Change from one nonconforming use to another, less detrimental, nonconforming use.
- C. Extension to adjacent/adjoining lot(s) where proposed use is not allowed is prohibited.
- D. Projected changes in noise, light, drainage, traffic plus any other factors identified by the Planning Board shall be evaluated as to whether they are less detrimental to the neighborhood.
- E. Studies and peer review may be required by the Planning Board.
- F. There is no provision for adding a use. The existing more detrimental use must be identified, exchanged, and extinguished for the new less detrimental use to be allowed.

#### 3.5.4 Alteration of Nonconforming Structures Excluding Single and Two-Family Residential Structures.

The Planning Board as the Special Permit Granting Authority may issue a finding pursuant to M.G.L. Chapter 40A, Section 6 to permit the reconstruction, extension, alteration, or change of a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be more detrimental than the existing nonconforming

structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Planning Board:

- A. Reconstructed, extended or structurally changed;
- B. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner.

**3.5.4.1** In the following circumstances, alteration, reconstruction, extension or structural change (collectively “alteration”) to structures other than single- or two-family residential structures shall be considered to increase the intensity of an existing nonconformity and shall be considered to create additional nonconformities and be more detrimental than the existing nonconforming structure to the neighborhood:

- A. The creation of any new nonconformity where no nonconformity currently exists.
- B. The relocation or movement of a building or structure in whole or in part which is nonconforming by dimension to any other location on the lot in which it is located outside of the existing nonconforming footprint unless the relocation is proven to be less nonconforming to the requirements of the zone in which it is located.
- C. The voluntary demolition and reconstruction of a building or structure nonconforming by dimension unless it conforms to the dimensional regulations of the zone in which it is located, or the nonconforming nature of the new proposed structure is found to be less nonconforming by the Planning Board.

**3.5.4.2 Variance Required**

Except as provided in Section 3.5.5, below, the reconstruction, extension, or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

**3.5.5 Alteration of Nonconforming Single- and Two-Family Residential Structures.**

Nonconforming single and two-family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

- A. alteration to a structure which is located on a lot with insufficient area, where such alteration complies with all current setback, yard, and building height requirements
- B. alteration to a structure which is located on a lot with insufficient frontage, where such alteration complies with all current setback, yard, and building height requirements.
- C. alteration to a structure which encroaches upon one or more required yard or setback areas, where such alteration will comply with all current setback, yard and building height requirements.
- D. alteration to a nonconforming structure which will not increase the footprint of the existing structure nor exceed existing height restrictions.

**3.5.6 Alteration of Nonconforming Single and Two-Family Residential Structures.**

In the event that the Building Inspector determines, after consideration of Section 3.5.5, above, that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may issue a finding pursuant to M.G.L. Chapter 40A, Section 6 , to permit such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

**3.5.7 Abandonment or Non-Use.**

A non-conforming use or structure which has been abandoned, or not used, for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning ordinance.

- A. Notwithstanding the above, a non-conforming residential structure, which has been abandoned or not used for a period of two years, may reestablish its protected status upon grant of a Special Permit by the Board of Appeals.
- B. Notwithstanding the above, upon the grant of a Special Permit by the Planning Board, a non-conforming structure may be reused, repurposed or reconstructed for a use which is allowed by right within the zone in which the structure is located (Code “P” in Section 3.3 Table of Permitted Uses). This Special Permit shall include a determination by the Board that the new use will be less detrimental to the neighborhood than the abandoned use.”

**3.5.8 Reconstruction after Catastrophe or Demolition.**

A nonconforming structure may be reconstructed if said construction is commenced within two years after a catastrophe or after demolition in accordance with the following provisions:

- A. Reconstruction of said premises shall commence within two years after such catastrophe or demolition

**3.5.9 Reversion to Nonconformity**

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.

**3.5.10 Exceptions.**

- A. This section shall not apply to billboard signs and other devices subject to the provisions of Section 29 through 33, inclusive, of Chapter 93, and to Chapter 93D of the Massachusetts General Laws.
- B. Any property owner who has continuously operated a bus terminal or has continuously rented to someone who has operated a bus terminal on a property for a combination of at least forty years prior to the enactment of this section, the bus terminal operations shall be a grandfathered use and may continue to operate thereof so long as the owners maintain the current ownership of the property. Once the property is transferred to an unrelated party, the grandfather use is terminated. If any provision of the article or the application thereof to any persons or circumstances shall to any extent be held invalid or unenforceable, the remainder of the article or the application of such provision to persons or circumstance other than those to which it is held invalid or unenforceable shall not be affected thereby, and each remaining provision of the article shall be valid and enforceable to the fullest extent permitted by law.

## Section 4. Intensity of Use (Dimensional) Requirements

### 4.1 Standard Dimensional Provisions

No land shall be used, and no structure or building shall be used, or construction begun except in accordance with this Section and the Table of Standard Dimensional Regulations unless otherwise specifically permitted in this By-law.

**4.1.1** Minimum Land Area in any district the following areas may not be considered in computing minimum lot sizes.

**4.1.2** Seventy (70) percent of land shown within a lot and identified by the Dracut Conservation Commission as a wet land resource area pursuant to M.G.L. Chapter 131 section 40 and/or the Dracut Wetland Bylaw. This section shall supersede any contrary provision contained in this By-law.

**4.1.3** Land classified as floodway as determined by the U.S. Department of Housing and Urban Development, Federal Emergency Management Agency and depicted on the "Floodway Boundary Maps" prepared for the Town of Dracut by said Agency dated July 2, 1980.

### 4.2 Lot Shape

In all districts any lot created after the effective date of this amendment to the Zoning Bylaw shall have a lot shape factor equal to or greater than .40 using the following formula (with measurements in feet/square feet):

$$\text{Lot Shape Factor} = (\text{Lot Area} \times 16) \div (\text{Lot Perimeter} \times \text{Lot Perimeter})$$

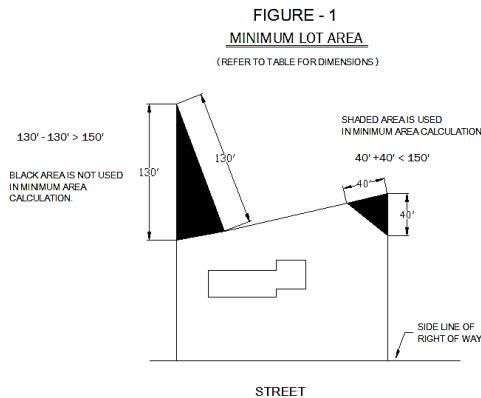
### 4.3 Methods for Calculating Dimensional Requirements

The following shall apply:

#### 4.3.1 Lot Area

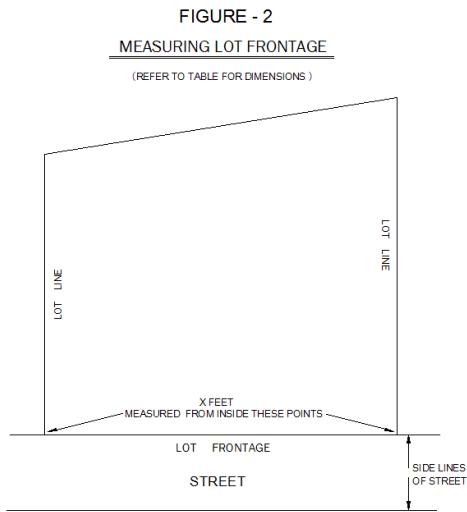
Lot area shall be determined by calculating the area within a lot including any area within the lot over which easements have been granted, provided that no area within a street shall be included in determining minimum lot area.

When the distance between any two points on lot lines is less than 50 feet, measured in a straight line, the smaller portion of the lot which is bounded by such straight line and such lot lines shall not be considered in computing the minimum lot area unless the distance along such lot lines between such two points is less than 150 feet. See Figure 1.



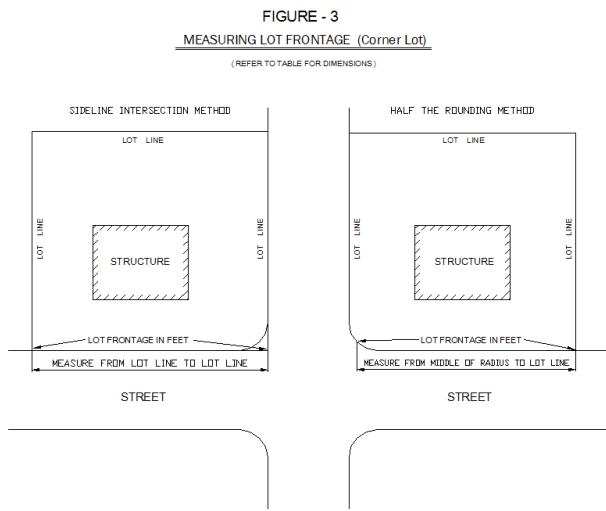
#### 4.3.2 Frontage

Frontage shall be measured in a continuous line along the sideline of a street between the points of intersection of the side lot lines within the street. See Figure 2.



#### 4.3.3 Corner Lot Frontage

Frontage for a corner lot may be measured either to the point of intersection of the extension of the sideline of the rights of way or to the middle of the curve connecting the sideline of the intersecting streets. (See Figure 3).

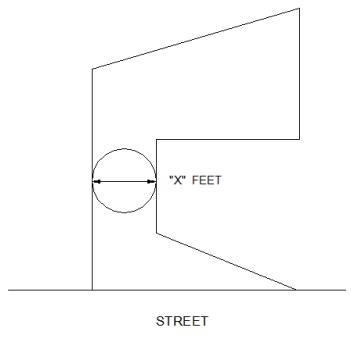


If a lot has frontage on more than one street, the frontage on one street only may be used to satisfy the minimum lot frontage.

#### 4.3.4 Lot Width

Lot width shall be determined by measuring the diameter of the largest circle which can be located along a continuous, but not necessarily straight line from the lot frontage to the principal structure on the lot without the circumference intersecting the side lot lines. See Figure 4.

FIGURE - 4  
MEASURING LOT WIDTH  
(REFER TO TABLE FOR DIMENSIONS )



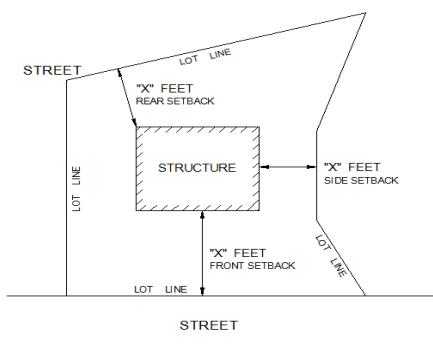
#### 4.3.5 Front Yards.

Front yards shall be the distance measured in a straight line between the lot frontage and the nearest point of any building or structure. A lot having frontage on two or more streets shall have two or more front yards, each of which shall comply with the requirements of the front yard provisions. In no case shall any building or structure be located closer to the sideline of a street than the minimum required front yard. See Figure 5.

#### 4.3.6 Side and Rear Yards

Side and rear yards shall be the distance measured in a straight line from the nearest point of any building or structure to each side or rear lot line. See Figure 5.

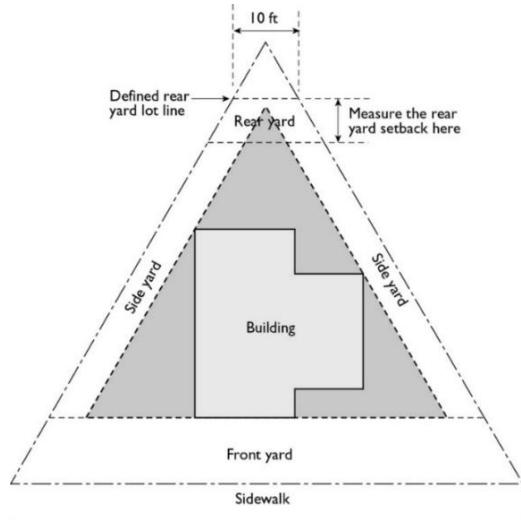
FIGURE - 5  
MEASURING YARD DIMENSIONS  
(REFER TO TABLE FOR DIMENSIONS )



Corner lots are considered to have two front yard setbacks and two side yard setbacks.

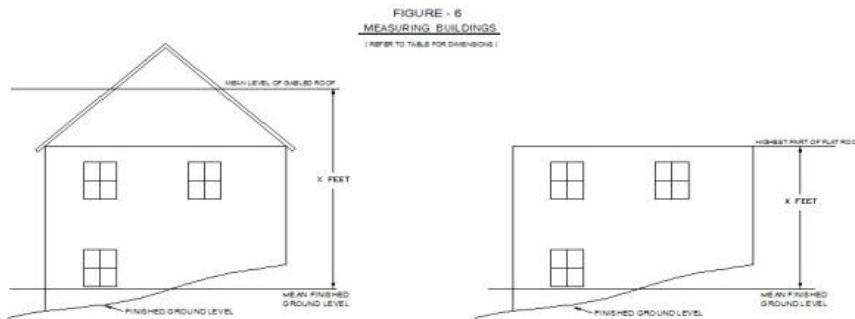
Where no lot line is within forty-five degrees of being parallel to the front lot line, a line ten feet in length within the lot, parallel to and at the maximum possible distance from the front lot line, will be deemed the rear lot line for the purpose of establishing the minimum rear yard setback. See Figure 6.

Figure 6. Lot Lines



#### 4.3.7 Height in Feet.

Buildings Height in feet shall be the vertical distance measured from the mean of the finished ground level adjoining the entire building at each exterior wall to the top of the highest roof beams of a flat roof or to the mean level of the highest gable or slope of a hip roof. In all districts appurtenant structures located upon the roof of a building may extend above the height limit but in no case shall they exceed 100 feet in height when combined with the height of the building nor in the aggregate occupy more than 20% of the roof plan area unless authorized by special permit from the Special Permit Granting Authority as designated for the principal use as per Section 3.3 of this By-law or by the Planning Board if the principal use does not require a special permit. See Figure 6. 4.4



4.4 Table of Standard Dimensional Requirements

Dimension	Zoning District								
	R1	R2	R3	B1	B3	B4	B5	I1	I2
Minimum Lot Area (Square Feet)	40,000	80,000	40,000 1*	22,000	30,000	40,000	40,000	90,000	90,000
Minimum Lot Frontage (Lin. Feet)	175	200	150	125	150	200	200	225	225
Minimum Lot Width (Lin. Feet)	50	50	50	20	20	50	50	50	50
Minimum Front Yard (Lin. Feet) 4*	30	30	30	10	50	50	50	60	60
Minimum Side Yard (Lin. Feet) 2*	15	15	15	20	30	30	30	30	40
Minimum Rear Yard (Lin. Feet) 2*	35	35	35	15	20	40	40	40 3*	40 3*
Maximum Building Height (Stories/Lin. Feet)	2.5/36	2.5/36	2.5/36	2.5/36	3/40	3.5/45	3.5/45	4/50	4/50
Maximum Lot Coverage (Percentage)	30	30	30	75	75	65	65	65	65

1\* Multi-family development must comply with Section 7.2 of this By-law.

2\* Including buffering requirements as per Section 4.6 of this By-law.

3\* Eighty (80) feet where lot adjoins a residential district.

4\* The front yard setback in Residential Districts may be reduced to a prevailing setback for a new structure on a lot. The prevailing setback shall be computed by calculating the average of the front yard setbacks of the adjacent buildings, on the same side of the street, within a two hundred (200) foot distance from each side yard of the subject property. If the two hundred (200) feet is interrupted by an intersection, only the front setbacks up to that intersection shall be used in calculating the average. For vacant lots or existing buildings having a greater front setback than the required front yard setback, the required front yard setback shall be used in the calculation.

#### 4.4.1 Multiple Principal Structures

Except in the residential districts, unless otherwise permitted in this Bylaw, more than one principal structure may be erected on a lot with the following conditions:

- A. Lot area to be 60,000 square feet or more.
- B. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles.
- C. Site Plan Review as per Section 8.1.1 for any principal building having at least 10,000 square feet gross floor area.
- D. All principal buildings on the same lot shall be accessible via pedestrian walkways connected to the required parking for the principal building.
- E. The particular use or activity to be conducted on the lot shall be subject to the provisions of Section 3.3.
- F. The parking for the structure shall be provided pursuant to Section 6.1.
- G. There shall be public water and sewer available for the lot.
- H. Any lot which adjoins a Residential Zoning district or adjacent residential use shall comply with Section 4.5.

#### 4.5 Buffering Screening and Grading

##### 4.5.1 Purpose.

The purpose of the provisions of this section is to protect against potential noxious, visual or descriptive effects of adjacent land uses of differing character and intensity; prevent the intrusion upon residential areas of such effects and limiting the deleterious effects of erosion.

##### 4.5.2 Side or Rear Lot Line Buffers for Business and Industrial Uses Abutting Residential Districts.

Where a side or rear lot line of a development in a Business or Industrial District adjoins a residential district, the owner of such development shall maintain as open space a strip of land extending inward in accordance with the setbacks specified in Section 4.4 from such side or rear zoning district lines.

##### 4.5.3 Screening and Planting Requirements

Such Buffer strips of land shall contain a continuous screen of planting of vertical habitat in the center of the strip not less than five (5) feet in width and six (6) feet in height at the time of occupancy of such lot. Plantings shall thereafter be maintained by the owner or occupant so as to maintain a dense screen year-round. At least fifty percent (50%) of the plantings shall consist of evergreens and they shall be evenly spaced along the length of the buffer strip with at least one shade tree at 2" caliper diameter at breast height within every 40 feet and well-maintained grass, bark mulch, or other ground covers to the depth of the developed portion of the lot. In lieu of continuous planting, a solid brick, stone, or wood fence not more than six (6) feet in height may be established and maintained, such fence to be complemented with plantings in an amount no less than twenty percent (20%) of the amount required under the foregoing

provisions of this subsection. Existing undisturbed vegetated areas may satisfy or partially satisfy the requirements of this Section, if in the sole discretion of the Planning Board, it is determined that the existing vegetation provides a satisfactory landscape buffer consistent with the purpose of this Section. If existing vegetation is to satisfy buffer requirements it shall be maintained and managed as to not become unsightly and to retain the plantings in good condition.

#### 4.5.4 Use of Buffer Areas

Buffers adjoining Residentially Zoned, areas may not be used for any other purposes including those uses accessory to and in support of the primary use, with the exception of Stormwater facilities, such as but not limited to bio retention basins.

#### 4.6. Landscaping Requirements within Business and Industrial Districts

All uses as allowed or permitted in the Business or Industrial districts shall conform to the following landscaping requirements.

- A. Each principal and accessory building or structure shall have landscaped strips on all sides to be within 25 feet of each building. Loading and access areas are excepted.
- B. Each landscaped strip shall be at least ten feet in width if facing the front lot line and five feet in width facing the side and rear lot lines and contain some combination of shade trees, deciduous shrubs, and evergreens and/or well-maintained grass, bark mulch or other ground cover.
- C. No landscaped strips are to be required on any side of a building where public or employee parking is not permitted and where there is no public access to or from the building.”

#### 4.7 Grading and Retaining Walls

Grading General - Any land use involving the regrading of more than one acre of land and the construction of a structure thereon, excluding single- and two-family structures held in separate ownership from adjoining lots at the time of permitting shall be subject to the requirements of this section.

- A. Slopes over 15% - Slopes of 15% or greater which will result from grading, construction, or other land alteration shall be stabilized either through a structural retaining wall or cribbing, or through vegetative slope stabilization, comprising no less than four inches of topsoil planted densely with plants having shallow fibrous roots sufficient to retain the soil such as grasses, legumes, dogwood, emir privet, rugosa rose, and bayberry.
- B. Finish Grades - Lots having average finish grades in excess of 10% shall either retain existing vegetation or provide vegetative slope stabilization as above, on a percentage of lot area equal to not less than twice the average percentage slope.
- C. Retaining Walls - Retaining walls, or sections thereof, with a reveal of 4 feet or greater shall be considered structures and shall be subject to the setback requirements of Section 4.4 Table of Standard Dimensional Requirements and the requirements of the State Building Code.

## **Section 5. Overlay Districts**

### **5.1 Floodplain and Floodway Overlay District.**

The Floodplain and Floodway District is herein established as an overlay district. The District includes all special flood hazard areas within Dracut designated as Zone A and AE, on the Middlesex County Flood Insurance Rate Map (FIRM) dated July 8<sup>th</sup>, 2025 issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the District shall be defined by the 1% chance base flood elevations shown on the FIRM and further defined by the Middlesex County Flood Insurance Study (FIS) report dated July 8<sup>th</sup>, 2025. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, Building Official and Conservation Commission. The base flood elevations for A Zones shall be determined based on hydrologic and hydraulic analyses of the development area by a Registered Professional Engineer. However, where appropriate, and with the approval of the Town Engineer and Building Inspector, base flood elevations for un-numbered A Zones may also be based upon the best available information from any Federal, State, Local, or other source.

#### **5.1.1 Purpose.**

The purpose of the Floodplain and Floodway Overlay District is to:

- 1) Ensure public safety through reducing the threats to life and personal injury
- 2) Eliminate new hazards to emergency response officials
- 3) Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
- 4) Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
- 5) Eliminate costs associated with the response and cleanup of flooding conditions
- 6) Reduce damage to public and private property resulting from flooding waters

#### **5.1.2 Designation of Floodplain Administrator.**

The Town of Dracut hereby designates the position of Inspector of Buildings to be the official floodplain administrator for the Town.

#### **5.1.3 Floodplain Use Regulations.**

The Floodplain District shall be considered as overlying other Districts. Any use permitted in the portions of the District so overlaid shall be permitted subject to all of the provision of Sections 5.1.3.

##### **A. Prohibited Uses in the Flood Plain District.**

No new building shall be erected or constructed, no existing building shall be altered, enlarged or moved, there shall be no placement of manufactured homes, placement of agricultural

facilities, fences, sheds, storage facilities or drilling, mining, paving, or any other development that might increase flooding or adversely impact flood risks to other properties except as allowed by Section 5.1.3 B or as allowed by Special Permit in Section 5.1.3 C.

B. **Uses Allowed in the Flood Plain. (Excluding the Floodway)**

A Flood Plain Permit must be obtained prior to the commencement of any construction or development in the Flood Plain Overlay District. The Town's permit review process includes the requirement that the proponent obtain all local, state and federal permits that will be necessary in order to carry out the proposed development.

The following uses shall be allowed in the Flood Plain Overlay District, provided that a Flood Plain Permit is obtained for all structures and development, as noted above.

1. Conservation of water, plants and wildlife.
2. Outdoor recreation, including play areas, nature study, boating, fishing and hunting, where otherwise legally permitted, but excluding buildings and structures.
3. Non-commercial signs (as permitted in the residential districts), wildlife management areas, foot, bicycle, and/or horse paths and bridges, provided that such uses do not affect the natural flow pattern of watercourses, or would result in any increase in flood levels within the community during the occurrence of the base flood.
4. Grazing and farming, including truck gardening and harvesting of crops.
5. Forestry and nurseries.
6. Maintenance and repair of municipal and private water supply structures, municipal sewer structures, and other utility structures.
7. Maintenance and repair of existing structures and improvement of existing structures provided that any such improvement is either within the existing structure or above the base flood elevation. The provisions of the MA State Building Code 780 CMR shall apply. See also "Substantial Repair", in Section 5.1.15.

C. **Uses allowed by Special Permit in the Flood Plain District (Excluding the Floodway).**

The following uses may be allowed within the Flood Plain District, not to include the Floodway, upon the issuance of a Special Permit by the Planning Board.

Any use permitted in the underlying district in which the land is located, including grading, filling or excavating, subject to the same use and development regulations as may otherwise apply thereto provided that the Planning Board finds that:

1. The proposed use and development does not significantly conflict with the purposes of this Section.
2. Any proposed structures fully comply with the provisions of the MA State Building Code 780 CMR.

3. One Hundred (100) Percent of the natural flood storage volume of the flood plain on the site is preserved with the use of compensatory storage techniques and disturbance of the natural characteristics of the flood plain on the site is kept to a minimum.
4. The elevation of the lowest point of any new vehicular or pedestrian access from a street to any building, including garages, used for human occupancy is at or above the base flood elevation.
5. Any new or reconstructed utilities, such as water, sewer mains, drainage systems, fuel storage facilities, gas, electric or other utilities, are anchored to prevent flotation and designed to avoid impairment during the base flood.

D. Procedures for applying for a Special Permit pursuant to Section 5.1.3.C.

Any person who desires to erect any structure or excavate, fill, grade or otherwise develop land in accordance with Section 5.1.3.C shall submit a written application to the Planning Board. Each such application shall be accompanied by the following:

1. A written statement indicating any special permits previously granted under this section for the subject lot, for any portion of the subject lot or for any larger lot which formerly included the subject lot.
2. A site plan prepared and stamped by a MA Registered Professional Engineer for the entire area to be developed, showing existing and proposed buildings, structures, signs, parking spaces, driveway openings and driveways (existing and proposed to be shown on separate sheets); the Flood Plain District boundary; existing and proposed topography at one foot intervals within the Flood Plain District and two foot intervals outside the District; the floodway boundary; all facilities for surface and subsurface water drainage and sewage disposal; electrical, telephone and other utilities; all existing and proposed landscape features; and an affidavit that the proposal will fully comply with 780 CMR.
3. Detailed calculations and supporting materials prepared by a MA Registered Professional Engineer showing the existing and proposed flood storage volume of the site between the elevation of the property as it existed on July 2, 1980 and the elevation(s) of the base flood according to the flood insurance rate maps. In un-numbered A-Zones the supporting materials shall include the methods and all data used in determining the elevation of the base flood.
4. Where floodproofing is used, certification by a MA Registered Professional Civil Engineer or a MA Registered Professional Architect shall be provided to show that the new construction will be compliant with 780 CMR, is adequate to withstand the forces associated with the base flood and that the methods used are adequate to withstand flood depths, pressures and velocities, impact and uplift forces and other factors associated with the base flood.
5. Other Conditions.

The Planning Board shall impose such conditions and safeguards as public safety, welfare and convenience may require. Upon completion of any authorized work, an "as-built" plan, prepared by a MA Registered Professional Engineer or a MA Registered Land Surveyor, as

appropriate to the data, of all improvements in the Flood Plain District shall be submitted to the Building Inspector and shall specify the elevation of the lowest floor including basement, the elevation to and method by which any structure has been floodproofed and the finished grades of all disturbed areas.

#### **5.1.4. Floodway encroachments.**

##### **Floodway Regulations.**

The Floodway shall be considered as overlying other districts and a separate part of the Floodplain and Floodway District. It shall be defined as noted in Section 5.1.15

In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

In Zone AE, along watercourses that have a regulatory floodway designated on Dracut's FIRM, encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

#### **5.1.5 Subdivision proposals.**

All subdivision proposals and development proposals in the floodplain overlay district shall be reviewed to assure that:

- (a) Such proposals minimize flood damage.
- (b) Public utilities and facilities are located & constructed so as to minimize flood damage.
- (c) Adequate drainage is provided.

When proposing subdivisions or other developments greater than 50 lots or 5 acres (whichever is less), the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans.

#### **5.1.6 Recreational vehicles.**

In A and AE Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

#### **5.1.7 Watercourse alterations or relocations in riverine areas**

In a riverine situation, the Inspector of Buildings shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities, especially upstream and downstream

NH NFIP State Coordinator,  
New Hampshire Office of Planning and Development.

- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I

#### **5.1.8 Requirement to submit new technical data**

If the Town of Dracut acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the change(s.) Notification shall be submitted to:

- NFIP State Coordinator  
Massachusetts Department of Conservation and Recreation
- NFIP Program Specialist  
Federal Emergency Management Agency, Region I

#### **5.1.9 Variances to State Building Code floodplain standards**

If the State Building Code Board of Appeals issues a variance to the Building Code Floodplain standards, the Town will request from them a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.

The Town shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

#### **5.1.10 Variances to Dracut Zoning Bylaws related to community compliance with the National Flood Insurance Program (NFIP)**

A variance from these floodplain bylaws must meet the requirements set out by State law and Section 2.2.2.1, and may only be granted if: 1) Good and sufficient cause and exceptional non-financial hardship exist; 2) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3) the variance is the minimum action necessary to afford relief.

### **5.1.11 Abrogation and greater restriction section**

The floodplain management regulations found in this Floodplain Overlay District section shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

### **5.1.12 Disclaimer of liability**

The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

### **5.1.13 Severability section**

If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of the ordinance shall be effective.

### **5.1.14 Enforcement.**

This Section of the Zoning By-law shall be enforced by the Inspector of Buildings

### **5.1.15 Definitions.**

**DEVELOPMENT** means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

**FLOODWAY**. The channel of the river, creek or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height [780 CMR Chapter 2]

**FUNCTIONALLY DEPENDENT USE** means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

**HIGHEST ADJACENT GRADE** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

**HISTORIC STRUCTURE** means any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

[US Code of Federal Regulations, Title 44, Part 59]

**NEW CONSTRUCTION.** Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

**RECREATIONAL VEHICLE** means a vehicle which is:

(a) Built on a single chassis;

(b) 400 square feet or less when measured at the largest horizontal projection;

(c) Designed to be self-propelled or permanently towable by a light duty truck; and

(d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

[US Code of Federal Regulations, Title 44, Part 59]

**REGULATORY FLOODWAY** - see FLOODWAY.

**SPECIAL FLOOD HAZARD AREA.** The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A or AE. [780 CMR, Chapter 2.]

**START OF CONSTRUCTION.** The date of issuance for new construction and substantial improvements to existing structures, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading or filling), the installation of streets or walkways, excavation for a basement, footings, piers or foundations, the erection of temporary forms or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual

“start of construction” means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building. [780 CMR, Chapter 2]

**STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. [US Code of Federal Regulations, Title 44, Part 59]

**SUBSTANTIAL REPAIR OF A FOUNDATION.** When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR.

**VARIANCE** means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

**VIOLATION** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59].

## 5.2 Wellhead Protection District

The Wellhead Protection District is an overlay district superimposed on the zoning districts. This overlay district shall apply to all new construction, reconstruction, or expansion of existing buildings and new or expanded uses. Applicable activities/uses in a portion of one of the underlying zoning districts which fall within the Wellhead Protection District must additionally comply with the requirements of this district. Uses prohibited in the underlying zoning districts shall not be permitted in the Wellhead Protection District.

### 5.2.1 Purpose of Wellhead Protection District

- A. Promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses of the Town of Dracut.
- B. Preserve and protect existing and potential sources of drinking water supplies.
- C. Conserve the natural resources of the Town.
- D. Prevent temporary and permanent contamination of the environment.

### 5.2.2 Establishment and Delineation of Wellhead Protection District

For the purposes of this district, there are hereby established within the Town certain wellhead protection areas, consisting of aquifers or recharge areas which are delineated on a map. This map is at

a scale of 1 inch to 1,000 feet and is entitled "Zoning Map, Town of Dracut, Massachusetts," dated November 1996. The boundaries of this overlay district include two zones: Zone 1 encompasses a 400-foot protective radius around public water system wells, while Zone 2 encompasses a half-mile radius around public water system wells.

#### 5.2.3 District Boundary Disputes

If the location of the District boundary in relation to a particular parcel is in doubt, resolution of boundary disputes shall be through a Special Permit application to the Special Permit Granting Authority. Any application for a special permit for this purpose shall be accompanied by adequate documentation. The burden of proof shall be upon the owner(s) of the land to show where the bounds should be located. At the request of the owner(s), the Town may engage a professional engineer, hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land and may charge the owner(s) for the cost of the investigation.

#### 5.2.4 Wellhead Protection District Use Regulations

The Wellhead Protection District shall be considered as overlying other districts. Any uses permitted in the underlying districts shall be permitted subject to all provisions of Section 5.2. Underground storage tanks are not categorically permitted.

#### 5.2.5 Permitted Uses

The following uses are permitted within the Wellhead Protection District, provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

- A. Conservation of soil, water, plants, and wildlife;
- B. Outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- C. Foot, bicycle and/or horse paths, and bridges;
- D. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- E. Maintenance, repair, and enlargement of any existing structure, subject to Section 5.2.6 (prohibited uses) and Section 5.2.7 (uses requiring a special permit);
- F. Residential development, subject to Section 5.2.6 (prohibited uses) and Section 5.2.7 (uses requiring a special permit);
- G. Farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section 5.2.6 (prohibited uses) and Section 5.2.7 (special permitted uses);
- H. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels;
- I. Only uses related to the operation and maintenance of the public water supply are permitted in the Zone I as defined in 310 Code of Massachusetts Regulations 22.00.

#### 5.2.6 Prohibited Uses

The following uses are prohibited:

- A. Landfills and open dumps as defined in 310 CMR 19.006;
- B. Automobile graveyards and junkyards, as defined in M.G.L. c. 140B, §1;
- C. Landfills receiving only wastewater and/or septage residuals including those approved by the DEP pursuant to M.G.L. c. 21, §26 through 53; M.G.L. c. 111, §17; M.G.L. c. 83, §6 and 7, and regulations promulgated thereunder;
- D. Facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.00. This includes vehicular maintenance facilities, dry cleaners, print and photo processing operations as well as many industrial uses. Refer to M.G.L. Chapter 40A, Section 9 and Chapter 21D, Section 21.

The following are exceptions:

- A. Very small quantity generators as defined under 310 CMR 30.000;
- B. Household hazardous waste centers and events under 310 CMR 30.390;
- C. Waste oil retention facilities required by M.G.L. c. 21, § 52A; and
- D. Water remediation treatment works approved by DEP for the treatment of contaminated ground or surface waters;
- E. Petroleum, fuel oil, and heating oil bulk stations and terminals including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983. SIC Codes are established by the US Office of Management and Budget and may be determined by referring to the publication, Standard Industrial Classification Manual, and any other subsequent amendments;
- F. Discharge to the ground of non-sanitary wastewater including industrial and commercial process wastewater, except:
  - 1. The replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
  - 2. Treatment works approved by the DEP designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); and
  - 3. Publicly owned treatment works;
- G. Stockpiling and disposal of snow and ice containing deicing chemicals brought in from outside the district.

#### 5.2.7 Uses and Activities Requiring a Special Permit

The following uses and activities are permitted only upon the issuance of a Special Permit by the Special Permit Granting Authority (SPGA) under such conditions as they may require:

- A. Enlargement or alteration of existing uses that do not conform to the Wellhead Protection District;

- B. Those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section 5.2.6). Such activities shall require a special permit to prevent contamination of groundwater;
- C. Any use that will render impervious more than 15 percent or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible. For all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all recharge areas shall be permanently maintained in full working order by the owner. A schedule of maintenance shall be approved and filed with the Town.
- D. Storage of liquid hazardous materials, as defined in M.G.L. c. 1E, and/or liquid petroleum products unless such storage is above ground level; and on an impervious surface; and either in container(s) or above ground tank(s) within a building, or outdoors in covered container(s) or above ground tank(s) in an area that has a containment system designed and operated to hold either 10 percent of the total possible storage capacity of all containers, or 110 percent of the largest container's storage capacity, whichever is greater;
- E. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;
- F. Storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.
- G. Uncovered storage of salt in water supply areas is forbidden by M.G.L. Chapter 85 Section 7A;
- H. Storage of animal manure unless covered or contained in accordance with the specifications of the Natural Resource Conservation Service;
- I. Earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
- J. Storage of commercial fertilizers, as defined in M.G.L. Chapter 128, §64, unless such storage is within a structure designed to prevent the generation and escape of contaminated runoff or leachate.

#### 5.2.8 Procedures for Issuance of a Special Permit

The Special Permit Granting Authority under this by-law shall be the Planning Board. Such special permit shall be granted if the Special Permit Granting Authority determines, in conjunction with the Board of Selectmen, Board of Health, the Conservation Commission, Town Engineer and the Dracut Water Supply District that the intent of this by-law, as well as its specific criteria, are met. The Special Permit Granting Authority shall not grant a special permit under this section unless the petitioner's application materials include, in the Special Permit Granting Authority's opinion, sufficiently detailed, definite, and credible

information to support positive findings in relation to the standards given in this section. The Special Permit Granting Authority shall document the basis for any departures from the recommendations of the other town boards or agencies in its decision.

#### 5.2.8.1 Filing and Distribution Procedures

Upon receipt of the special permit application, the Special Permit Granting Authority shall transmit one copy to the Board of Selectmen, Board of Health, Conservation Commission, Town Engineer, and Dracut Water Supply District for their written recommendations. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.

#### 5.2.8.2 General Standards

The Special Permit Granting Authority may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 5.2.4 of this bylaw, and any regulations or guidelines adopted by the Special Permit Granting Authority. The proposed use must:

- A. In no way, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Wellhead Protection District; and
- B. Be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the site to be developed.
- C. The Special Permit Granting Authority may adopt regulations to govern design features of projects. Such regulations shall be consistent with the by-law regulations of the Town of Dracut.

#### 5.2.8.3 Submittals

The applicant shall file seven (7) copies of a site plan and attachments. The site plan shall be drawn at a proper scale as determined by the Special Permit Granting Authority and be stamped by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:

- A. A complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
- B. For those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, Stormwater Manager, and Board of Health. The plan shall include:
  1. Provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
  2. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; and
  3. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts DEP.

C. Proposed down-gradient location(s) for groundwater monitoring well(s), should the Special Permit Granting Authority deem the activity a potential groundwater threat.

#### 5.2.9 Public Hearings and Decisions

Public Hearings and decisions pursuant to Special Permits referenced in Section 2.3.5 of this Zoning By-law shall apply.

#### 5.2.10 Enforcement

Written notice of any violations of Section 5.2 shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Board of Health, Conservation Commission, Town Engineer, and the Dracut Water Supply District. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

### 5.3. Mill Conversion Overlay District

“Mill Conversion Project” (MCP) shall mean the conversion of existing mill buildings and structures in a Mill Conversion Overlay District as specified herein to multifamily dwelling(s), assisted living facility, single-family dwelling(s), and/or nonresidential uses.

#### 5.3.1 Purpose.

The purpose of this Section is to create an overlay district to:

- A. allow for conversion of Dracut’s historic mills while preserving the character of nearby residential and commercial neighborhoods;
- B. encourage the preservation; reuse and renovation of historic mill properties; and
- C. promote diversified housing opportunities and uses such as commercial, retail or office use; or a combination of such uses.

#### 5.3.2 Overlay District Locations.

The Mill Conversion Overlay District (MCOD) is hereby established and shall be construed as an overlay district. Within the MCOD all regulations of the underlying district shall continue to be in full force and effect, except where these regulations supersede such underlying requirements or provide an alternative to such requirements. The MCOD shall consist exclusively of the following properties:

a.1951 Lakeview Avenue	Map 25	Lot 194
b.1949 Lakeview Avenue	Map 25	Lot 195
c.1935 Lakeview Avenue	Map 25	Lot 196
d.16 Mill Street	Map 25	Lot(s) 241-1-32 Lot(s) 245-1-25
e.76 Pleasant Street	Map 62	Lot 20

5.3.3 Special Permit Required.

Within the MCOD, a Mill Conversion Project (MCP) may be constructed upon the issuance of a Special Permit by the Planning Board, and upon site plan approval pursuant to the requirements set forth herein.

5.3.4 Application.

The application for a special permit for a MCP under this section shall be on forms furnished by the Planning Board in accordance with its regulations. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of G.L. c. 41, ss 81O and 81T as the same may be from time to time amended and the Regulations of the Planning Board and a filing fee determined in accordance with said Regulations. In addition, the applicants shall submit the following plans:

- A. A site plan and all supporting documents as set forth in Section 2.3.
- B. A plan at a scale of 1" = 40' showing the topography of the site at a minimum of two foot intervals, as well as vegetation and special features including wetlands, perennial streams and ponds, waterways, waterfalls, canals and dams, trees of more than 8" caliper, rock outcroppings, slopes in excess of 15% existing and proposed trails and paths, open vistas, structures of historical importance and biological or wildlife habitats, and proposed conservation and recreation easement areas;
- C. A plan illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, and typical elevations, as well as the general height, bulk and appearance of structures. Perspective drawings may be subsequently required by the Planning Board;
- D. A floor plan to scale for each floor of each building indicating, if applicable,
  1. number of units;
  2. number of bedrooms
  3. proposed use of the floor space; and
  4. location of affordable dwelling units
- E. A plan describing the care, custody and control of all dams and water rights;
- F. A plan for any wastewater treatment facility.
- G. The following narrative reports or data:
  1. a proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion.
  2. a development impact statement prepared by qualified professionals detailing the impact of the development, at all phases including construction and operation, on
    - a. the Town's capacity to furnish services including, but not limited to, roads, police, fire emergency services, schools and water;

- b. vehicular and pedestrian traffic, water and air quality, noise and light pollution and other environmental concerns.
- H. Information pertaining to any organization which the applicant proposes to form where the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel.
- I. Copies of all proposed covenants, easements, and other restrictions which the applicant proposes to grant to the Town, the Conservation Commission, utility companies, any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel.
- J. A concise narrative prepared by a preservation consultant including any and all historical information to be submitted to the Dracut Historical Commission and Planning Board. The narrative will include:
  - 1. architectural history of all structures on the site, including period, style, method of building construction, and association with any particular architect or builder.
  - 2. any important association with one or more historic persons or events.
  - 3. any cultural, political, economic or social history of the site or any structures to the Town, Commonwealth of Massachusetts or the United States of America.
- K. Evidence that the proposed MCP is consistent with applicable standards of the National Park service or the Dracut Historic Commission; and
- L. Any and all other information that the Planning Board may reasonably require in a form acceptable to it to assist in determining whether the applicant's proposed development plan meets the objectives of this Section, and the following fees:
  - 1. Technical Review Fee. The applicant shall pay a technical review fee pursuant to M.G.L. c. 44, s. 53G and the rules of the Planning Board.
  - 2. Administrative Fee. The applicant shall pay an administrative fee pursuant to the rules of the Planning Board.
- M. The Planning Board may waive the submittal of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this section.

#### 5.3.5 Review by Other Boards.

Whenever an application for a Special Permit for a MCP is filed with the Planning Board, the applicant shall also file within five(5) working days of the filing of the completed application, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Highway Superintendent, Police Chief, Fire Chief, and the Town Engineer for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. Reports from other boards and officials shall be submitted to the Planning Board by the date of the public hearing, but in any case, within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make

recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the Planning Board is held prior to the expiration of the 35 day period, the Planning Board shall continue the public hearing to permit the formal submission of reports and recommendations within that 35 day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

### 5.3.3 Standards.

In order to be eligible for consideration for a special permit pursuant to this Section, the proposed development shall meet all of the following standards:

- A. Buffer. A buffer area of one hundred (100) feet shall be provided at the perimeter of the property where it abuts residentially zoned or occupied properties, except for driveways necessary for access and egress to and from the site provided, however, that existing structures and existing access roadways are exempt from the requirements set forth herein. However, existing structures and parking areas shall not be made more nonconforming except for ADA compliance. No vegetation in this buffer area will be disturbed, destroyed or removed except for normal maintenance. The Planning Board may waive the buffer requirements:
  1. where the Planning Board determines that a smaller buffer will suffice to accomplish the objectives set forth herein; or
  2. where the construction of a wastewater treatment plant necessitates such relief.
- B. Removal and Replacement of Vegetation. Within the site, no clear cutting shall be permitted, except as authorized by special permit and incidental to construction of buildings, roads, trails and parking areas. The Planning Board may require suitable landscaping or replacement of vegetation.
- C. Roadways. The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the applicant.
- D. Parking. The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be computed using the requirements of Section 6.1.6 or other applicable provision herein. The Planning Board may increase the required parking by up to 10% to serve the needs of residents, employees, visitors and service vehicles. The Planning Board may reduce the otherwise required number of parking spaces where the applicant demonstrates that an adequate number of spaces will be provided.
- E. Screening of Parking Areas. All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least ten (10) feet in width. Parking lots shall be located to the rear or side of all buildings and shall not be located in front setbacks or in buffer areas; provided, however, that the Planning Board may waive these provisions for existing parking lots and/or existing buildings. Parking lot layout shall be planned to permit landscaping, buffers, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing hedges, walls, or landscape berms to define parking areas is encouraged. In parking

areas of eleven or more parking stalls, at least one tree of three-inch or greater caliper shall be planted for every six parking places. Adequate tree wells and irrigation shall be provided for all parking lot landscaping. Pedestrian access is to be taken into consideration in parking lot design. The use of separate walkways is encouraged. Textured paving or grade separated (elevated) walkways are desired on all pedestrian access ways.

- F. Paving. Paving should be textured or of different materials at pedestrian crossings and walkways. The use of stone, brick or cultured stone pavers for entrance walkway borders is encouraged. The use of textured materials for walkway borders is encouraged.
- G. Paths. The Planning Board may require paths which shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways or sidewalks to adjacent sites.
- H. Loading. Loading areas may be required by the Planning Board where deemed necessary for the efficient operation of the MCP. Loading areas must be at least 20 x 9 feet and have a minimum overhead clearance of 10 feet. Screening and landscaping shall be provided to block all views of loading areas (except those specifically designated for emergency vehicles) from the public right-of-way and adjacent properties.
- I. Stormwater Management. The stormwater management system shall be designed in accordance with the Regulations of the Planning Board.
- J. Utilities. All electric, gas, telecommunications, and water distribution lines shall be placed underground, except upon a demonstration of exceptional circumstances.
- K. Number of Dwelling Units. the maximum number of dwelling units shall be established by the Planning Board after reviewing the following criteria:
  - 1. Existing structures;
  - 2. Proposed method and efficient of wastewater disposal;
  - 3. Availability of public water;
  - 4. Trip generation, traffic safety and internal site traffic;
  - 5. Character of the proposed MCP and its relation to the surrounding neighborhood(s);
  - 6. Character of the existing buildings and the potential for reuse thereof;
  - 7. Number of affordable units, beyond the minimum required, proposed by the applicant;
  - 8. Development Impact Statement;
  - 9. Applicability of the Water Resource Protection District,
  - 10. Reports of the technical consultants of the Planning Board and all other reviewing boards.

- L. Number of Bedrooms. The Planning Board may ensure the diversification of dwelling units within a MCP by establishing the number of dwelling units with one, two or three bedrooms; but not more than 10% shall be three bedrooms.
- M. Expansion of Existing Buildings. Existing buildings within a MCOD may be expanded, provided that such expansion is consistent with the existing buildings historic character and scale; and does not cause substantial detriment after considering the factors set forth in Section 5.3.5.B.
- N. New Buildings. Within the MCP, new buildings may be constructed provided the number, type, scale, architectural style, and uses within such new buildings shall be subject to Planning Board approval.
- O. Emergency Systems. The MCP shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and/or other tenants. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Dracut Fire Department for the emergency evacuation of the residents with emphasis on ensuring the safety of residents with physical impairments.
- P. Lighting. Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not create so much light overspill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources.

#### 5.3.4 Affordable Dwelling Units.

As a condition of the grant of any special permit for a MCP, a minimum of fifteen (15%) of the total number of dwelling units shall be restricted for a period not less than thirty (30) years in the following manner:

- A. 5% of the units shall be affordable to persons or families qualifying as low income; and
- B. 5% of the units shall be affordable to persons or families qualifying as moderate income; and
- C. 5% of the units shall be affordable to persons or families qualifying as median income.
- D. The thirty year restriction shall be approved as to form by legal counsel to the Planning Board, and a right of first refusal upon the transfer of such restricted units shall be granted to the Dracut Housing Authority for a period not less than 120 days after notice thereof.
- E. Affordable units shall be integrated into the overall development of the MCP so as to prevent the physical segregation of such units.
- F. The applicant shall be encouraged to seek designation of the units referenced in paragraphs 9a and 9b as affordable units which qualify as part of the subsidized housing inventory as approved and complied by the Department of Housing and Community Development (DHCD). The Planning Board may require that the applicant affirmatively take steps to utilize the Dracut Housing Authority, a public agency, a non-profit agency, limited dividend organization, or other appropriate entity, and through a Local Initiative Petition or other similar mechanism or program cause application to be made to the DHCD, so as to timely furnish all forms and information necessary to promote the designation of those units referenced in paragraphs 9a

and 9b above as affordable units qualifying as part of the subsidized housing inventory. The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval.

### 5.3.5 Action by the Planning Board

The Planning Board after considering reports from consultants and other Boards and/or Commissions, may grant a special permit for a MCP where it makes the following findings:

- A. The proposed MCP constitutes an appropriate renovation as defined above;
- B. The proposed MCP does not cause substantial detriment to the neighborhood after considering the following potential consequences:
  1. noise, during the construction and operational phases;
  2. pedestrian and vehicular traffic;
  3. environmental harm;
  4. visual impact caused by the character and scale of the proposed structure(s);
  5. other consequences as may be set forth in the Development Impact Statement for the MCP.

## 5.4 Dracut Center Neighborhood Overlay District

### 5.4.1. Purpose.

The Dracut Center Neighborhood Overlay District (DCNOD) Bylaw is meant to encourage development that enhances the current mix of uses located within the Center, protects historic resources, helps create a sense of place, and that promotes future economic development opportunities within the Center area. The purposes of the Dracut Center Neighborhood Overlay District (DCNOD) are to:

1. Encourage a mix of business, residential, cultural, educational and civic uses;
2. Promote compact development that is pedestrian-oriented and preserves the historic value and character of the area;
3. Minimize impacts on public services and maximize the efficient use of public infrastructure;
4. Increase the town's tax base by creating a thriving small business environment, attracting new investment and promoting economic development;
5. Encourage the development of affordable housing that meets the State's Housing Inventory (SHI) requirements;
6. Encourage the reuse of existing underutilized or vacant properties.

The following Bylaw is intended to support the goals, objectives and recommendations outlined in the Town's Master Plan. Applications submitted under the DCNOD Bylaw should meet the criteria outlined in the corresponding *Dracut Center Neighborhood Design Guidelines*. A copy of

the *Dracut Center Neighborhood Design Guidelines* may be obtained by contacting the Dracut Town Clerk or the Planning Board Office.

5.4.2. Overlay District Location

The Dracut Center Neighborhood Overlay District (DCNOD) is hereby established and shall be construed as an overlay district. Within the DCNOD all regulations of the underlying district shall continue in full force and effect, except where these regulations supersede such underlying requirements or provide an alternative to such requirements. The DCNOD shall consist exclusively of the following properties:

Map	Lot	St#	Street Name	Map	Lot	St#	Street Name
47	129	173	Greenmont Ave	50	198	471	Aiken Ave
	130	1440	Bridge St		208	1421	Bridge St
	131	1432	Bridge St		209	1401	Bridge St
	132	1428	Bridge St		212	1391	Bridge St
	133	1424	Bridge St		217	1381	Bridge St
	134	1420	Bridge St		221	1367	Bridge St
	173	1449	Bridge St		222	10	Arlington St
	174	1447	Bridge St		223	22	Arlington St
	175	1441	Bridge St		224	5	Arlington St
	177	1431	Bridge St		225	1327	Bridge St
	178	1429	Bridge St		243	1387	Bridge St
	179	1421	Bridge St				
50	118	1404	Bridge St	52	2	26	Champlain St
	119	1412	Bridge St		3	10	Champlain St
	122	11	Spring Park Ave		4	50	Arlington St
	123	1396	Bridge St		5	40	Arlington St
	124	1388	Bridge St		6	30	Arlington St
	152	1380	Bridge St		7	57	Lafayette St
	153	1378	Bridge St		8	62	Arlington St
	154	1366	Bridge St		10	90	Arlington St
	156	136	Bridge St		11-1	138	Arlington St
	157	1358	Bridge St		12	144	Arlington St
	159	1346	Bridge St		13	17	Arlington St
	179	482	Aiken Ave		14	21	Arlington St
52	16	25	Arlington St	52	15	23	Arlington St
	17	39	Arlington St		75	12	Arlington Ave
	18	49	Arlington St		76	69	Arlington St
	19	55	Arlington St		77	93	Arlington St
	20	15	Arlington Ave		78	109	Arlington St
	61-	120	Arlington St		79	127	Arlington St
	61-	130	Arlington St		80	131	Arlington St
					81	143	Arlington St

Boundaries: The boundaries of the DCNOD shall be as shown on the Town of Dracut Zoning Map on file in the office of the Town Clerk, and shall encompass those lots shown on the map designated as lying within the DCNOD district. These lots primarily front Arlington Street and Bridge Street.

#### 5.4.3. Relationship to Existing Zoning

The underlying zoning shall not be modified, repealed, nor amended by this section. The property owners in the DCNOD shall possess all current zoning rights and be subject to the requirements applicable in the underlying zones. In the event that an owner desires to use their property for mixed-use development as defined herein, the rules and regulations of the DCNOD shall apply and by filing an application for development subject to such rules and regulations, the owner shall be deemed to accept and agree to them. Where the DCNOD provisions are silent on a zoning rule or regulation, the requirements of the underlying zoning shall apply (e.g., off-street parking and open space requirements). In addition, projects allowed under the underlying zoning are not eligible to apply under the DCNOD unless they meet all of the requirements of the DCNOD. To attain the goals of the DCNOD, collaborative development proposals involving more than one property owner are encouraged, where appropriate.

In such cases, a Project Master Plan must be submitted to the Planning Board with the initial project application, detailing the specific elements of the proposed project, outlining the impacts of the overall project, and identifying the responsibilities of each property owner.

The Project Master Plan should describe: The uses proposed, the layout and size of the project, potential impacts to the environment, access and transportation impacts, water and sewer needs, and economic impacts.

#### 5.4.4. Use Regulations

The following uses are allowed in the DCNOD subject to the requirements outlined in these DCNOD regulations, and provided that all necessary permits, orders, or approvals required by local, state, or federal law are also obtained:

7. Residential Uses (as a component of a mixed-use development):
  - a. Multifamily
  - b. Two-family
  - c. Artist lofts/studio
  - d. Assisted living facilities
  - e. Affordable Housing
8. Government, Institutional and Public Service Uses:
  - a. Municipal
  - b. Educational
  - c. Religious
  - d. Public or Private Utility Facilities
  - e. Post Office
  - f. Recreation
9. Business Uses:
  - a. Retail store, not exceeding 5,000 s.f. of net floor area per individual establishment
  - b. Professional offices, not exceeding 7,500 s.f. of net floor area per individual office establishment
  - c. Financial services/bank

- d. Restaurant, fast food, general or limited service, not exceeding 4,000 s.f. of public seating area. The square footage requirement does not include a patio or outdoor seating area operated in connection with an indoor-service restaurant
- e. Hotel or Inn
- f. Bed and Breakfast
- g. Lodge or Club
- h. Personal Services
- i. General Services
- j. Artist or Craftsman Studio
- k. Lounge or Pub
- l. Amusement facility indoor
- m. Parking facility
- n. Day Care facility
- o. Performance theater
- p. Museum
- q. Art Gallery

10. Mixed-use development as defined within this regulation.

5.4.5. **Prohibited Uses**

Any use not listed above is to be considered prohibited. Drive through services and windows are not allowed for any use in the DCNOD district.

**Dimensional Requirements**

Uses and structures within the DCNOD shall conform to the following requirements:

Minimum Lot Area: 22,000 square feet Minimum Frontage: 75 feet

Minimum Front Yard Setback: 0 feet/10 feet\* Minimum Side Yard Setback: 0 feet

Minimum Side Yard Setback when abutting a residential district: 15 feet

Minimum Rear Setback: 15 feet

Maximum Building Height: 3 stories or 45 feet Minimum land area per lot per dwelling unit: 10,000 square feet

\*On each lot, there shall be one side yard of at least 10 feet in width.

5.4.6. **Special Provisions**

The following special provisions apply to all development within the DCNOD:

1. The minimum separation between two or more buildings on the same lot shall be 20 feet.
2. The Planning Board may modify all dimensional requirements outlined in Section 5.4.F above if, in its opinion, such modifications will result in improved design that is in keeping with Section 5.4.A above.
3. Frontage and Access – The Planning Board may, as part of the special permit, reduce lot frontage for a development that provides consolidated or shared access for two or more

adjoining parcels, subject to a legally enforceable agreement or restriction in a form acceptable to the Planning Board and approved by Town Counsel.

4. Site success must be achieved in a fashion that is acceptable to a Planning Board and by means that does not unreasonably impact residential neighborhoods in that it properly mitigates noise, traffic, visual and environmental impacts attributable to the project.
5. The Planning Board may allow greater square footage than listed in Section 5.4.D above if, in its opinion, such modifications will result in improved design that is in keeping with Section 5.4.A above.
6. Where the reuse of an existing building is being considered and where affordable dwelling units are being proposed, the Planning Board may allow less square footage (down to a square footage of 3,000 square foot per unit) than listed in Section 5.4.F above, if in its opinion, such modifications will result in an improved design that is in keeping with Section 5.4.A above.
7. Where affordable housing is being proposed, the Planning Board may waive the requirement for mixed use if, in the opinion of the Board, the project meets the requirements of the Purpose of the Bylaw (as noted in Section 5.4.A).
8. The Zoning Board of Appeals shall not grant a variance for any use not allowed under Section 5.4.D.

#### 5.4.7. *Parking/Bicycle Requirements*

The parking requirement for any use in the DCNOD shall be the same as in the underlying zoning classification. The Planning Board may reduce the required number of parking spaces in the DCNOD based on the following considerations:

9. The parking spaces for one use shall not be considered as providing the required spaces for another use.
10. The availability of shared parking on another property within 300 feet. The Board may require a shared parking agreement to be submitted as part of the application for development.
11. Uses within 20 feet of public transportation.

The layout, location and design of parking lots and spaces shall comply with the criteria set forth in the DCNOD Design Guidelines. Bicycle parking shall be provided for all new mixed use development projects. This parking area shall be at least partially sheltered from the elements and shall provide at least three spaces for each business or office use. Bicycle parking areas may be shared as per item 2 above.

#### 5.4.8. *Site Plan Review and Special Permit*

All uses and structures in the DCNOD are subject to a Special Permit and Site Plan Review from the Planning Board in accordance with Sections 2.3 and 2.4 of the Zoning Bylaw. In addition to the requirements of these sections, all design criteria of the DCNOD shall apply as described in

the Dracut Neighborhood Center Design Guidelines. The Planning Board shall be the Special Permit Granting Authority.

5.4.9.      **Applicant Procedures**

The applicant for a Special Permit under this section shall submit appropriate materials in accordance with this Section of the Bylaw and with Section 2.3. Such materials include the following:

1. A site plan and site Master Plan, as described in Section C. above
2. An analysis of the consequences of the proposed development at a level of detail appropriate to the scale of the development project. Such an analysis shall assess the impact to the natural environment (ground and surface water, stream flows, erosion, vegetation removal and wildlife); impact on public services, traffic, water supply and wastewater; visual impacts; noise and economic impacts.

5.4.10.     **Decision Criteria**

A Special Permit under this Section shall be approved upon determination by the Planning Board that the requirements of Section 1.16.00 and this section have been met, and that the proposed plan is consistent with the stated purposes and guidelines set forth in this section.

## **Section 6. General Regulations**

### **6.1 Off Street Parking and Loading**

#### **6.1.1 Objectives and Applicability**

Any use of land involving the arrival and departure or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, shall be designed and operated to:

- A. promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;
- B. increase the traffic-carrying capacity of streets and highways in the town and obtain a more efficient utilization of on-street curbside parking;
- C. reduce hazards to pedestrians upon public sidewalks;
- D. protect adjoining lots and the general public from nuisances and hazards such as: 1) noise, glare of headlights, dust and fumes, resulting from the operation of motor vehicles, 2) glare and heat from parking lots, 3) a lack of visual relief from expanses of paving, 4) accelerated run-off of surface water from land covered by impervious materials.

#### **6.1.2 Parking Requirements**

Adequate off-street parking must be provided to service all parking demand created by new structures, additions to existing structures, or changes of use. Existing buildings and uses need not comply unless expanded or otherwise changed to increase their parking needs. Section 6.1.6 of this By-law shall determine the number of spaces required except as per 6.1.3 or 6.1.4.

#### **6.1.3 Exceptions to Minimum Requirements**

In applying for building or occupancy permits, the applicant must demonstrate that the minimum parking requirements set forth below will be met for the new demand without counting existing parking necessary for existing uses to meet these requirements. These requirements may be reduced on Special Permit by the Special Permit Granting Authority as designated, for the principal use as per section 2.11.30 of this By-law or the Planning Board if the principal use does not require a special permit. Such cases might include:

- A. Use of a common parking lot for separate uses having peak demands occurring at different times;
- B. Age or other characteristics of occupants which reduce their auto usage;
- C. Peculiarities of the use which make usual measures of demand invalid.

#### **6.1.4 Use of Common Parking Areas**

Shared parking areas may be permitted for the purpose of servicing two or more principal uses with off-setting peak hour parking demand on the same or separate lots, provided that:

- A. Evidence is submitted that parking is available within 500 feet of the premises, which lot satisfies the requirements of this By-law and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a Traffic Engineer registered in the Commonwealth of Massachusetts.

- B. A contract, agreement, or suitable legal instrument acceptable to the Town, shall be filed with the application for building permit, occupancy permit, or special permit for exception which shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any, on such parking.
- C. Any reduction in area required for parking because of these shared use provisions shall be green banked in landscaped open space, such area shall be computed at the rate of 300 square feet per parking space.
- D. Nothing in this section shall relieve the property owner from providing parking facilities in accordance with this By-law if subsequently the joint use of parking facilities shall terminate.

#### 6.1.5 Number of Spaces

For the purpose of computing the parking requirements of different uses, the number of spaces required shall be the largest whole number obtained after increasing all fractions upwards to one. Employees shall include the largest number of owners, managers, full and part-time workers and volunteers that may be normally expected on the premises during any single shift or portion thereof. The number of seats in benches, pews, or other continuous seating arrangements shall be calculated at twenty inches for each seat. The number of minimum parking spaces shall apply to uses listed in Section 6.1.6 Table of Off Street Parking Requirements.

#### 6.1.6 Table of Off Street Parking Requirements

Use	Number of Spaces
Stores, Retail Business, and Services	One space per 200 square feet of gross leasable floor area or a minimum of at least three spaces per establishment.
Banks, Libraries, and Post Offices	One space per 100 square feet of floor area devoted to public use plus one space per employee.
Bowling Alleys	Four spaces for each alley.
Business and Professional Offices, Office Buildings, and Office of a Wholesale Establishment including Sales Space	One space per 200 square feet of gross floor area.
Medical and Dental Offices and Clinics	One space per 200 square feet of gross floor area.
Restaurants, Lounges, and Function Rooms	One space per three seats based on the legal seating capacity of the facility.
Fast Food Establishment	One space per 50 square feet of gross floor area.
Theater, Funeral Home, and Places of Assembly	One space for each four seats or for each 50 square feet of assembly area.
Museums	One space per 1,000 square feet of gross floor area.

<b>Use</b>	<b>Number of Spaces</b>
Hotels, Motels, and Tourist Homes	One space per guest room, plus one space per employee, plus a number of spaces as required elsewhere herein for restaurants, assembly halls, function rooms, shops and similar functions if occurring on the premises.
Non-family Accommodation	One space per two persons accommodated.
Nursing and Convalescent Homes, and Assisted Living Facilities	One space for each three beds plus one space for each employee serving on the shift having the greatest number of employees, plus one space for each visiting staff.
Clubs, Lodges and Association Buildings	One space per three members.
Lumber and Building Material Yards, Nurseries, and Outdoor Sales	One space per 150 square feet of office and indoor sales area and/or one space per 1,000 square feet of outdoor sales area.
Manufacturing, Truck Terminals, Wholesale Establishments, Public Utility Buildings other than their Business Offices, Warehouses and similar uses not normally visited by the general public	One space per 1.4 employees plus one space for each vehicle used in the operation.
Any other non-residential use, or any use involving combination of functions similar to or listed herein	A number of spaces as determined by the Building Inspector by application similar to or listed herein of the ratios above or by the Special Permit Granting Authority if use requires a Special Permit.
Single Family, Two Family, and Multi-Family Dwelling	Two spaces per dwelling unit.
Home Occupations	In addition to the spaces required for the dwelling, one space per non-resident employee, plus a number of spaces sufficient to satisfy the requirements of Section 6.1.1.
Marijuana Cultivator or Craft Marijuana Cultivator	1 space/1,200 sq. ft.
Marijuana Retailer (either Medical or Retail)	1 space/500 sq. ft
Marijuana Product Manufacturer	1 space/1,000 sq. ft.
Independent Testing Laboratory	1 space/1,000 sq. ft.
Any Other Licensed Recreational Marijuana Establishment	1 space/500 sq. ft.

### 6.1.7 Loading Areas

All buildings requiring the delivery of goods, supplies, or materials, or shipment of the same, shall have bays and suitable maneuvering space for off-street loading of vehicles in accordance with Section 6.1.7.1.

#### 6.1.7.1 Table of Loading Area Requirements

Use	Number of Berths
Retail Stores and Services	For each establishment with a gross floor area from 5,000 to 8,000 square feet, at least one berth. Additional space is required at the rate of one berth per 8,000 square feet or nearest multiple thereof. Where two or more such establishments are connected by a common wall such as in a shopping center, common berths may be permitted for the use of all establishments at the rate of one berth space per 8,000 square feet in the entire shopping center.
Office Buildings	For each office building with gross area of 4,000 square feet or more, at least one berth shall be provided.
Manufacturing, Industrial	For manufacturing, industrial and Warehousing and similar uses up to 8,000 square feet of gross floor area, at least one berth shall be provided. For larger floor areas, additional berths shall be provided as required by the Building Inspector adequate off street loading and unloading.

### 6.1.8 Parking and Loading Area Design and Location

#### 6.1.8.1 General Standards

- A. No off-street parking areas other than those serving single or two-family residential dwellings shall be located within 15 feet of a street right-of-way, or in any required yard adjacent to a residential or institutional use. Parking spaces more than 500 feet from the building entrance they serve may not be counted towards fulfillment of parking requirements unless the Special Permit Granting Authority, as per 6.1.3 of this section, determines that circumstances justify this greater separation of parking from use.

All required parking areas except those serving single- family residences shall be paved, unless exempted on Special Permit from the Special Permit Granting Authority, as per 6.1.3 of this section, for cases such as seasonal or periodic use where unpaved surfaces will not cause dust, erosion, hazard, or unsightly conditions.

- B. Parking areas for five or more cars shall not require vehicles to back onto a public way.
- C. The following shall apply to entrances or exits to all parking areas having 20 or more spaces:
  1. Entrance or exit center lines shall not fall within 50 feet of an intersection of street sidelines or within 150 feet of the centerline of any other parking area entrance or exit on the same side of the street, whether on the same parcel or not, if serving

2. 20 or more spaces. Users shall arrange for shared egress if necessary to meet these requirements.
3. Egressing vehicles shall have 400 feet line of sight visibility in each travel direction as measured four feet above the pavement.
4. Such parking lots shall contain or be bordered within five feet by at least one tree per eight parking spaces, trees to be of two inch caliper or larger, with not less than 40 square feet of unpaved soil area per tree. Trees and soil plots shall be located so as to assure safe internal circulation and to provide visual screening from streets and residential areas.
5. Street entrances shall be designed consistent with Massachusetts DPW Traffic Regulations, Section 10A-9 or any subsequent revisions.
6. Continuous curbing shall be provided to control access and damage, and wheel stops shall be provided for all other parking areas of five or more vehicles.
7. Loading areas and parking areas for 20 or more cars shall provide screening and landscaping in accordance with Section 6.1.10 of this By-law.

D. Parking Dimensions.

On any lot, in any district, with the exception of single- and two-family dwelling use, parking spaces and maneuvering aisles shall have the minimum dimensions as set forth in the following table:

Minimum Parking Stall Dimensions

Angle of Parking Aisle	Width	Depth	Width of Maneuvering
<b>Standard</b>			
45'-90'	10	20	22
Parallel	9	22	15
<b>Compact</b>			
45'-90'	9	16	22
Parallel	8	18	15
<b>Handicapped</b>			
45'-90'	12	19	22
Parallel	12	22	15

**E. Compact Spaces**

Office uses, research/office parks and manufacturing facilities, governmental, institutional, and public service uses which contain at least 40,000 square feet of gross floor area, 30% of the required parking may be in stalls for compact cars in accordance with the dimensional requirements as set forth in Section 6.1.8.1.

**F. Handicapped Parking**

Parking spaces designated for the exclusive use of handicapped individuals shall be provided in accordance with the most recent rules and regulations of the Architectural Barriers Board of the Commonwealth of Massachusetts and shall conform to the dimensional requirements of said Board or section Section 6.1.8.1, whichever is greater.

**G. Loading Area Dimensions**

All required loading bays shall have minimum dimensions as follows: 30 feet long, 12 feet wide and 14 feet high. Each loading bay shall have a maneuvering space equal to its length. Where the long portion of a loading bay abuts a wall, column or other obstacle, or in other cases where the Building Inspector or the Special Permit Granting Authority requests, evidence shall be provided that the loading bay and its maneuvering space is adequate to accommodate large motor vehicles, and trailers.

**G. Marking**

In a parking lot or loading area the surface of the parking lot or loading area shall be painted, marked or otherwise delineated so that the location of the parking spaces and loading bays is apparent. Where 5 percent or more of the required parking spaces in a parking lot are assigned, such as to individual employees or to dwelling units in a multi-family building, parking spaces for guests or visitors to the use or establishment, not to exceed ten percent of the required parking spaces, shall be located and designated as visitor parking near the principal entrance to the building which it serves.

**H. Availability and Snow Storage**

To ensure the availability and utilization of required parking spaces and loading bays on a year round basis:

1. No fee or other charge to the parker, in addition to a lease or purchase agreement applicable to occupants generally, shall be made for a parking space or loading bay required to serve a use, building or establishment.
2. A strip of land not less than five feet in width shall be provided on at least two sides of a parking lot or loading area and designated on the off-street parking and loading plan for the storage of snow plowed or removed from the surface area of the parking lot or loading area; such snow storage area may not encroach on the area required for off-street parking or loading but may be located in the landscaped open area or in the area of required setback from a lot line or building.

3. Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other space or bay.
4. Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically identified on the off-street parking and loading plan and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so identified and approved.

#### 6.1.9 Surfacing, Drainage and Grade

All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership. It is the intent of this section that the paved surface of a parking lot or loading area shall be limited to such areas as are necessary for the parking spaces, loading bays, maneuvering aisles, and driveways required to meet the provisions of this section. The site plan, if required by this By-law, shall demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the Special Permit Granting Authority, as per 6.1.3 of this section, may deny the request for a Special Permit when more area is to be paved than is necessary to comply with the provisions of this section.

The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be eight percent. The maximum grade of any outdoor driveway shall be ten percent.

#### 6.1.10 Landscaping

- A. On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there shall be planted at least one tree for every eight parking spaces abutting the perimeter; such trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.
- B. In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of ten or more parking spaces face each other, a landscaped open space not less than five feet in width shall be provided. The landscaped strip may be provided either: 1) between the rows of parking spaces parallel to the aisle or, 2) in two or more strips parallel to the spaces and extending from the aisle serving one row of spaces to the aisle serving the other row of spaces. There shall be planted in each such strip at least three trees and in all such strips not less than one tree for every eight parking spaces in the interior part of the parking lot. Trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.
- C. Trees required by this section shall be at least 2 inches diameter at a height four feet above the ground at time of planting and shall be of a species characterized by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this section.

## 6.2 Sign Regulations

### 6.2.1 Applicability and Purpose

All signs presently installed or to be installed in the Town of Dracut shall adhere to the regulations of this section.

The purpose of the regulation of signs in the Town of Dracut includes but is not limited to the following:

- A. To protect and enhance the visual environment of the Town for purposes of safety, convenience, information, and welfare of its residents.
- B. The restricting of signs and lights which overload the public's capacity to receive information, which violate privacy, or which increase the probability of accidents by distracting attention or obstruction vision.
- C. To encourage signage and lighting which aid communication, orientation, identify activities, express local history and character, serve educational purposes for the public good.
- D. The reduction of visual and informational overload.

### 6.2.2 Definitions

The following is a list of definitions relating to this section only. the definitions are not necessarily applicable to other portions of this By-law.

**ACCESSORY SIGN** - A sign that advertises or announces activities, goods, products, information, a specific use, owner, or tenant, available within the building or on the property on which the sign is located or advertises the property as a whole or any part thereof for sale or rent.

**BUILDING FRONTAGE** - The length in feet of a ground floor level of a building front or side facing a street (or facing a right of-way accessible from a street) that is occupied by an individual business.

**DIRECTIONAL SIGN** - A sign containing no advertising and giving direction to community (non-commercial) activities, buildings, areas, such as churches, schools, playgrounds, museums, historical sites, public buildings, etc.

**DISPLAY WINDOW SIGNS** - Temporary signs on the surface of or inside display windows, lighted only by the general building illumination.

**ERECT** - Shall mean and include to construct, place, relocate, enlarge, alter, attach, suspend, and post.

**FLAGPOLE** - A pole erected on a roof, or projecting from a building or structure or on the ground.

**FREESTANDING SIGN** - Shall mean and include any sign not attached to a building which is self-supported and anchored to the ground .

**ILLUMINATED SIGN** - Illuminated sign shall mean any sign illuminated by electricity, gas, or other artificial light including reflective or phosphorescent light and shall include location of source of illumination.

**MARQUEE** - Any sheltering structure of permanent construction projecting from and totally supported by the wall and/or roof of a building.

**NON-ACCESSORY SIGN** - Any sign that is not an accessory sign.

OFF PREMISE SIGN – A sign that is located not on the property for which it advertises/serves. This does not include directional or temporary signs

PERMANENT SIGN - Any sign permitted to be erected and maintained for more than sixty (60) days.

PRIMARY SIGN - The principal accessory sign which may be a wall, roof, or ground sign, as allowed in Section 3.11.50.

PROJECTING SIGN - Any sign which is attached or suspended from a building or other structure and any part of which projects more than twelve (12) inches from the wall surface of that portion of the building or structure.

ROOF SIGN - Any sign erected, constructed, and maintained wholly upon, connected to, or over the roof or parapet of any building with the entire support on the roof or roof structure.

SECONDARY SIGN - A wall, roof, or ground sign intended for the same use as a primary sign but of smaller dimensions and lettering, as allowed in Section 6.2.4.

SIGN - Any structure, mechanically or electrically driven, still or moving device, light, letter, figure, word, model, banner, pennant, trade flag, or representation that is designed to be seen from outside the lot on which it is erected. It advertises and announces activities, goods, places, persons, objects, institutions, organizations, associations, businesses or events, products, services, or facilities available either on the property where the sign appears or in some other location. The definition includes electric signs in windows or doors but does not include window displays of merchandise. A sign may be permanent or temporary.

SIGN SIZE (area) - The surface area of any sign is the entire area within a single continuous perimeter enclosing the extreme limits of lettering, representation, emblems, or other figures, together with any material or color forming an integral part of the display or used to differentiate the sign from the background against which it is placed. Structural members bearing no sign copy shall not be included.

WALL SIGN - Any sign affixes to, suspended from or painted on a wall, window, marquee, or parapet.

SIDEWALK ACCESSORY SIGN - A sign commonly referred to as a sidewalk or sandwich sign that is placed outside a business used to advertise specials and or daily events. Said sign shall be not larger than 2'x4', including frame. It shall be placed within the controlled property of the business. The sign shall be removed daily. The sign shall be non-illuminated. The sign shall be on display only during the hours of operation of the facility; it shall not interfere with or cause distraction to pedestrian accessibility or vehicular traffic.

#### 6.2.3 Administration and Enforcement

##### A. Enforcement

The Building Inspector is hereby charged with the enforcement of this By-law.

The Building Inspector and their duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which any sign is erected or maintained in order to inspect said sign.

The Building Inspector is further authorized upon notice as herein provided, to order the repair or removal of any sign which in their judgment is a prohibited sign, or is likely to become dangerous, unsafe, or in disrepair, or which is erected or maintained contrary to this By-law. The building Inspector shall serve a written notice and order upon the owner or record of the premises where the sign is located and any advertiser, tenant, or other persons known to them having control of or a substantial interest in said sign, directing the repair or removal of the sign within a time not to exceed thirty (30) days after giving such notice. If such notice and order is not obeyed within such period of time, the Building Inspector and their duly authorized agents shall, at reasonable times and upon presentation of credentials, have the power to enter upon the premises on which said sign is erected or maintained and repair or remove, or cause to be repaired or removed, said sign.

All expenses incurred by the Building Inspector and their duly authorized agents in repairing or removing any sign shall be assessable against any person who failed to obey said notice and order and shall be recoverable in any court of competent jurisdiction if not paid within thirty (30) days after written notice of assessment is given by the Building Inspector to any such person.

#### B. Permits

No permanent sign shall be erected, altered, or enlarged until an application on the appropriate form furnished by the building Inspector has been filed with the Building Inspector containing such information, including photographs, plans and scale drawings, as they may require, and a permit for such erection, alteration, or enlargement has been issued by him. Such permit shall be issued only if the Building Inspector determines that the sign complies or will comply with all applicable provisions of this By-law.

The Building Inspector shall keep records of all actions taken pursuant to this By-law. They shall make an annual report to the Town listing all such actions and any apparent violations of this By-law.

#### C. Non-conformance of Signs

Signs legally erected before the adoption of this By-law which do not conform to the provisions of this By-law may continue to be maintained, provided, however, that no such sign shall be permitted if it is, after the adoption of this Bylaw, enlarged, reworded (other than in the case of theater or cinema signs or signs with periodically changing messages), redesigned or altered in any way, including repainting in a different color, except to conform to the requirements of this Bylaw; and provided further that any such sign which has deteriorated or been damaged to such an extent that the cost of restoration would exceed thirty-five percent (35%) of the replacement cost of the sign at the time of the restoration shall not be repaired or rebuilt or altered except to conform to the requirements of this By-law. Any exemption shall terminate with respect to any sign which:

1. shall have been abandoned;
2. advertises or calls attention to any products, businesses or activities which are no longer sold or carried on, whether generally or at the particular premises; or

3. shall not have been repaired or properly maintained within thirty (30) days after notice to that effect has been given by the Building Inspector.

#### 6.2.4 Allowed Signs

##### A. Residence Districts Signs.

1. One sign displaying the street number and/or name of the occupant of the premises. One additional sign, not exceeding two square feet in area is also allowed. Such sign may include identification of an accessory professional office, home occupation, or other accessory uses permitted in a residence district.
2. One unlighted, temporary "For Sale" or "For Rent" sign not exceeding six square feet in area and advertising only the premises on which it is located; to be removed fourteen (14) days after sale, rental or lease.
3. One unlighted contractor's sign, not exceeding 12 square feet in area, maintained on the premises while construction is in process and containing information relevant to the project. Such sign shall be removed promptly after completion of the construction.
4. One unlighted identification sign at each public entrance to a subdivision not exceeding 12 square feet in area; to be removed when the subdivision is completed.
5. One identification sign at each public entrance to a multifamily development not exceeding 12 square feet in area.
6. Bulletin or announcement boards, identification signs or entrance markers for non-commercial community establishment or institution, not exceeding a combined total of 30 square feet and provided that there shall be no more than two (2) signs allowed on the premises.
7. One sign for a non-residential use that is a permitted use, a use allowed by Special Permit, or a legal non-conforming use. The sign may be no more than one-half the area that would be allowed if the sign were in a business or industrial district. Accessory, professional, home occupation, and other permitted uses are subject to Section 6.2.4.A.1.
8. Notwithstanding any other provisions of this By-law, signs may be erected for posting land; i.e., no hunting, no trespassing, etc.

##### B. Residence Districts – Off Premise Signs

1. Directional signs by permission or license from the Board of Selectmen, limited as follows:
  - a. Two signs for each activity, not exceeding 6" x 30" in size.
  - b. Ground signs not exceeding 8 feet in height.
2. Temporary Sign. A street banner or signs advertising a public or charitable entertainment or event, by permission or license from the Board of Selectmen. Such a sign shall be removed within seven (7) days after the event.

C. Business and Industrial Districts Signs.

1. All signs permitted in residence districts as provided in Sections 6.2.4.A and 6.2.4.B are allowed.
2. Each owner, lessee, or tenant shall be allowed a primary and a secondary sign. Said signs may be used as ground, wall, or roof signs. No lot shall be allowed to have more than one (1) ground sign structure.
3. Traffic control, orientational and guidance signs located on private property, up to four square feet in area, displayed for purposes of direction or convenience, including signs identifying parking, fire lanes, rest rooms, freight entrances and the like.
4. Building directories (if located outside) may be affixed to the exterior wall of a building at each public entrance. Such directory shall not exceed an area determined on the basis of 1 square foot for each establishment occupying the building.
5. One unlighted, temporary real estate sign of up to 12 square feet pertaining to the sale, rental or lease of the premises; to be removed within fourteen (14) days of sale, rental or lease.
6. Service stations or garages may divide the allowed wall sign area into separate, smaller wall signs indicating separate operations or departments. The allowed ground sign area may be divided between one ground sign and one free standing sign. Two additional primary ground signs may be allowed by special permit from the Board of Selectmen.
7. Display window signs covering no more than 20 percent (20%) of the display window area.
8. Temporary signs for business use: a 30-calendar day sign for a business opening may be granted by the Building Inspector for no more than the following type signs: A-frames, advertising flags and banners. Permit must be applied for within 90 days of occupancy permit being granted
9. Businesses may use as described in 6.2.2 Sidewalk Accessory signs. Such signs shall not be of a permanent nature, rather are intended for announcements of daily specials, sales, etc. Sidewalk Accessory signs shall be by permit of the Building Inspector who shall approve the base design and location. The sign shall not be deemed an A frame as outlined in Section 6.2.5.5 Prohibitions.
10. The Sidewalk Accessory Sign shall be issued on an annual basis by application and annual fee paid to the Office of the Building Inspector. (Said annual sign fee shall be initially set at \$25.00 per year or as amended by future action of the Board of Selectmen.)

6.2.5 Sign Visual and Dimensional Regulations

6.2.5.1 Illumination

No sign shall be illuminated between the hours of 12 midnight and 6:00 A.M. unless, in the case of an accessory sign, the premises on which it is located is open for business. Signs may be illuminated by the

following means without causing hazardous conditions for motorists or offending pedestrians or neighboring premises:

- A. by a steady stationary light of reasonable intensity shielded and directed solely at the sign;
- B. by an internal light of reasonable intensity; or,
- C. by neon or gas-filled tubes.
- D. by electronic illumination. An electronically illuminated sign shall include a sign or portion thereof using digital electronic or other methods to display characters, letters, illustrations, or images, subject to the following:
  1. No moving display or animation of any kind shall be allowed;
  2. The brightness and intensity of illumination shall not be greater than necessary to meet the reasonable needs of the business or use served;
  3. Light sources shall be shielded from all adjacent buildings and streets;
  4. The lighting shall not create excessive glare to pedestrians and/or motorist, and will not obstruct traffic control or any other public informational sign;
  5. All electronic signs shall require a permit issued by the Building Inspector;
  6. The electronic display shall not be changed more than four (4) times per day.

**EXEMPTION:** Annual Town Meeting – November 7, 2011 Article #10 - Unanimously, the Town voted to exempt property located at 1540 Lakeview Avenue, Dracut Senior High School, from the provisions of Zoning Bylaw Section 6.2.5.1 (formerly Section 3.11.51) which prohibits the installation or operation of stationary illuminated signage, and to authorize the Town of Dracut to install an electronic illuminated sign for the purpose of displaying community and school-wide functions and activities, emergency protocol, as well as all pertinent community informational notices.

- E. **Outdoor Lighting.** All temporary or permanent outdoor lights used in relation to signs as regulated pursuant to this section, such as those used for area lighting, building floodlighting, or sign lighting shall be steady, stationary, shielded sources directed so that the light source is not directly visible to any point beyond the lot lines of the premises.

#### 6.2.5.2 Letter Size

##### A. Primary Signs

1. Wall or roof sign: 1/2 inch of letter height allowed per foot of building frontage with a maximum of seven (7) feet. Eighteen (18) inch height allowed if the building frontage is less than thirty-six (36) feet.
2. Ground sign: Eighteen (18) inch maximum letter height allowed.

##### B. Secondary Signs

1. Eight (8) inch maximum letter height allowed.

C. Logos

1. Twice letter height allowed but limited to seven (7) foot maximum height.

6.2.5.3 Sign Size

- A. Primary wall and roof signs attached to or part of the architectural design of a building shall not exceed, in total area, more than ten percent (10%) of the area of the two-dimensional elevation of the building as determined by the building frontage multiplied by the height.
- B. A primary ground sign shall be limited to one (1) square foot for each five (5) linear feet of street frontage of the lot on which the sign is located. All street frontages may be used in determining sign size.
- C. A secondary sign shall be limited to one-half (1/2) the area permitted for a primary sign.
- D. Only one side of a double-faced sign shall be included in calculating surface area; providing that the two (2) display surfaces are joined at an angle no greater than 45 degrees. All sides of multi-faced signs, visible from any one point, shall be included in the calculation of surface area.

6.2.5.4 Sign Height and Location

- A. Corner Lots – the owner of the premises shall be allowed to choose the street orientation of allowed signs
- B. No wall or roof sign shall extend more than four (4) feet above the lowest point of the roof of the building with which it is associated.
- C. No wall or roof sign shall overhang the public way more than twelve (12) inches.
- D. Ground signs shall be set back a minimum of ten (10) feet from all property lines and a minimum of forty (40) feet from all residential districts or structures and shall be limited in height to twenty (20) feet above grade.

6.2.5.5 Prohibitions

The following prohibitions shall apply to all signs in all districts:

- A. No sign shall contain any moving, sound making equipment, flashing, or animated lights, or visible moving or movable parts, i.e. pennants, streamers, advertising flags, spinners or similar devices, except such portions of a sign as consist solely of indicators of time and/or temperature, or which have historic significance.
- B. No sign shall be erected, displayed, or maintained:
  1. Upon any rock, tree, fence, or utility pole;
  2. If it contains any obscene, indecent, or immoral matter;
  3. Unless all parts and attachments and the ground about the base thereof are kept in neat and safe conditions.
- C. No sign shall be permitted or allowed to be so located as to obstruct a view of the rights of way at a corner of intersecting streets or at an entrance to a street.

- D. No sign shall obstruct any means of egress from a building.
- E. No sign shall detract from the effectiveness of a traffic signal.
- F. Projecting signs are prohibited.
- G. Non-accessory signs, temporary signs, including A-Frames, those mounted on wheels and trailers, or motor vehicles, if those vehicles, trailers or wheeled signs are regularly located for fixed display, are prohibited except for directional signs as allowed in Section 6.2.4.B. A thirty-day sign permit for opening purposes may be granted by the Building Inspector as allowed in Section 6.2.4.C.

### 6.3 Soil, Vegetation, Rock, and Gravel Removal

#### 6.3.1 Purpose

The purpose of this section is to prevent the degradation of the town's natural resources including its soil, surface and groundwater and naturally occurring vegetation due to the improper or uncontrolled removal or redisposition of soils vegetation and earth materials. This section shall not apply to the removal of less than five cubic yards of material from a lot for non-commercial purposes for maintenance or improvement of the lot or: the removal or alteration of existing vegetation upon a lot for non-commercial purposes related to the routine maintenance or improvement of the lot.

#### 6.3.2 General Provisions

- A. Excavation, removal, stripping, or mining of any earth material, soil and vegetation except as hereinafter permitted on any parcel of land, public or private, in Dracut is prohibited.
- B. Exclusive jurisdiction to issue Earth Removal Permits shall be with the Board of Selectmen.
- C. The Board of Selectmen or the Building Inspector shall have the authority to issue an Operating Hours Extension Permit, as defined in subsection 6.3.6.A.
- D. The Building Inspector shall have the authority to enforce all conditions of any Permit issued under this Section of the Zoning By-law.
- E. All earth removal operations in existence in Dracut on the effective date of this section shall be subject to the requirements stated herein. However, all Earth Removal Permits issued prior to the effective date of this Section shall remain in effect until their expiration date and/or annual review. At such time, said operation shall be subject to the provisions of this Section, unless otherwise allowed by the Board of Selectmen for a period not to exceed six (6) months.
- F. Removal Incidental to Development, Construction, or Improvement. This regulation shall be deemed not to prohibit the removal of such sod, loam, soil, clay, sand, gravel, or stone as may be required to be excavated for the purpose of constructing ways in accordance with lines and grades in accordance with a Definitive Subdivision Plan approved by the Planning Board, or for the purpose of constructing underground utilities. Where soil is to be removed in connection with the preparation of a specific site for building, removal may take place only after the issuance of a building permit by the Building Inspector. Removal will be allowed only from the area for the building, driveways, parking areas, and from areas where removal is specifically required by the Board of Health in connection with septic disposal systems.

- G. An annual fee of shall be required for Earth Removal Permits as established by the Board of Selectmen.
- H. Violation of this Section of the zoning By-law imposes a penalty of \$100.00 for the first offense, \$100.00 for the second and each subsequent offense. Each day of operation in violation of this section will be considered a separate offense.

#### 6.3.3 Application for Soil, Vegetation, Rock and Gravel Removal

##### 6.3.3.1 Materials for Submission

All applicants for a Soil, Vegetation, Rock and Gravel Removal Permit must, at a minimum, submit the following materials to the Board of Selectmen.

- A. A plan or plans to scale, (1" = 40') prepared and stamped by a Registered Engineer, and subdivided into five acre lots showing the property lines of the parcel of land under consideration along with all abutters to the property, existing and final contours in two foot (2) elevation increments, existing and proposed final drainage of the site, including all culverts, streams, ponds, swamps, and siltation basins, and all wetlands pursuant to M.G.L. Ch. 131, sec. 40, means of entrance and egress from the property, locus map, and any other pertinent data deemed necessary by the Board of Selectmen.
- B. A plan, study, or report showing the proposed ultimate use of the land conforming with the existing zoning By-law. Proper planning for future land use shall be a prime consideration affecting the issuance of a Soil, Vegetation, Rock and Gravel Removal Permit.
- C. A complete list of the names and addresses of current abutters of the property where such removal is proposed.
- D. An operating schedule showing the active area (not to exceed five (5) acres) where the removal will begin and also how the total parcel will be developed in progressive five (5) acre increments.
- E. A log of soil borings taken to the depth of the proposed excavation with a minimum of five borings per five-acre section. Additional borings may be requested by the Board of Selectmen if necessary.
- F. A plan showing all refuse and debris burial sites on or off the property. (May be shown on plan as required in (1) above.)
- G. The full legal name and address of the owner of record, the operator of the removal operation and of the applicant.

#### 6.3.4 Permit for Soil, Vegetation, Rock and Gravel Removal.

##### 6.3.4.1 General.

The Board of Selectmen may issue Soil, Vegetation, Rock and Gravel Removal Permits for I-1, I-2 districts, complete with conditions imposed, for areas not to exceed twenty (20) acres. All permits shall conform to the minimum restoration and operating standards contained herein and such other conditions as the Board of Selectmen may deem necessary. Said permit shall allow the working of only five (5) acres at any one time. Upon completion of the earth removal operation on a five (5) acre parcel,

or a part thereof, and substantial restoration of said parcel as determined by the Board of Selectmen, according to the restoration standards and the permit conditions, application may then be made to the Board of Selectmen for a permit renewal.

Such permit renewal shall allow the removal of earth on another five (5) acre section, as shown by the operating schedule submitted with the permit application. This procedure shall be followed until the operation is completed. No soil being removed under Special Permit may take place within 300 feet of a street or way, nor within 100 feet of the high water mark of any natural water course, nor within 100 feet of a lot line. Soil may be disturbed within these established boundaries if it is considered part of the site restoration work and has received prior approval by the Board of Selectmen.

Removal of soil shall not take place below a level that would be considered an undesirable grade for the future development of the area, or to an elevation within six (6) feet of the springtime high water table unless such elevation has been approved by the Board of Selectmen as a desirable improvement that will enhance the future development of the area.

#### *6.3.4.2 Accuracy of Information.*

The permit shall be considered a non-transferable revocable permit to remove earth materials. If it is found that incorrect information was submitted in the application, or that conditions of the permit are being violated, or that the governing regulations are not being followed, the permit shall be suspended until all provisions have been met and promises made to conform. Failure of the permit holder to comply within the time specified by the Board of Selectmen for correction of violations shall cause the permit to be revoked, forfeiture of the security to the town, and the imposition of all fines as set forth in Paragraph 6.3.2.H.

#### *6.3.4.3 Compliance Review.*

The Board of Selectmen shall discuss and review the permit periodically, and at a minimum, annually. Written progress reports showing conformance with regulations and permit conditions shall be submitted to the Board of Selectmen, Building Inspector or their designated agent every three (3) months

#### *6.3.4.4 Effective Date.*

A Soil, Vegetation, Rock and Gravel Removal Permit shall not be in effect until the applicant has filed the proper security as required in Paragraph 3.12.80, paid the required fees as required by Paragraph 3.12.20 (6), and recorded the special permit at the Registry of Deeds.

#### *6.3.4.5 Processing*

Mechanical crushing and screening may be permitted by the Board of Selectmen after a public hearing with due notice given.

#### *6.3.5 Public Hearing.*

The Board of Selectmen shall hold a public hearing pursuant to Section 2.3.

#### *6.3.6 Operational Standards for Removal and Restoration*

All soil, vegetation, rock and gravel removal activities controlled by this section shall be subject to the following standards:

A. Time of Operation.

1. Excavation and site maintenance may be carried on from 8:00 A.M. until 4:30 P.M., Monday through Saturday.
2. Trucking from the site may be carried on from 7:30 A.M. through 6:00 P.M., Monday through Saturday.
3. An Operating Hours Extension Permit for trucking until 9:00 P.M. for no more than three (3) consecutive days may be granted by the Board of Selectmen after reviewing conditions of the application. Said application shall show reason for extension of time, distance of hauling, and approximate cubic yardage to be hauled.

B. Site Preparation

1. Only the active area described in the permit application may be made ready for earth removal.
2. No standing trees are to be bulldozed over, or slashed and bulldozed into piles. All trees must be cut down. All wood and brush must be piled for removal or chipping. Wood chips may remain on the site. No trees are to be buried on the site.
3. Stumps shall be buried in predesignated areas as shown on application plans.
4. Any change in stump burial must be submitted to the Board for approval.
5. All topsoil removed from the active removal area shall be piled and adequately protected from erosion for future site restoration.
6. No topsoil shall be removed from the site until all areas have been restored and permission has been granted by the Board of Selectmen.
7. Prior to any excavation of earth removal, adequate siltation basins shall be constructed to prevent the run-off of silted water from the site.
8. All excavation shall be done so as to create contours to channel run-off waters into the siltation basins.
9. No siltation basin shall exceed seven (7) feet in depth.
10. Siltation basins must be cleaned when sediment deposits are within eighteen (18) inches of the outfall invert.

C. Site Maintenance.

1. No open face excavation shall exceed twenty-five (25) feet in height.
2. No excavation shall be closer than one hundred (100) feet to a property line unless approved by the Board of Selectmen.
3. No slope shall exceed a two (2) foot horizontal to a one (1) foot vertical (2:1) grade.

4. No earth removal operation shall create excessive amounts of dust or allow roads leading into or from a site to become excessively dust producing.
5. Proper dust control methods shall be employed and approved by the Board of Selectmen.

D. Screening and Access.

1. An immediate program of site screening shall start when site preparation begins.
2. All entrances shall be screened with existing vegetation, evergreens, or other suitable natural methods, so as to prevent a direct view into the earth removal area.
3. All areas within fifty (50) feet of a traveled way or abutting property lines shall be reforested immediately upon completion of the earth removal operation of that area. Said reforestation shall be done in accordance with the standard as stated in 3.12.73 of this section paragraph (2) through (7) inclusive.
4. A minimum of one hundred-fifty (150) trees per acre shall be used for this reforestation.
5. All access roads shall be level with intersecting streets for a distance of sixty (60) feet.
6. A STOP sign shall be installed so as to warn any vehicle entering onto a town street.
7. All access roads shall be equipped with a suitable locking gate to prevent unauthorized entry.

E. Temporary Buildings.

1. All Temporary structures shall be specified in the special permit application and shown on the plan
2. Any structure erected on the premises for use by personnel or storage of equipment shall be located at least forty (40) feet from any existing roadway and at least thirty (30) feet from any lot line.
3. Any temporary structure will be removed no later than ninety (90) days after the expiration date of the permit.

F. Mechanical Crushing and Screening.

1. All crushing and screening permits shall be granted for a period not to exceed six (6) months.
2. Said permits shall be granted as a cleanup procedure only.
3. Washing of processed material will not be allowed.
4. Operation of crushing or screening equipment shall be from 7:30 a.m. until 5:00 p.m., Monday through Friday.
5. All crushing and screening equipment shall be equipped with suitable dust and noise control devices.

6. Under no conditions shall the crushing and screening cause a nuisance beyond the property line.

#### G. Restoration Standards

1. All restoration must be completed within sixty (60) days after the termination of a Soil, Vegetation, Rock and Gravel Removal Permit or by the first of June if the permit terminates between December first through March thirty-first.
2. No slope shall be left with a grade steeper than a two (2) foot horizontal to a one (1) foot vertical (2:1).
3. All siltation basins shall be filled with earth, and a natural drainage pattern must be re-established. No area upon the site which will collect water shall remain unless approval is granted by the Board of Selectmen or unless the area was shown on the original application plans.
4. All topsoil which was on the site prior to earth removal operations shall be replaced to a minimum depth of six (6) inches on all disturbed areas. Sites that had less than six (6) inches of topsoil shall be restored with a minimum of four (4) inches over the entire area.
5. Seeding: The entire area shall be seeded with grass or legume which contains at least sixty percent (60%) perennials. The planted area shall be protected from erosion during the establishment period using good conservation practices. Areas which wash out are to be repaired immediately.
6. Reforestation: All areas which are disturbed in the earth removal operation shall be reforested with fifty percent (50%) coniferous and fifty percent (50%) deciduous trees planted at the rate of one hundred fifty (150) trees per acre. All trees used are to be a minimum of two (2) year transplants. Areas which are to be used for agricultural purposes after earth removal operations are completed may be reforested in the following manner:
  - a. Trees shall be planted twenty-five (25) feet deep from a public road or property line.
  - b. The remaining area shall immediately be planted with grass or other suitable agricultural planting material.

- H. Within ninety (90) days of completion of operations, all equipment, accessory buildings, structures, and unsightly evidence of operation shall be removed from the premises.

#### 6.3.7 Security Requirements.

There must be filed with the Town Treasurer, a continuous bond or deposit of money in the minimum amount of one thousand dollars (\$1,000) per acre to be excavated and shall be of a sufficient amount to cover ten (10) acres, or the total parcel, whichever is smaller, as determined by and satisfactory to the Board of Selectmen. After completion of the total project, and at the applicant's written request, the Board of Selectmen grant a partial release of any security posted by the applicant.

One (1) year after such a partial release is granted and if in the opinion of the Board of Selectmen no damage or deterioration to the finished project has developed, the Board of Selectmen will issue a final release of the security. If, during the year following the date of a partial release, slumping, gullyling, erosion, or any other unsatisfactory condition appears, the applicant shall be responsible for, and shall make any necessary repairs, before final release of security is granted.

The bonding agent shall be required to give the Board of Selectmen, by Registered or Certified mail, a sixty (60) day notice prior to any termination or cancellation of the bond.

#### 6.4 Environmental Protection Standards

##### 6.4.1 Compliance

No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein. The Building Inspector may require an applicant for a building or occupancy permit to supply, at their expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. Payment of such expert advice to the Building Inspector shall be made, or guaranteed by bond or other legally binding device, before further consideration of the application shall continue. After a permit is issued in accordance with this Section, continuing compliance is required. When the Building Inspector suspects a subsequent violation, they may, as necessary, obtain expert advice, which if the violation is established, shall be paid for by the violator, otherwise, by the Town.

##### 6.4.2 Water Quality

No discharge at any point into any public sewer, private sewerage disposal system, stream, water body, or into the ground, of any materials of such nature or temperature as can contaminate such water body or water supply, or cause emission of dangerous or offensive elements in relation thereto, shall be permitted except in accordance with applicable Federal, State, and local health and water pollution control laws and regulations.

##### 6.4.3 Air Quality

No building or occupancy permit shall be issued for any facility specified in Regulation 2.3 Regulations as Amended for The Control of Air Pollution in the Merrimack Valley Air Pollution District, Commonwealth of Massachusetts, Department of Public Health, Bureau of Air Quality Control, until written approval for the facility has been obtained from the Department of Public Health. The provisions of said Regulations shall apply to dust, flash, gas, fume, mist, odor, smoke, vapor, pollen, microorganism, radioactive material, radiation, heat, sound, any combination thereof, or any decay or reaction product thereof in the ambient air space.

##### 6.4.4 Solid Waste Storage.

Any accessory receptacle or structure with holding capacity of at least 100 cubic feet for temporary storage or solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items, and similar waste items shall be located not less than ten feet from any structure and shall be screened from all adjacent premises and streets from which it would otherwise be visible. Screening materials will not be attached to any structure.

#### 6.4.5 Other Requirements

- A. No vibration, odor, glare, or flashing shall be detectable without instruments at any lot line of a residential or institutional use.
- B. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with State, Federal, and town laws and regulations.
- C. No process shall be used which creates visual or audible interference in any radio or television receivers off the premises or causes fluctuations in excess of ten percent in line voltage off the premises.
- D. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate firefighting and fire suppression equipment standard in this industry. Burning of waste materials in the open, contrary to State law is prohibited.
- E. All materials which may be edible by or attractive to rodents or insects shall, when stored in or outdoors, be stored in tightly closed containers.

## **Section 7. Special Residential Regulations**

### **7.1 Open Space Residential Development**

The Planning Board may grant a special permit for Open Space Residential Development (OSRD) in the R1 and R2 Districts for single family detached dwellings and accessory structures subject to the provisions of this section.

#### **7.1.2 Purpose**

The objective of this section is to allow an optional scheme of development so as to encourage the preservation of common land for conservation, acquisition, open space and recreational use; to preserve historical or archaeological resources; to protect existing or potential municipal and private water supplies; to promote more sensitive siting of buildings and better overall site planning; to promote better utilization of land in harmony with its natural features and with the general intent of the zoning by-law through a greater flexibility in design; and to allow for the more efficient provision of municipal services.

#### **7.1.3 Open space Residential Development Regulations**

The following regulations shall apply to all developments submitted under this section.

##### **A. Minimum Parcel Size**

Open space residential developments shall be located upon a parcel of land having a minimum of five acres in the R1 District and ten acres in the R2 District.

##### **B. Number of Building Lots Permitted**

The total number of building lots in an Open Space Residential Development shall be no greater than the number of building lots that would otherwise be permitted in the district within which the land is located. The Planning Board shall require that the applicant provide satisfactory evidence that the number of lots shown on the Open Space Residential Plan is no greater than the number of lots that could otherwise be developed. All determinations of area for the purpose of determining the number of lots shall be based upon the criteria included in sections 3.2.2, 3.3, and 4.3 of this By-law.

##### **C. Dimensional Requirements**

Where the requirements of this section differ from or conflict with the requirements of Section 4 of this By-law, this section shall prevail. The following minimum dimensional requirements shall be met for all Open Space Residential Developments pursuant to this section.

1. Minimum lot area. In the R1 District the minimum lot area will be 20,000 square feet, in the R2 District the minimum lot area shall be 30,000 square feet per building lot.
2. Frontage. The minimum frontage shall be 50 feet in both the R1 and R2 Districts.
3. Side and Rear Yards. The minimum side and rear yards in the R1 and R2 Districts shall be not less than 15 feet.
4. Front Yard. The minimum front yard in both the R1 and R2 District shall be 30 feet.

5. Lot Width. The minimum lot width in both the R1 and R2 Districts shall not be less than 50 feet.

#### 7.1.4 Common Land.

Any development submitted pursuant to this section shall provide common land in area not less than the sum of the areas by which the building lots are reduced below the minimum lot area required for conventional development of the tract as per Section 4 of this By-law. All common land must have access to a roadway within the subdivision.

All common land required herein shall be exclusive of land classified as wetland and shown on a map entitled "Wetland and Water Conservancy District, Town of Dracut 1977" consisting of twenty-five sheets and on file with the Town Clerk. Said land may be counted pursuant to the provisions of Section 4.1.2 of this By-law for the purposes of calculating "Minimum Land Area" and may be added to the "Common Land" only following the satisfaction of the basic requirements of this Section.

The common land within the Open Space Residential Development may be conveyed by the owner/developer to one or more of the following entities, as appropriate:

- A. Conveyance to the town for the sole purpose of passive or active recreational open space, agricultural land or other open space purpose, should the town be willing to accept and manage the property. The property is to be kept in an open and natural state, and may be subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts.
- B. Conveyance to the Commonwealth of Massachusetts as part of a state forest, park, or wildlife management area.
- C. Conveyance to a non-profit corporation, the principal purpose of which is the conservation of open space and made subject to a conservation restriction prepared in accordance with the provisions of Sections 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts.
- D. Conveyance to a corporation or trust owned or to be owned by the owners of lots or residential units within the plot and made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts.
- E. Conveyance to a private owner for agricultural, horticultural, forestry or any other purpose and made subject to a conservation restriction prepared in accordance with the provisions of Section 31 and 33, inclusive, of Chapter 184 of the General Laws of the Commonwealth of Massachusetts.

#### 7.1.5 Legal Requirements for Common Land Ownership and Maintenance.

In the event that the common land and other facilities which may be held in common, are conveyed to a homeowners' association, whose membership includes the owners of all lots or units contained in the tract or if the development is a cooperative, with owners holding shares in the cooperative association, then the following shall apply:

- A. The owner/developer shall include in the deed to the owners of individual lots beneficial rights in said common land and shall grant a conservation restriction to the Town of Dracut and/or an appropriate entity noted in 7.1.3 above, over such land pursuant to Massachusetts General Laws Chapter 184 Sections 31-33, to insure that such land be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways;
- B. This restriction shall be enforceable by the Town through its Conservation Commission in any proceeding authorized by Massachusetts General Laws Chapter 184, Section 33;
- C. The developer shall be responsible for the maintenance of the common land until such time as the homeowners' association is capable of assuming said responsibility or in the case of a trust, for the benefit of the tenant upon the execution of the trust. Prior to conveyance of the land to the homeowner's association, the Planning Board, upon advice of the Conservation Commission, Open Space Committee and other applicable board or commission, shall review and approve a maintenance and operations plan for the upkeep of the open space parcels within the subdivision.
- D. The homeowners' association shall be responsible for the maintenance of the open space in accordance with the approved operation and maintenance schedule.
- E. In order to ensure that the homeowners' association will properly maintain the land deeded to it under this section, the developer shall prepare a Declaration of Covenants and Restrictions, which shall at a minimum provide for the following:
  - 1. Mandatory membership in an established homes association as a requirement of residence or ownership of any lot in the tract.
  - 2. Provisions for maintenance and tax assessment of all lots in order to ensure that the common land is maintained in a condition suitable for the uses approved by the homeowners' association. Failure to pay such assessment shall create a lien on the property assessed, enforceable by either the homeowners' association or the owner of any lot.
  - 3. Provisions which, so far as possible under the existing law, will ensure that the restrictions placed on the use of the common land will not terminate by operation of law. This Declaration of Covenants and Restrictions shall be reviewed and approved by the Planning Board and their legal counsel and then shall be recorded with the Middlesex Registry of Deeds. A copy of said Declaration or trust shall also be filed with the Town Clerk. Prior to the Building Inspector's issuance of a building permit for any lot, the developer shall provide satisfactory assurance of the conveyance and recording as required above in the form of copies of the recorded instruments bearing the recording stamps.

#### 7.1.6 Submissions

The applicant for a Special Permit pursuant to this section shall submit appropriate materials as per the regulations adopted by the Planning Board pursuant to section 2.3 of this By-law and shall include the following:

- A. All applications and accompanying plans shall be in a form consistent with the requirements for a preliminary subdivision plan in the rules and regulations of the Planning Board governing subdivision of land and shall include proposed location, and bulk and height of all proposed buildings.
- B. The number of dwellings which could be constructed under this By-law by means of a conventional development plan, considering the whole tract, and excluding from the lot and roadway layout those portions of the site which are not buildable due to flood plains, wetlands, and soils which are unsuitable for on-site sewage disposal systems, and slopes in excess of 20% gradient.
- C. An analysis of the site, including wetlands, slopes, soil conditions, areas within the 100-year flood, trees
- D. over six inches and such other natural features as the Planning Board may request.
- E. A summary of the environmental concerns relating to the proposed plan.
- F. A description of the neighborhood in which the tract lies, including utilities and other public facilities, and the impact of the proposed plan upon them.
- G. Evaluation of the open land proposed within the cluster, with respect to the size, shape, location, natural resource value, and accessibility by residents of the Town or of the cluster.

#### 7.1.7 Decision Criteria.

A special permit for open space residential development shall be approved only upon determination by the Planning Board that the requirements of Section 2.3 Special Permits including Section 2.3.6 Mandatory Findings of the Special Permit Granting Authority and the following additional criteria have been met.

- A. The plan meets all requirements of this section.
- B. The plan is in harmony with the general purpose of this By-law and the requirements of Massachusetts General Laws Chapter 40A and the long-range plan of the Town.
- C. The approval of the plan will not have a detrimental impact on the neighborhood, will be designed with due consideration for health and safety and is superior to a conventional plan in preserving open space, minimizing environmental disruption, allowing for more efficient provision of services, and or allowing for greater variety in prices and types of housing.

#### 7.1.8 Relation to Subdivision Control Act.

Planning Board approval of a special permit hereunder shall not substitute for compliance with the Subdivision Control Act, nor oblige the Planning Board to approve any related definitive plan for subdivision, nor reduce any time periods for board consideration under the law. However, in order to facilitate processing, the Planning Board shall, insofar as practical under existing law, accept regulations establishing procedures for submission of a combined plan and application which shall satisfy this section and the Board's regulations under the Subdivision Control Act.

## 7.2 Multifamily Development

### 7.2.1 Applicability and Objectives

- A. Any structure designed for the occupation and habitation of three or more families by virtue of separate and complete living quarters containing kitchen facilities, bathroom facilities and sleeping quarters.
- B. The objectives of this section are to allow controlled multifamily development in Dracut so as to: promote and provide a greater variety and choice in housing types; to broaden the availability of housing for persons and families of limited income; to focus development at locations able to support such development with minimal environmental or municipal cost; and to protect the Town's natural environment, its existing character, and its ability to provide public services.
- C. Notwithstanding the above, to further meet the objective of providing greater variety of units and to meet the demands of Dracut's aging population, the Planning Board, by Special Permit, may allow age restricted housing units to those persons of age 55 or older. Age restricted units shall be deed restricted in that a person 55 or older is required to live within or own the unit. Units may be constructed in a combination of one, two or multifamily units, on one or more lots. The total number of units shall be determined in accordance with Section 7.2.3.G.

### 7.2.2 Submittal Requirements.

All applicants for a special permit under this section are encouraged to consult with the Planning Board at a regularly convened meeting prior to formal application.

The application for a special permit for multifamily development under this section shall provide to the Planning Board who shall be the Special Permit Granting Authority this section and shall submit appropriate materials as per the regulations adopted by the Special Permit Granting Authority pursuant to section 2.3 of this By-law and the following:

- A. A site plan as per section 2.3.12.
- B. Materials indicating the number of proposed dwelling units; a development schedule for dwellings and improvements; proposed form of tenure, whether rental, condominium, cooperative, or other; means, if any, of providing for design control; and means, if any, of providing assurance of long-term conformity to present proposal.
- C. Analysis of the consequences of the proposed development, evaluating the following impacts at a level of detail appropriate to the number of units proposed;
  - 1. Natural Environment: groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetative removal (especially unusual species and mature trees), and wildlife habitats.
  - 2. Public Services: analysis of traffic conditions existing and post development including levels of service, analysis of water system capacity, analysis of public sewerage capacity, need for additional public recreation facilities, need for additional school facilities.
  - 3. Economics: municipal costs and revenues, local business activity, local jobs.

- 4. Social Environment: effect of the proposal upon the general character of the Town and how the proposed units enhance the range of housing choice and affordability in the town.
- 5. Visual Environment: visibility of buildings and parking, visual consistency with existing development in the area.
- D. A development phasing schedule indicating the maximum number of dwelling units proposed to be erected in each calendar year, and the timing of construction of any proposed community facilities.

### 7.2.3 Decision Criteria

A special permit for multifamily development shall be approved only upon determination of the Planning Board that the requirements of Section 2.3 Special Permit including Section 2.3.6 Mandatory Finding of Special Permit Granting Authority and the following additional criteria have been met:

- A. The site contains a minimum of five acres.
- B. The proposed development makes use of public sewer and water and has demonstrated said public sewer and water systems to be of sufficient capacity to service the proposed development without added cost to the public or that the developer is willing to underwrite said cost or improvements.
- C. Project generated traffic does not increase the peak A.M. and P.M. hour traffic on the street through which access to and from the project site is provided in excess of 20% if said street is operating at a level of service of C or better or 10% if said street is operating below level of service C. (Said levels are to be determined using methods and definitions as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209 or later edition.)
- D. Site design and storm water facilities shall be so designed that in a twenty-five-year storm the peak storm water flows leaving the site will not be increased above current flows or cause the design capacity of receiving structures or channel capacity of receiving streams to be exceeded.
- E. Departure from the scale of single-family development is minimized through including not more than 24 dwelling units in a single structure, serving not more than eight dwelling units from a single entrance, limiting building length to not more than 200 feet, having unbroken roof area of not more than 3,000 square feet, and having parking areas individually contain not more than 36 parking spaces and be separated from all other parking areas by at least 50 feet.
  - 1. The requirements of Section 5, above, may be reduced on Special Permit by the Special Permit Granting Authority as designated and, notwithstanding anything to the contrary contained in Section 3.3 Table of Permitted Uses of this Bylaw, to allow for detached single family units or attached two family units, with attachments located side-by-side, or any combination thereof, and associated parking, in multi-family developments designed to be burdened with a deed rider, restrictive covenant or other instrument that shall be recorded at the Registry of Deeds or the Land Court, requiring that the provided housing be individually owned or occupied by at least one (1) person who is fifty-five (55) years of age,

or older; and their spouses of any age, and as the Special Permit Granting Authority may further define and specify in its special permit.

- F. Visual separation from nearby premises is assured through providing yards of at least 1.5 times building height measured from each lot line which shall contain no parking areas, and through use of outdoor lighting fixtures not higher than 15 feet.
- G. The total number of units is limited to the resultant of the total area of the parcel as measured pursuant to Section 4.3 of this By-law rounded to the nearest 1,000 square feet divided by 10,000.

### 7.3 Residential Golf Course Planned Development

#### 7.3.1 Purpose of RGCPD

- A. The particular intent of this section is to provide for the development of single-family house lots in conjunction with a golf course on a tract of land which is in total at least 175 acres, which may not meet the zoning requirements of an R1 or R2 district. It is the intent of this chapter to provide for a unique type of living and to encourage:
  - B. the general purposes of the zoning by-law;
  - C. the preservation of open space and the promotion of more use of land;
  - D. a more creative approach to land development;
  - E. land use, which is harmonious with the environment and which preserves natural resources and scenic qualities;
  - F. the provision of a more desirable esthetic and functional space and the efficient allocation distribution, use and maintenance of land;
  - G. diversity and variety in the development pattern of the community;
  - H. better design and land planning resulting in the economic and efficient street utility and public facility installation, construction and maintenance; and
  - I. the development of real property value for the long range future.

#### 7.3.2 Special Permit Required

The Board of Selectmen (the "Board") acting as the Special Permit Granting Authority may grant a special permit for the utilization of a tract of land in a Residential-1 or Residential-2 district, as a Residential Golf Course Planned development, subject to the requirements and conditions contained in this section.

Note: All applicants for a Special Permit under this Section are strongly encouraged to consult with the Board of Selectmen at a regularly convened meeting prior to formal application.

#### 7.3.3 Definition of a Residential Golf Course Planned Development

A Residential Golf Course Planned Development (RGCPD) is a tract of land which is developed as a planned golf course and single-family detached development and which is not subject to the table of dimensional density requirements and regulations, but which is governed instead by the requirements

of this section. The Residential portion of the Development is to be governed by M.G.L. Chapter 41, Section 81K through 81gg, commonly known as "Subdivision Control Laws".

#### 7.3.4 Permitted Uses

A. The following uses shall be permitted:

1. Residential single family detached dwellings
2. An 18-hole golf course with a minimum length of 6,000 yards, which may include easements, which shall be, at the option of the applicant, semiprivate or public. The applicant must, as part of the initial submittal pursuant to Section 7.3.9A, negotiate with the Board of Selectmen for a residential preference for Dracut residents in the event that the applicant or Owner elects to make the course private.

B. The following uses which are incidental to the golf course:

1. club house;
2. restaurant;
3. function hall;
4. putting or practice greens;
5. driving ranges;
6. tennis courts
7. swimming courts;
8. a pro shop;
9. lounge;
10. ancillary buildings which are incidental to golf course use;
11. other uses that the special permit granting authority may approve which are customarily incidental to a golf course.

#### 7.3.5 Dimensional Requirements

The requirements of Section 4 of the zoning by-law shall prevail except as hereafter provided. The following minimum dimensional requirements shall be met for all single family detached residence lots pursuant to this section.

- A. Minimum lot area. The lots will have a minimum lot area of 20,000 square feet, which may include easements for the benefit of the golf course.
- B. Frontage. The minimum frontage shall be 100 feet.
- C. Side/rear yards. The minimum side yard shall be not less than 15 feet. The minimum rear yard shall be not less than 25 feet.
- D. Front yard. The minimum front yard shall be 30 feet.

- E. Lot width. The minimum lot width shall not be less than 50 feet.
- F. Section 4.2 of this By-law shall not be applicable.

#### 7.3.6 Decision Criteria

A special permit for residential golf course development shall be approved only upon determination of the special permit granting authority that the requirements of Section 2.3 Special Permits and the following additional criteria.

- A. Minimum parcel size. The residential golf course development shall be located upon a parcel of land having a minimum 175 acres in an R1 or R2 district.
- B. The total number of building lots in the residential golf course development shall be no greater than 0.62 lots per gross acreage of the parcel.
- C. There shall be public water and sewer available for both the golf course and the residential portion of the development. In the event that they are not currently available, the applicant shall construct them at no expense to the Town of Dracut.
- D. The special permit shall contain the following mandatory conditions, with respect to the golf course.
  - 1. Prior to the issuance of the first Occupancy Permit for a residential dwelling all land dedicated to the golf course shall be:
    - a. deed restricted to use as a golf course or conservation uses if the golf course ceases to operate for a period of two years.
    - b. deed restricted so that no structure shall be erected thereon except as incident to the uses in Section above.
  - 2. The golf course portion of the development shall be shown as separate parcel(s). In the event the parcels are sold or conveyed, the deed must state that they are subject to the conditions of the special permit, and a copy of the Special Permit must be attached to any and all deeds.
  - 3. In the event that the owner files a statement with the Planning Board and the Special Permit Granting Authority that it will not build in accordance with the Special Permit prior to the issuance of a Building Permit for a Residential dwelling, then the Special Permit shall be deemed to be null and void and the land shall not be restricted by the terms of this Permit, and must further comply with the provisions regarding the underlying zoning.
  - 4. All roads in the residential portion of the development shall be built to the specifications of the Construction Standards and Subdivision Regulations of the Town of Dracut.

#### 7.3.7 Security for the Development of the Golf Course

The applicant shall secure its obligation to complete the 18-hole course by the following:

- A. Entering into an agreement with the Town that no more than 50% of the single family residences shall be issued building permits and that no more than 50% of that sum shall be issued

occupancy permits prior to substantial completion of 9 holes of the golf course. No building permits shall be issued for the remaining 50% of the residential development until such time as the second 9 holes of the golf course is either substantially completed or bonded as provided for in #2.

- B. The posting of a bond, or the execution of a tri-partite agreement, both of which shall be reduced as the work is completed so that the amount secured shall be equal to the cost of completing the remaining work. In the event of a tri-partite agreement, the applicant shall inform the Board of the identity of the parties to the tri-partite agreement, and the Board shall not unreasonably withhold its assent to such agreement.
- C. The applicant shall initially select between the methods in subsection 1 and 2.
- D. No occupancy permits shall be issued on the accessory uses (Section 7.3.4.B) until completion of the first 9 holes of the golf course.

#### 7.3.8 Security for the Residential Subdivision

The applicant shall secure the completion of the ways and utilities in accordance with M.G.L. Chapter 41, Section 81U, Planning Board Subdivision Rules and Regulations and Town of Dracut Construction Standards. The copy of the proposed security shall be part of the applicant's submission to the Planning board.

#### 7.3.9 Submission Procedure

- A. The applicant shall submit to the Board of Selectmen applications for Special Permits for Overall Site Development. The requirements and application contents as set forth in Section 2.3 are applicable to the applications.
- B. If the Board grants the Overall Site Developments Special Permit, the applicant shall comply with the Subdivision Control Law and submit an application for subdivision approval to the Planning Board for its approval along with a copy of the site plan. The applicant may, simultaneous with submission to the Board of Selectmen, submit an application for subdivision approval to the Planning Board.

#### 7.3.10 Extension of Special Permit

The Board of Selectmen shall not unreasonably refuse a request for an extension of this Special Permit, if requested and if construction has not been commenced.

### 7.4 Accessory Dwelling Units

#### 7.4.1 Purpose and Intent

- A. Provide homeowners with alternatives to allow them to remain in their existing home and neighborhood.
- B. Add moderately priced rental units to the housing stock to meet the needs of smaller households and make housing units available to moderate income households who might otherwise have difficulty finding housing.
- C. Develop more sustainable housing units in single family neighborhoods that are appropriate for households at a variety of stages in their life cycle, including providing housing units for persons with disabilities.

#### 7.4.2 Use and Dimensional Regulations

- A. The Zoning Enforcement Officer shall approve a Building Permit authorizing Protected use ADU installation and use within, or on a lot with, a Principal Dwelling in a Single-Family Residential Zoning District, including within, or on a Lot with, a Pre-existing Non-conforming Structure, if the following conditions are met:
  - 1. The Accessory Dwelling Unit will be a complete, separate dwelling unit containing sleeping, cooking, bathing, and other living facilities.
  - 2. Only one (1) Accessory Dwelling Unit may be permitted as of right on a lot.
  - 3. Accessory Dwelling Units must remain an accessory use to the principal dwelling unit.
  - 4. An Accessory Dwelling Unit shall maintain at least one (1) separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the State Building Code for safe egress.
  - 5. The gross floor area of an Accessory Dwelling Unit (including any additions) shall not be greater than nine hundred (900) square feet.
  - 6. Any Accessory Dwelling Unit must be connected to the public sewer system or be in conformity with the State Building Code, Title V of the State Sanitary Code, and other local bylaws and regulations.
  - 7. Any new construction of an Accessory Dwelling Unit shall be in accordance with current height, and setback and lot coverage requirements for the zoning district where it is located.
  - 8. Sufficient and appropriate area to accommodate one (1) additional parking space over the required minimum for the principal dwelling unit shall be provided if the property is more than  $\frac{1}{2}$  mile from any transit station as defined in 760 CMR 71.02.
- B. To encourage the development of housing units for disabled and handicapped individuals, and persons with limited mobility as defined in M.G.L. Chapter 22, Section 13, reasonable deviations from the stated conditions where necessary to install features that facilitate access and mobility for disabled persons as provided in M.G.L. Chapter 40A, Section 3 are permitted.
- C. No Accessory Dwelling Unit may be advertised or used for a short-term rental as defined in M.G.L. Chapter 64G, Section 1.
- D. No more than one (1) Accessory Dwelling Unit shall be permitted on a parcel unless a Special Permit from the Planning Board has been issued. Each additional Accessory Dwelling Unit must be in compliance with the provisions of this section.

#### 7.4.3 Administration and Enforcement

- A. Existing in-law suites subject to Special Permits shall be unaffected by this section of the Bylaw. However, upon issuance of a Building Permit in accordance with this section and the relevant portions of 780 CMR MA State Building Code, existing in-law suites, permitted or otherwise, may be converted to Accessory Dwelling Units.
- B. No permit shall be issued unless the unit is permitted to connect to the public sewer system or until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health, and the proposed building and location thereof conform with the town's laws and bylaws.
- C. All terms within Section 7.4 Accessory Dwelling Units shall be as defined in 760 CMR 71.02.

## **Section 8. Special Regulations**

### **8.1 Site Plan Review - Major Business Complex**

#### **8.1.1 Applicability and Objectives**

Any premises having more than 10,000 square feet gross floor area used as retail stores or services (including motor vehicle), restaurant, fast food establishment, bank, finance agency, or indoor or outdoor commercial recreation shall be considered a Major Business Complex. Construction or change of use resulting in such a complex is allowable only if approved by the Planning Board pursuant to Section 2.4 Site Plan Review of this By-law for the principal use in accordance with the following:

The objectives for allowing Major Business Complexes are:

- A. to increase the diversity and convenience of goods and services available in Dracut,
- B. to provide entrepreneurial and employment opportunities for area residents,
- C. to focus development at locations able to support it with relatively small environmental or municipal cost, and
- D. to protect the town's natural environment, existing character and development, and ability to provide public services.

#### **8.1.2 Submission Requirements**

The applicant for Site Plan Review under this section shall submit appropriate materials as per the regulations adopted by the Planning Board pursuant to Section 2.4 of this By-law. All applicants for Site Plan Review under this are encouraged to consult with the Planning Board at a regularly convened meeting prior to formal application.

- A. A site plan as per section 2.4.
- B. Analysis of the consequences of the proposed development, evaluation of the following impacts at a level of detail appropriate to the scale of development proposed.
  1. Natural environment: groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially unusual species and mature trees), and wildlife habitats.
  2. Public services: traffic and safety congestion, need for water system improvements, and need for public sewage disposal
  3. Economics: anticipated market area, complimentary with or duplication of existing services, amount and types of employment, labor force area.
  4. Visual environment: visibility of buildings and parking, visual consistency with existing development in the area.

#### **8.1.3 Decision Criteria**

Approval of a Major Business Complex shall be made only upon determination by the Planning Board that the requirements of section 2.4 Site Plan Review including section 2.4.3 General Standards and the following additional criteria:

- A. The proposed plan is consistent with any submittals made under section 8.1.2 in the event of inconsistency, satisfactory explanation has been made submitted showing why the departure is necessitated by changed conditions or earlier error, and that the departure does not reduce compliance with the objectives for the Major Business Complexes specified in Section 8.1.1.
- B. The Complex shall be so designed and located that annual average daily traffic is not increased 50% or more above current levels at any point more than 1,000 feet from the site with current levels being as determined by the Dracut Planning Board; and shall be so located that resultant traffic is not above the capacity of roads and intersections at level of service "C" at any point within one mile of the premises, using definitions and methods of estimation as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209 or later editions.
- C. Site drainage and storm water facilities shall be so designed that in the two, five, ten or 100 year storm, there shall be a zero percentage (0%) increase in the peak rate of runoff, and the runoff shall not cause the design capacity of receiving structures or the channel capacity of receiving streams to be exceeded.

## 8.2 Site Plan Review - Major Industrial Complex

### 8.2.1 Applicability and Objectives

Any premises having more than 50,000 square feet gross floor area used as industrial manufacturing or other uses as shown as encompassing industrial uses including research/office parks as per section 3.3 shall be considered a Major Industrial Complex. Construction or change of use resulting in such a complex is allowable only if approved by the Planning Board pursuant to Section 2.4 of this By-law for the principal use in accordance with the following:

The objectives for allowing Major Industrial Complexes are:

- A. to provide entrepreneurial and employment opportunities for area residents,
- B. to focus development at locations able to support it with relatively small environmental or municipal cost, and
- C. to protect the town's natural environment, existing character and development, and ability to provide public services.

### 8.2.2 Submittals Requirements

The applicant for Site Plan Review under this section shall submit appropriate materials as per the regulations adopted by the Planning Board pursuant to Section 2.4 of this By-law. All applicants for Site Plan Review under this are encouraged to consult with the Planning Board at a regularly convened meeting prior to formal application.

The application for a special permit under this section shall provide to the Special Permit Granting Authority.

- A. A site plan as per section 2.4.
- B. Analysis of the consequences of the proposed development, evaluation of the following impacts at a level of detail appropriate to the scale of development proposed.

1. Natural environment: groundwater and surface water quality, groundwater level, stream flows, erosion and siltation, vegetation removal (especially unusual species and mature trees), and wildlife habitats.
2. Public services: traffic and safety congestion, need for water system improvements, and need for public sewage disposal
3. Economics: anticipated market area, complimentary with or duplication of existing services, amount and types of employment, labor force area.
4. Visual environment: visibility of buildings and parking, visual consistency with existing development in the area.

#### 8.2.3 Decision Criteria

Approval of a Major Industrial Complex shall be made only upon determination by the Planning Board that the requirements of section 2.4 Site Plan Review including section 2.4.3 General Standards and the following additional criteria:

- A. The proposed plan is consistent with any submittals made under Section 2.4 and 8.2.2 or in the event of inconsistency, satisfactory explanation has been made submitted showing why the departure is necessitated by changed conditions or earlier error, and that the departure does not reduce compliance with the objectives for the Major Industrial Complexes specified in Section 8.2.1.
- B. The Complex shall be so designed and located that annual average daily traffic is not increased 50% or more above current levels at any point more than 1,000 feet from the side with current levels being as determined by the Dracut Planning Board; and shall be so located that resultant traffic is not above the capacity of roads and intersections at level of service "C" at any point within one mile of the premises, using definitions and methods of estimation as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209 or later editions.
- C. Site design and storm water facilities shall be so designed that in a five year storm the peak storm water flows leaving the premises will not be increased more than 10% above current flows or cause design capacity of receiving structures or channel capacity of receiving streams to be exceeded.

### 8.3 Fairs, Carnivals and Similar Events

#### 8.3.1 Purpose

The purpose for regulating by special permit the conduct, location and operation of fairs, carnivals and other similar events is to ensure that such activities do not cause disruption, annoyance and cause a general nuisance in the Town of Dracut.

#### 8.3.2 Applicability

All fairs, carnivals, and other similar events to be held in the Town of Dracut require a special permit by the Board of Selectmen and shall conform to all the requirements of this By-law.

#### 8.3.3 Sponsorship

The sponsorship of all events covered by this section shall be a religious, charitable, social, or public organization.

#### 8.3.4 Duration

Any event held in accordance with these requirements shall continue no longer than one week at any one time and not more than two such events shall be authorized within any twelve months for any one sponsor.

#### 8.3.5 Other Requirements

All applicants for a special permit under this section must meet the requirements of Section 2.3 generally as well as all other sections of the By-law including Section 6.4 Environmental Protection Standards.

### 8.4 Registered Marijuana Dispensary (RMD)

#### 8.4.1 Registered Marijuana Dispensary (RMD)

A Registered Marijuana Dispensary is considered a non-profit facility or location that has been registered by the Massachusetts Department of Public Health, where medical marijuana is grown, processed and made available to a qualifying patient or a personal caregiver as determined by 105 CMR 725.000.

#### 8.4.2 Spacing Requirements

A Registered Marijuana Dispensary shall not be sited within the distance of any uses in accordance with 105 CMR 725.110(A)(14).

#### 8.4.3 Term

A Special Permit granted under this Section shall expire within two (2) years of the date of issuance of the Permit. Prior to the expiration of the Special Permit, the applicant shall make application to the Special Permit Granting Authority (SPGA) for renewal of the Special Permit for an additional two (2) year period. Said renewal shall not require the technical submissions of the original application, provided that conditions of the site and facility have not changed materially from the original application.

#### 8.4.4 Transfer

In addition to the Term requirements specified under Section 8.4.3, a Special Permit granted under this Section shall have a term limited to the duration of the applicant's ownership of the premises as a Registered Marijuana Dispensary. A Special Permit may be transferred only with the approval of the Special Permit Granting Authority in the form of a modification to the Special Permit with all information required per this Section 8.4.4, Section 8.4.5, and any other provisions of this Zoning Bylaw.

#### 8.4.5 Further Criteria:

No permit shall be granted hereunder to any applicant, principal officer, agent, owner, or manager of the Registered Marijuana Dispensary who has been convicted of a felony. The application shall include proof of the foregoing, by sworn statement and including submission to a CORI from the Chief of Police for each of the aforementioned individuals. The Chief of Police shall report to the Special Permit Granting Authority prior to the close of the public hearing whether or not the applicant complies with the criteria.

In addition to the criteria and requirements set forth hereunder, the provisions of Section 8.4 shall apply to Special Permits filed under Section 8.5.

## 8.5 Retail/Recreational Marijuana Establishments

### 8.5.1 Purpose

The purpose of this bylaw is to ensure that the Recreational Marijuana Establishment conforms to 935 CMR 500.000; Adult Use of Marijuana and to provide local controls that safeguard the health, safety and welfare of the residents of the Town of Dracut, MA.

These provisions are enacted pursuant to General Laws, Chapter 40A, Section 9A, and pursuant to the Town's authority under the Home Rule Amendment to the Massachusetts Constitution. It is recognized that the nature of the substance cultivated, processed and/or sold by marijuana establishments may have objectionable operational characteristics and should be located in such a manner as to ensure the health, safety and general well-being of the residents of Dracut, the general public, patients seeking treatment, and customers seeking to purchase marijuana for recreational use. The Medical Marijuana and Retail/Recreational Marijuana Establishments bylaws are therefore necessary to advance these purposes.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, M.G.L., 105 CMR 725.000, 935 CMR 500.000 and Chapter 94G, Marijuana Establishments may be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Public Health (DPH) and the Cannabis Control Commission and to provide retail sales of marijuana for non-medical use in a manner that meets or exceeds both state regulations.

### 8.5.2 Definitions

Any term or definition shall have the meaning as defined in M.G.L. Chapter 94G, Section 1 and the Cannabis Control Commission's Regulations 935 CMR 500.000 governing Adult Use of Marijuana.

### 8.5.3 Location and Physical Requirements

- A. All aspects of a Marijuana Establishment, Off-Site Medical Marijuana Dispensaries (OMMD), Recreational Marijuana Retailers (RMR), Registered Marijuana Dispensaries (RMD), or craft marijuana cultivator relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing or administration of marijuana, products containing marijuana, related supplies, or educational materials shall take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the business.
- B. No outside storage of marijuana, related supplies or educational materials is permitted.
- C. For the purposes of this bylaw, any element or phase of operation of a marijuana establishment shall not be considered as an Agricultural use or operation, and therefore it is not to be exempt from the Dracut Zoning Bylaws and it shall comply thereto, as specified in Massachusetts General Laws Chapter 40A, Section 3

### 8.5.4 Limitations, Restrictions and Prohibitions

- A. The proposed use shall not display on-premises signage or other marketing on the exterior of the building or in any manner visible from the public way, which, in the opinion of the Special Permit Granting Authority, may promote or encourage the use of marijuana or other drugs by minors.

B. Pursuant to M.G.L. Chapter 94 G, Section 3 (a)(2), the number of recreational Marijuana Retailers shall be limited to four (4) establishments in Dracut which is more than 20 percent of the number of licenses issued within the Town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under M.G.L. Chapter 138, Section 15 (package store licenses). Any Medical Marijuana Dispensary, licensed or registered not later than July 1, 2017 engaged in retail sale of marijuana or marijuana products, shall be exempt from this limitation for purposes of converting from a Medical Marijuana Dispensary to a Recreational Marijuana Retailer;

#### 8.5.5 Transfer/Discontinuance of Use.

A special permit granted under this Section is non-transferable and shall have a term limited to the duration of the applicant's ownership or tenancy on the premises as a Marijuana Establishment, Off-Site Medical Marijuana Dispensary (OMMD), Recreational Marijuana Retailer (RMR), Registered Marijuana Dispensary (RMD), or craft marijuana cultivator.

### 8.6 Telecommunication Facility

#### 8.6.1 Purpose and Intent.

The purpose of this bylaw is to establish general guidelines for the siting of wireless telecommunication towers and facilities. The goals of this bylaw are to:

- A. encourage the location of towers on industrial zoned land and minimize the total number of towers throughout the community;
- B. encourage users of towers to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- C. enhance the ability of the providers of telecommunication services to provide such services to the community effectively and efficiently; and
- D. to make available all wireless telecommunications facility locations to local municipal agencies.

A telecommunications tower facility may be located in the Town of Dracut upon the granting of a Special Permit from the Board of Selectmen in accordance with the requirements set forth herein.

If the Board of Selectmen determines that independent review of the Special Permit is required the Board will require the applicant to pay a review fee consisting of reasonable cost to be incurred by the Board for the employment of outside consultants.

#### 8.6.2 Submittal Requirement.

As part of an application for a Special Permit, applicants shall submit the following:

- A. Reports prepared by one or more professional engineers which shall:
  1. Describe the tower and the technical, economic and other reasons for the tower design and the need for the proposed location;
  2. Demonstrate that the tower complies with all applicable standards of the Federal and State Governments;
  3. Describe the capacity of the tower including the number and type of antennae;

4. Describe the wireless telecommunication providers master antennae plan, including detailed maps, showing the precise locations, characteristics and all antennas and towers indicating coverage areas for current and future antennas and towers;
5. Demonstrate that the tower and facilities comply with this regulation.

B. The information required for an On-Site Demonstration.

C. Information sufficient for the Board of Selectmen to make a decision on the compliance of any proposed towers and facilities with the requirements set forth in Purpose and Intent inclusive.

#### 8.6.3 On Site Demonstration.

The Board of Selectmen may require the applicant to perform an on-site demonstration of the visibility of the proposed tower by means of a crane with a mock antenna array raised to the maximum height of the proposed tower. A colored 4-foot minimum diameter weather balloon held in place at the proposed site and maximum height of the tower may be substituted for the crane if approved by the Board of Selectmen. This demonstration shall take place after the application for the Special Permit. The applicant shall take care to advertise the date of the demonstration in the newspaper widely circulated in the neighborhood of the proposed site. Failure in the opinion of the Board of Selectmen to adequately advertise this demonstration may be cause to require another properly advertised demonstration.

#### 8.6.4 Special Permit Requirements

A. The tower and its facilities shall be located in accordance with the Federal Communications Commission (FCC) and the Federal Aviation Administration (FAA) Regulations in effect at the time of construction. The operation of the Tower and its facilities shall comply with all requirements of these agencies during the entire period of operation.

B. The tower and its facilities shall be located within the Town of Dracut as follows:

1. To the extent feasible all service providers shall co-locate on a single tower. Towers and accessory buildings shall be designed to structurally accommodate the maximum number of users.
2. New towers shall be considered only upon a finding by the Board of Selectmen that existing or approved towers cannot accommodate the wireless communications equipment planned for the proposed tower.
3. Siting for proposed facilities will be on I-1, I-2 or in an existing steeple or other existing structures of sufficient height approved by the Board of Selectmen.
4. The base of all towers shall be no closer than three hundred (300) feet to a dwelling in a residential district. Facilities shall comply with existing setback requirements.
5. Tower height shall not exceed 100 feet measured from the base of the tower at ground level to the highest point of the tower or its projection.
6. Fencing shall be provided to control access to the base of the tower which fencing shall be compatible with the scenic character of the town and shall not be of barbed wire or razor wire.

7. Access shall be provided to a tower site by a roadway which respects natural terrain, does not appear as a scar on the landscape and is approved by the Planning Board and the Fire Chief to assure emergency access at all times. Consideration shall be given to design that minimizes erosion, construction on unstable soils and steep slopes.
8. The applicant shall demonstrate to the satisfaction of the Board of Selectmen that the location of the tower is necessary and that the size and height is the minimum necessary for the purpose.
9. There shall be no signs, except for announcement signs, no trespassing signs and a required sign giving a phone number where the owner can be reached on a twenty-four (24) basis. All signs shall conform to the sign requirements of this bylaw.
10. To the extent feasible all network interconnections from the communications site shall be installed underground.
11. The tower shall minimize, to the extent feasible, adverse visual effect on the environment. The Board of Selectmen imposes reasonable conditions to ensure this result, including painting, lighting standards and screening.

C. Removal of Abandoned Towers and Facilities.

1. Any tower or facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such tower and facility shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment.
2. There shall be no lighting on the tower except for security at the base of the tower.
3. If such tower or facility is not removed within said ninety (90) days; the Town may cause such tower or facility to be removed at the owner's expense.
4. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

D. Expiration. The Special Permit granted under this By-law shall expire within five (5) years of the date of issuance unless permit is renewed.

8.6.5 Performance Guarantees.

- A. An initial cash bond in a reasonable amount determined and approved by the Board of Selectmen shall be in force to cover removal when discontinued or obsolete.
- B. A maintenance bond shall be posted for the access road, site and tower(s) in amounts approved by the Planning Board.

8.6.6 Special Permit Approval

Special Permit Approval by the Board of Selectmen is required for the siting and construction of a wireless telecommunication towers, antennae, and facilities. If modification of a special permit is sought, the Board of Selectmen may require approval of a new site plan.

A Special Permit application submitted to the Board of Selectmen for approval shall contain ten (10) copies of a plan conforming to the requirements of Section 2.3 in addition to the following documentation:

- A. Tower, antennae, and facility location (including guy wires, if any), and tower and antennae height.
- B. Eight (8) view lines in a one (1) mile radius from the site, shown beginning at True and North and continuing clockwise at forty-five (45) degree intervals.

#### 8.6.7 Site Plan Approval

Any eligible facility's requests, defined in 47 USC Section 1455 as a request for modification of an existing wireless tower or base station that involves: (A) collocation of new transmission equipment; (B) removal of transmission equipment; or (C) replacement of transmission equipment; shall be subject to Site Plan Review by the Planning Board pursuant to Section 2.4

### 8.7 Large-Scale Ground-Mounted Solar Photovoltaic Facilities

#### 8.7.1 Purpose.

The purpose of this section is to promote the creation of new large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations. The provisions set forth in this section shall apply to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

#### 8.7.2 Applicability.

This section applies to large-scale ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment.

#### 8.7.3 General Requirements

The following requirements are common to all solar photovoltaic installations to be sited in designated locations.

- A. Compliance with laws, bylaws and regulations. The construction and operation of all large-scale solar photovoltaic installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.
- B. Building permit and building inspection. No large-scale solar photovoltaic installation shall be constructed, installed or modified as provided in this section without first obtaining appropriate permits.
- C. Fees. The application for a building permit for a large-scale solar photovoltaic installation must be accompanied by the fee required for a building permit.
- D. Site plan review. Ground-mounted large-scale solar photovoltaic shall undergo Site Plan Review by the Planning Board prior to construction, installation or modification as provided in this section. Site Plan Review may be conducted concurrently with the Special Permit process.

E. General. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.

#### 8.7.4 Required Documents.

Pursuant to the special permit and site plan review process, the project proponent shall provide the following documents in addition to those required in Sections 2.3.12 and 2.4. 5 respectively:

- I. Blueprints or drawings of the solar photovoltaic installation; including the name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any; stamped and signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures or vegetation;
- II. One- or three-line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- III. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- IV. Name, address, and contact information for proposed system installer;
- V. The name, contact information and signature of any agents representing the project proponent; and

1. Documentation of actual or prospective access and control of the project site
2. Zoning district designation for the parcel(s) of land comprising the project site [submission of a copy of a zoning map with the parcel(s) identified is suitable for this purpose];
3. Proof of liability insurance;
4. Description of financial surety that satisfies Planning Board requirements.
5. Site control. The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation. Fencing around installed equipment shall be provided to control access to a large-scale ground-mounted solar photovoltaic facility in order to prevent access to the facility. The fencing shall be compatible with the character of the Town and shall not consist of barbed wire or razor wire.
6. The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation. It shall include, at minimum, explicit instructions on all means of shutting down the large-scale SES, which shall be marked.
7. Decommissioning Plan. The applicant shall submit with its application a decommissioning plan be

implemented upon abandonment and/or in conjunction with removal of the facility. The owner or operator of the large-scale solar photovoltaic installation shall notify the Building Inspector in writing at least twenty days prior to when a solar large-scale solar photovoltaic installation will be decommissioned. Decommissioning of an abandoned or discontinued large-scale solar photovoltaic installation shall be completed within six months after the facility ceases operation.

The decommissioning plan shall include:

1. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all large-scale solar photovoltaic installation components, structures, equipment, security barriers, and transmission lines from the site;
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
3. The anticipated life of the large-scale solar photovoltaic installation;
4. The estimated decommissioning costs and how said estimate was determined;
5. The method of ensuring that funds will be available for decommissioning and restoration;
6. The method by which the decommissioning cost will be kept current;
7. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the large-scale solar photovoltaic installation, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
8. A listing of any contingencies for removing an intact operational large-scale solar photovoltaic installation from service, and for removing a large-scale solar photovoltaic installation that has been damaged by a fire or other event.
9. Decommissioning Fund. The owner and/or operator of the large-scale solar photovoltaic installation, shall continuously maintain a fund or other surety acceptable to the Town, in a form approved by the Planning Board and Town Counsel, for the removal of the large-scale solar photovoltaic installation, in an amount to be determined by the Planning Board, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant. The Town shall have the right to access the surety should the owner and/or operator fail to properly decommission large-scale solar photovoltaic installation.
10. Utility notification. No large-scale ground-mounted solar photovoltaic installation shall be constructed until evidence has been given to the Planning Board that the local electric utility has been informed of the solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems less than 250 kW shall be exempt from this requirement. The Building Commissioner may issue a permit only if the large-scale ground-mounted solar photovoltaic device complies with this section.

#### 8.7.5 Waivers.

The Planning Board may waive submission requirements of Site Plan or Special Permit Applications as it deems appropriate. However, if the device does not comply with one or more of the following requirements, the applicant shall be required to obtain a special permit from the Planning Board. If a

special permit is not otherwise required, the Planning Board may waive such requirement(s), after finding that such waiver(s) will not derogate from the intent of this chapter or be detrimental or injurious to the public.

#### 8.7.6 Dimension and Density Requirements.

**Setbacks.** For large-scale ground-mounted solar photovoltaic installations, front, side and rear setbacks shall be as follows:

- A. Front yard: The front yard depth shall be at least 50 feet.
- B. Side yard: Each side yard shall have a depth of at least 50 feet.
- C. Rear yard: The rear yard depth shall be at least 50 feet.
- D. Appurtenant structures. All appurtenant structures to large-scale ground-mounted solar photovoltaic installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All such appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be shaded from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

#### 8.7.7 Design standards.

- A. **Lighting.** Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety, security, and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
- B. **Signage.** Signs on large-scale ground-mounted solar photovoltaic installations shall comply with Section 6.2 of this Zoning Bylaw. A sign consistent with this Zoning Bylaw shall be required to identify the owner and provide a twenty-four-hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
- C. **Utility connections.** Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the electric utility. If an existing aboveground connection solution already exists, however, this can be used if it meets the requirements of the electric utility. Electrical transformers for utility interconnections may be aboveground if required by the electric utility.
- D. **Stormwater management.** Calculations of storm drainage to demonstrate and assure compliance with the requirements of all applicable federal, state and local regulations and guidelines including, but not limited to, the Department of Environmental Protection Stormwater Management Policy, as it may be amended, must be provided for any large-scale solar photovoltaic installation.

#### 8.7.8 Safety and Environmental Standards.

- A. **Compliance with Laws, Bylaws, and Regulations.** The construction and operation of all Solar Photovoltaic Facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications

requirements. Compliance with this section of the bylaw, does not waive compliance with other state and local requirements, including but not limited to State and Local Wetland Bylaws and Regulations.

- B. Land clearing, soil erosion and habitat impacts. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the large-scale ground-mounted solar photovoltaic installation or otherwise prescribed by applicable laws, regulations, and bylaws.
- C. Mitigation for Loss of Carbon Sequestration and Forest Habitat. If land that is Forestland or has been Forestland within one year immediately preceding the filing of an application to install a Solar photovoltaic facility, the applicant shall demonstrate that they have made best efforts to preserve forest land and minimize loss of carbon sequestration.
- D. Monitoring and maintenance.
  - I. Solar photovoltaic installation conditions. The large-scale ground-mounted solar photovoltaic installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and emergency medical services. The owner or operator shall be responsible for the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.
  - II. Modifications. All material modifications to a solar photovoltaic installation made after issuance of the required building permit shall require approval by the Planning Board and the electric utility.
- E. Emergency Operations Plan. An Emergency Operations Plan compliant with NFPA 855 is required. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. For so long as the Solar Photovoltaic Facility is operational, the operator shall provide the Fire Department, Police Department, Building Inspector, and Town Manager's office with contact information for personnel that can be reached 24 hours per day every day, and this contact information shall be updated by the operator whenever there is a change in the information. The operator shall also be required to have an official representative be present onsite not later than two hours after notification by the Fire Chief, Police Chief, or their designee. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
  - I. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - II. Procedures for inspection and testing of associated alarms, interlocks, and controls, including time intervals for inspection and testing.
  - III. Procedures to be followed in response to notifications from the Solar Photovoltaic Facility Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

- IV. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
- V. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
- VI. Procedures for safe disposal of battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
- VII. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
- VIII. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

#### 8.7.9 Abandonment

Abandonment. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the solar photovoltaic installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. If the owner or operator of the large-scale solar photovoltaic installation fails to remove the installation in accordance with the requirements of this section upon any abandonment, the Town may, after compliance with any applicable state and federal constitutional requirements, enter the property and utilize the available bond and/or security for the removal of a solar photovoltaic installation and restoration of the site in accordance with the decommissioning plan.

### 8.8 Battery Energy Storage Systems (BESS)

#### 8.8.1 Purpose.

The purpose of this Section is to advance and protect the public health, safety, welfare, and quality of life by creating regulations for the installation and use of BESS, with the following objectives:

- A. To provide a regulatory scheme for the location, construction and operation of BESS consistent with best practices and safety protocols;
- B. To ensure compatible land uses in the vicinity of the areas affected by BESS and to mitigate any potential impacts on health and safety and abutting and nearby properties; and
- C. To mitigate the impacts of BESS on environmental resources such as agricultural lands, forests, wildlife, wetlands and other natural resources.
- D. BESS as accessory to a single-family or two-family principal use are allowed in all zoning districts subject to all local and other government requirements in effect at the time of installation.

In the event of any conflict between the provisions of this section and the provisions of state law or regulations, the state law and regulations shall prevail.

## 8.8.2 Definitions

As used in this section of the Dracut Zoning Bylaw, the following terms shall have the meanings indicated.

**ANSI:** American National Standards Institute

**Battery or batteries:** A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this Bylaw, batteries utilized in consumer products are excluded from these requirements.

**Battery Energy Storage Management System:** An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected. Any BESS installed in conjunction with a Solar Photovoltaic Facility shall be considered a permitted Accessory Use to such installation.

**Cell:** The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

**Commissioning:** A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

**Dedicated-Use Building:** A building that is built for the primary intention of housing battery energy storage system equipment, and complies with the following:

1. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.
2. No other occupancy types are permitted in the building.
3. Occupants in the rooms and areas containing BESS are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.
4. Administrative and support personnel are permitted in areas within the buildings that do not contain battery energy storage system, provided the following:
  - a. The areas do not occupy more than 10 percent of the building area of the story in which they are located.
  - b. A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing BESS or other energy system equipment.

**Nationally Recognized Testing Laboratory (NRTL):** A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

**NFPA:** National Fire Protection Association.

**Non-Dedicated-Use Building:** All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.

**Non-Participating Property:** Any property that is not a participating property.

**Non-Participating Residence:** Any residence located on non-participating property.

**Participating Property:** A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.

**UL:** Underwriters Laboratory

#### 8.8.3 Applicability

- A. The requirements of this Bylaw shall apply to BESS permitted, installed, decommissioned, or modified after the effective date of this Bylaw, excluding general maintenance and repair. BESS subject to this Bylaw are only those which exceed a capacity of 80kWh.

BESS below this capacity are not subject to this Bylaw and are allowed by right in all zoning districts subject to compliance with all State Fire and Building Codes in effect at the time of installation.

#### 8.8.4 General Requirements

- A. All permits required by state and local codes and Bylaws, including but not limited to a building permit, an electrical permit, and a fire department permit shall be required for installation of all BESS.
- B. All BESS, all Dedicated Use Buildings, and all other buildings or structures that (a) contain or are otherwise associated with a battery energy storage and (b) subject to the requirements of the State Building Code, shall be designed, erected, and installed in accordance with all applicable provisions of the State Building Code 780 CMR, State Fire Code 527 CMR 1.00, and State Electrical Code 527 CMR 12.00. All BESS shall comply with the requirements of NFPA 855, Standard for the Installation of Stationary Energy Storage Systems.
- C. The installation of any BESS shall comply with the requirements of NFPA 855.
  - a. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles.

#### 8.8.5 Permitting Requirements for Non-Solar BESS

Non-Solar BESS are subject to this Bylaw and require the issuance of a special permit in those zoning districts identified in TABLE 1, Schedule of Uses, and are subject to Major Site Plan Review pursuant to Section 3.5. BESS shall comply with the applicable requirements set forth in this Bylaw, as well as this Zoning Bylaw, and the Dracut General Bylaws. The following requirements apply to all BESS:

- A. Signage. Signage shall comply with the requirements of Section 6.2 of this Zoning Bylaw and the following requirements: in the event of a conflict between the provisions of Section 6.2 and this section, the requirements of this Section shall prevail.

1. The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the BESS, any special hazards associated, the type of suppression system installed in the area of BESS, and 24-hour emergency contact information, including reach-back phone number.
2. As required by the state electrical code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
3. Signage compliant with ANSI Z535 shall be provided on doors to rooms, entrances to BESS facilities, and on BESS outdoor containers.

B. Lighting. The lighting of the BESS shall comply with Section 2.4.11 of this Zoning Bylaw.

C. Vegetation and tree cutting. Areas within twenty feet on each side of a BESS installation shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted provided that they do not form a means of readily transmitting fire. Removal of trees should be minimized to the extent possible.

D. Setbacks.

1. All BESS shall be set back a minimum of 50 feet from all side, rear, and front lot lines; except if abutting or across the street from a residential zoning district in which case a BESS shall be set back a minimum of 100 feet from side, rear, and front lot lines.
2. In addition, a minimum of 20 feet must be maintained between BESS components and all buildings, stored combustible materials, hazardous materials, high-piled storage, personnel means of egress, and other exposure hazards not associated with electrical grid infrastructure.

E. Dimensional. BESS shall comply with the dimensional limitations for principal structures of the underlying zoning district as provided in Section 4 of this Zoning Bylaw, unless otherwise provided in this Bylaw.

F. Fencing Requirements. BESS, including all mechanical equipment, shall be enclosed by a minimum eight-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building. Security barriers, fences, landscaping, and other enclosures must not inhibit required airflow or exhaust from the BESS and components. Electrical equipment greater than 1,000V requires a separate and additional means to restrict access. NFPA 855 requires specialty safety systems to be provided based on the BESS chemistry and installed location.

G. Screening and Visibility. BESS shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area. Such features may not inhibit required air flow to or exhaust from the BESS and components and must comply with the setbacks established above.

H. Mitigation for Loss of Carbon Sequestration and Forest Habitat. If land that is Forestland or has been Forestland within one year immediately preceding the filing of an application to install a

BESS, the applicant shall demonstrate that they have made best efforts to preserve forest land and minimize loss of carbon sequestration.

- I. Fire Protection: Any building built or modified as a BESS shall have a full fire protection system, designed and engineered to meet the hazard regardless of building size. Any facility located in an area not served by a municipal water supply shall install a cistern approved by the Fire Chief for fire protection systems and firefighting operations.
- J. Batteries. Failed battery cells and modules shall not be stored on the site and shall be removed no later than 30 days after deemed failed by the BESS operator or cell/module manufacturer. The operator shall notify the Dracut Fire Chief in advance if the type of battery or batteries used onsite is to be changed.
- K. Decommissioning Plan. The applicant shall submit with its application a decommissioning plan, plan to be implemented upon abandonment and/or in conjunction with removal of the facility. The owner or operator of the BESS shall notify the Building Inspector in writing at least twenty days prior to when a BESS will be decommissioned. Decommissioning of an abandoned or discontinued BESS shall be completed within six months after the facility ceases operation.

The decommissioning plan for all BESS shall include:

- 1. The anticipated life of the battery energy storage system;
- 2. The estimated decommissioning costs and how said estimate was determined;
- 3. A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all BESS components, structures, equipment, security barriers, and transmission lines from the site;

In addition, the decommissioning plan for BESS larger in capacity than 3.5 Megawatt hours, or larger in volume than 2,500 cubic feet, shall include:

- 4. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;
- 5. The method of ensuring that funds will be available for decommissioning and restoration;
- 6. The method by which the decommissioning cost will be kept current;
- 7. The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and
- 8. A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

- L. Decommissioning Fund. The owner and/or operator of the BESS, shall continuously maintain a fund or other surety acceptable to the Town, in a form approved by the Planning Board and Town Counsel, for the removal of the BESS, in an amount to be determined by the Planning Board, for the period of the life of the facility. All costs of the financial security shall be borne by the applicant. The Town shall have the right to access the surety should the owner and/or operator fail to properly decommission the energy storage system.
- M. Proof of Liability Insurance. The applicant or property owner shall provide evidence of

commercial liability insurance in an amount and type generally acceptable in the industry and approved by the Planning Board prior to the issuance of a building permit and shall continue such insurance in effect until such facility has been decommissioned, removed, and the site restored in accordance with this Bylaw.

#### 8.8.6 Site plan application.

For a BESS the site plan application shall include the following information, in addition to that required in Section 2.4 Site Plan Review, of this Zoning Bylaw and the Planning Board Rules and Regulations:

- A. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all State Electrical Code compliant disconnects and over current devices.
- B. A preliminary equipment specification sheet that documents the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. A final equipment specification sheet shall be submitted prior to the issuance of building permit.
- C. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the BESS. Such information of the final system installer shall be submitted prior to the issuance of building permit.
- D. Large-scale fire test data, evaluation information, and calculations, and modeling data. For any of the following, UL 9540A fire test data, must be made available to the Planning Board for review:
  - BESS systems with a capacity of greater than 8050kWh
  - BESS systems with spacing between arrays of less than 3 feet
- E. Commissioning Plan. The system installer or commissioning agent shall prepare a commissioning plan prior to the start of commissioning. Such plan shall be compliant with NFPA 855 and document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in applicable state codes. Where commissioning is required by the Building Code, battery energy storage system commissioning shall be conducted by a Massachusetts Licensed Professional Engineer after the installation is complete but prior to final inspection and approval. A corrective action plan shall be developed for any open or continuing issues that are allowed to be continued after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required by applicable state codes shall be provided to the Building Inspector prior to final inspection and approval and maintained at an approved on-site location.
- F. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with state codes, including documentation that BESS components comply with the safety standards set forth in subsection 8.12.l.
- G. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing and commissioning information and shall meet all requirements set forth in state codes and NFPA 855. Maintenance provisions will be driven by manufacturer requirements for the specific listed system.

- H. Interconnection will be completed per 527 CMR 12.00. System interconnections into utility grids shall be in accordance with NFPA 855. An accessible disconnect is required per 527 CMR 12.00.
- I. Emergency Operations Plan. An Emergency Operations Plan compliant with NFPA 855 is required. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. For so long as the BESS is operational, the operator shall provide the Fire Department, Police Department, Building Inspector, and Town Manager's office with contact information for personnel that can be reached 24 hours per day every day, and this contact information shall be updated by the operator whenever there is a change in the information. The operator shall also be required to have an official representative be present onsite not later than two hours after notification by the Fire Chief, Police Chief, or their designee. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:
  - 1. Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.
  - 2. Procedures for inspection and testing of associated alarms, interlocks, and controls, including time intervals for inspection and testing.
  - 3. Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.
  - 4. Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.
  - 5. Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.
  - 6. Procedures for safe disposal of battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.
  - 7. Other procedures as determined necessary by the Town to provide for the safety of occupants, neighboring properties, and emergency responders.
  - 8. Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures.

#### 8.8.7 Ownership Changes.

If the owner of the BESS changes or the owner of the property changes, the special permit may remain in effect, provided that the successor owner or operator shall assume, in writing, all the obligations of the special permit, site plan approval, and decommissioning plan and fund. A new owner or operator of the BESS shall notify the Building Commissioner and the Planning Board of such change in ownership or operator within 14 days of the ownership change, in writing.

#### 8.8.8 Safety

- A. System Certification. BESS and equipment shall be listed by a Nationally Recognized Testing

Laboratory to UL 9540 (Standard for BESS and Equipment) or approved equivalent, with subcomponents meeting each of the following standards as applicable:

1. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),
2. UL 1642 (Standard for Lithium Batteries),
3. UL 1741 or UL 62109 (Inverters and Power Converters),
4. Certified under the applicable electrical, building, and fire prevention codes as required.
5. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 (or approved equivalent) and applicable codes, regulations and safety standards may be used to meet system certification requirements.

B. Site Access. BESS shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.

C. BESS, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

#### 8.9.9 Abandonment

The BESS shall be considered abandoned when it ceases to operate consistently for more than one year without written consent of the Planning Board. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, after compliance with any applicable state and federal constitutional requirements, enter the property and utilize the available bond and/or security for the removal of a BESS and restoration of the site in accordance with the decommissioning plan.

## **Section 9. Definitions**

**Accessory Dwelling Unit (ADU):** A self-contained housing unit, inclusive of sleeping, cooking and sanitary facilities on the same lot as a principal dwelling, subject to otherwise applicable dimensional and parking requirements, that: (i) maintains a separate entrance, either directly from the outside or through an entry hall or corridor shared with the principal dwelling sufficient to meet the requirements of the State Building Code for safe egress; (ii) is not larger in gross floor area than 900 square feet, and (iii) is subject to such additional restrictions, including, but not limited to, additional size restrictions, and restrictions or prohibitions on short-term rental, as defined in M.G.L. Chapter 64G, Section 1.

**Accessory Dwelling Unit, Attached:** An Accessory Dwelling Unit contained within or part of an expanded or remodeled principal dwelling unit.

**Accessory Dwelling Unit, Detached:** An Accessory Dwelling Unit contained within or part of a building or structure on a residential lot not physically connected to the principal dwelling unit, yet by definition still "accessory", such may be a new building or structure, or part of an existing detached building or structure; or act in any other way relative thereto.

**Affordable Dwelling Units:** Residential housing units reserved for households within incomes at or below 80% of median, restricted under a long-term legally binding agreement and which are subject to affirmative marketing. Subsidized residential housing units shall be required to be listed on the State's Department of Housing and Community Development's (DHCD) Subsidized Housing Inventory (SHI).

**Affordable To Persons Or Families Qualifying As Low Income:** Affordable to persons in the Dracut area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning less than 50% of the median income.

**Affordable To Persons Or Families Qualifying As Median Income:** Affordable to persons in the Dracut area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 80% but less than 120% of the median income.

**Affordable To Persons Or Families Qualifying As Moderate Income:** Affordable to persons in the Dracut area under the applicable guidelines of the Commonwealth's Department of Housing and Community Development earning more than 50% but less than 80% of the median income.

**Agriculture:** Cultivating and harvesting general crops including the storage of necessary farm equipment on parcels of less than five acres and raising of livestock if on parcels of more than five acres.

**Airport-Fixed Wing:** Any facility designed for the takeoff and landing of fixed wing aircraft registered by the Federal Aviation Administration and having a runway in excess of 1,000 feet.

**Amusement Facility Indoor:** Facilities open to the public for a fee or admission charge such as a theater, cinema, or video arcade

Amusement Facility Outdoor: An outdoor amusement park; outdoor cinema; stadium; racetracks including horse, dog other animal or vehicular including motorized cycles, and other vehicles whether track is designed for lap racing, elapsed time or a combination.

Applicant: The person or persons, including a corporation or other legal entity, who applies for issuance of a special permit hereunder. The applicant must own, or be the beneficial owner of, all the land included in the proposed site, or have authority from the owner(s) to act for him/her/it/them or hold an option or contract duly executed by the owner(s) and the applicant giving the latter the right to acquire the land to be included in the site.

Appropriate Renovation: Development of a Mill Conversion Project in a manner consistent with the standards of the National Park Service for the rehabilitation of historic buildings, or the applicable standards of the Dracut Historical Commission

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

Art gallery: An establishment that derives more than fifty percent (50%) of its income from the display.

Artist Lofts: An apartment or studio where an artist works and lives.

Artist: A person who is engaged gainfully or as a vocation in the following:

- A. The fine arts, including but not limited to painting, printmaking, sculpturing or ceramics;
- B. The performing and visual arts, including but not limited to dance, choreography, photography, or filmmaking; or
- C. The composition of music.

Assisted Living Facility: A structure or structures containing dwelling units for persons in need of assistance with activities of daily living, as defined and regulated by M.G.L. c19D and 651 CMR 12.00 et seq. or any successor statute or regulations. Assistance with activities of daily living include assistance with tasks related to bathing, dressing, grooming, ambulation, eating, toileting, and other similar tasks related to personal care needs. An Assisted Living Facility may consist of, in one or more buildings, dwellings, common areas including without limitation central dining facilities, lounges, meeting rooms, laundry rooms, greenhouses, exercise rooms and recreational areas, libraries, offices, and such other common areas, facilities, and accessory uses for the residents or staff as may be desirable

Bed and Breakfast: A use providing lodging and meals for guests in not more than five (5) bedrooms on a daily or weekly basis in an operator-or-owner-occupied dwelling that is primarily used for this purpose. The use is operated as a commercial enterprise, provides direct bookings from the public, and includes inns that operate restaurants offering meals to overnight guests.

Bedroom: A separate room intended for, or which customarily could be used for, sleeping.

**Biotech and/or Pharmaceutical/Health Manufacturing and Distribution:** Manufacturing and distribution in the fields of biotechnology, medical, pharmaceutical, physical, biological, and behavioral sciences and technology, including, but not limited to, the production of equipment, apparatus, machines and devices for research, development, manufacturing and practical application in any such field or area including production of pharmaceuticals.

**Boardinghouse:** Any structure with one or more rooms designed, occupied or intended for occupancy by the same person for more than one week as separate living quarters with one or more rooms for boarders with sleeping facilities but no kitchen facilities. The term Boardinghouse also refers to rooming houses.

**Body Art:** The practice of physical body adornment, alteration, or modification by means including, but not limited to, piercing, tattooing, branding, braiding, beading, or implantation.

**Body Art Establishment:** Any facility that has been inspected and approved by the Board of Health for use in conducting Body Art activities. A Body Art Establishment shall be permitted in B-3, B-4, and B-5 zones upon the issuance of a Special Permit by the Board of Selectmen.

**Conditions:** No Body Art Establishment shall be within:

1. Five Hundred (500) feet of the following zoning districts: R-1, R-2, R-3; or
2. Five Hundred feet of a public or private school.

**Business and Dwelling:** A building used for business uses and for not more than two dwelling units.

**Business or Professional Office:** A business or professional office; a medical office or out-patient clinic, including laboratories incidental thereto. Financial Bank, loan agency or similar facility.

**Car Wash:** A commercial facility designed for the principal use of vehicle washing with mechanized equipment whether automatic, semi-automatic, or manual.

**Cemeteries:** Any land or portion thereof used for the purpose of internment by burial or placement in a crypt or mausoleum of deceased humans or animal remains.

**Commercial and Trade School:** Private educational facility for profit including training centers, and business schools.

**Commercial Breeding Facility:** Any facility designed solely for the purpose of breeding animals of any sort, including but not limited to, fowl, swine, cattle, primates, rodents, reptiles and fish.

**Commercial Broadcast Facility:** Any facility designed and operated so as to provide for radio frequency transmissions including satellite “up link” facilities under the authority of a commercial radio or television station license issued by the Federal Communications Commission. This term does not include a broadcast station’s studio/office if said studio/office is separated from the transmission facility and connected by an over the ground, non RF signal transmission link

**Commercial Kennel:** Establishment where dogs, cats or other pets are kept for the purpose of sale, breeding or boarding care.

Commercial Recreation: Indoor or outdoor facilities, operated as a business and open to the public for a fee such as facilities for ice skating, roller skating, racquet sports, bowling, horseback riding, swimming and miniature golf.

Conservation: The use of land in its natural state or improved with trails or resource management programs that do not significantly alter its natural state.

Construction Yard: Facility or area for storage, open or enclosed, of construction equipment or materials.

Containerized Temporary Storage: Storage related to the primary use of the land which includes, but is not limited to, trailer units and non wheeled storage units not exceeding six months in duration.

Correctional Facility: Any facility designed to house, feed and hold persons duly sentenced to be incarcerated in accordance with the penal system of the Commonwealth of Massachusetts, the County of Middlesex or other judicial authority for a period of time exceeding ten days.

Day Care Facility: Any facility operated on a regular basis which receives children not of common parentage under seven (7) years of age, or under sixteen (16) years of age if such children have special needs, or non-residential custody and care during part or all of the day separate from their parents or the elderly 60 years of age or older. Day Care Center shall not include any part of a public school system; any part of a private organized educational system, unless the services of such system are primarily limited to kindergarten, nursery or related preschool services; a Sunday school conducted by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services; a family day care home; an informal cooperative arrangement among neighbors or relatives; or the occasional care of children without compensation.

Distribution Center: A facility where goods are received and/or stored for processing, fulfillment, and delivery to customers.

Domestic Pet Services: Establishments providing services for Domestic Pets such as dogs and cats but excluding livestock and large animals. These services may include clipping, bathing, daytime boarding and related services but excluding veterinary services and overnight boarding.

Dwelling Unit: A single unit providing complete independent living facilities for one (1) or more persons including permanent provisions for living, sleeping, eating, cooking, and sanitation.

Earth Removal – The removal of earth products from a lot, including but not limited to, sand, gravel, soil, loam, and mineral products. The removal of earth products which is incidental to and in connection with 1) the necessary excavation and grading of a site for a building or structure and its appurtenant driveways or parking facilities for which a permit has been granted by either the Building Inspector, the Board of Selectmen, the Planning Board or the Board of Appeals, or 2) the construction of a street approved under the Subdivision Control Law, shall not be considered as earth removal for the purposes of this By-law.

**Educational:** Use of land, buildings and structures for providing learning in a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic; or by a religious sect or denomination; or by a nonprofit educational entity.

**Funeral Home:** Undertaking or funeral establishment.

**General Services:** Establishments providing services to the general public or to business establishments such as equipment rental and leasing, building cleaning, photocopying, telephone answering, word processing or secretarial services; computer service bureaus; facilities for dancing, martial arts or music instruction; facilities for repair of appliances, office equipment, bicycles, lawnmowers, or similar equipment; and food catering facilities.

**Governmental, Institutional and Public Service Uses Municipal:** Use of land, buildings and structures by the Town of Dracut and the Dracut Water District.

**Heating Fuel Sales and Service:** A facility for the storage and retail sale of heating fuels and the sales and service of heating equipment where the storage of heating fuel in containers is permitted provided such storage is incidental to the retail sale of heating fuel.

**Heavy Manufacturing:** Asphalt, block, bottling, concrete or fertilizer plants; monument works; paper or pulp mill; refinery; rendering or smelting plants; slaughterhouses.

**Heavy Vehicular Sales or Repair Garage:** Salesroom and related facilities, including but not limited to open air display of trucks, buses, construction and industrial equipment; establishments for the repair of trucks, buses, construction and industrial equipment provided that all major repairs shall be conducted within the building

**Heliport:** Any facility designed solely for the takeoff, landing and/or storage of rotary wing aircraft and encompassing no linear runway in excess of 1,000 feet.

**Hospital:** Any facility principally designed to provide medical treatment including surgical services and short term to intermediate care so licensed as a hospital of the Commonwealth of Massachusetts.

**Hotel, Inn, or Motel:** A facility providing transient lodging accommodations to the general public by the night for periods generally not exceeding one week per registered guest.

**Impervious Surface:** Material or structure on, above, or below the ground that does not allow precipitation or surface water to penetrate directly into the soil.

**Land:** Land, including areas covered by water, including, but not limited to, all waterways, dams, waterfalls, and canals.

**Light Manufacturing:** Printing or publishing plant; manufacturing of building systems and components; fabrication and assembly of electronic components, precision instruments, or other high technology products; manufacture of light metal products, hardware and office supplies; or similar light manufacturing plants and facilities.

**Light Vehicular and Equipment Sales:** Salesroom and related facilities, including but not limited to open air display, for the sale of automobiles, motorcycles, recreational vehicles and similar vehicles; boats, or light industrial or farm equipment.

**Lodge or Club:** A facility used by a non-commercial organization which is characterized by formal written membership requirements.

**Lounge or Pub:** Any facility other than a restaurant designed primarily for the serving of alcoholic beverages within which entertainment may be provided and requiring a license from the Town of Dracut pursuant to Massachusetts General Laws Chapter 138 Section 2.

**Lumber Yard:** A facility for the open or enclosed storage and sales of building materials; except that in the General Business District the open or outdoor storage or display of building materials is prohibited.

**Mill Conversion Project (MCP):** The conversion of existing mill buildings and structures in a Mill Conversion Overlay District as specified herein to multifamily dwelling(s), assisted living facility, single-family dwelling(s), and/or nonresidential uses.

**Mining:** The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock as referenced in Section 6.3.

**Mini-Warehouse:** An enclosed facility containing separate storage spaces, no larger than 400 square feet each, leased or rented on an individual basis.

**Mixed-Use Development:** A single building with the ground floor used primarily for retail, commercial, service or office and the upper floors(s) used for residential use.

**Motor Vehicle Rental Agency:** The use of any building and/or land area or other premises for the rental of new or used automobiles, vans and light trucks not exceeding three (3) tons, including incidental parking and preparation of vehicles for rent, excluding repairs.

**Motor Vehicle Repair or Body Shop:** Establishment where the principal service is the repair of automobiles or similar light motor vehicles provided that all major maintenance and servicing of vehicles shall be conducted entirely within a building.

**Motor Vehicle Service Station:** Facility for outdoor sale of motor vehicle fuels, related products and services provided that all major maintenance and servicing of vehicles shall be conducted entirely within a building.

**Multi-Family Dwelling:** Dwelling attached or detached designed for the residence of 3 or more families on the same lot, except as permitted in Section 7.2.1.C.

**Museum:** A building or structure, whether public or private for profit, commercial or non-commercial, devoted to the acquisition, conservation, study, exhibition and educational interpretation of objects historical, artistic, scientific, technological, natural or other value of similar nature.

**Natural Materials Operation:** The outdoor processing, stockpiling, importation and exportation of sand, gravel, fill and loam. Natural Materials shall be deemed to be exclusively: sand, gravel, fill and loam. Asphalt, brick, concrete, asbestos containing materials and any other hazardous materials as defined and regulated by Massachusetts State or Federal Law, as well as composting, shall not be permitted as part of a Natural Materials Operation.

**Nonresidential Uses:** Any use as permitted in the underlying district set forth in the Table of Use Regulations, Section 3.3, or any accessory use or structure thereto. Notwithstanding the provisions of said section the following uses shall be designated as "P" permitted: day care facility, storage, professional office, lounge/pub, financial service, retail space *<or>* 5,000 sq. ft. (greater or less than 5,000 sq. ft.)

**Nursing Home:** An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care.

**Parking Facility:** Commercial parking open to the public for automobiles and similar light motor vehicles.

**Performance Theater:** A building or structure or part thereof which is devoted primarily for the presentation of live dance, dramatic, musical, or comedic performances.

**Personal Service Facility:** Establishments providing services involving the care of a person or their apparel such as a barber shop, laundry or dry-cleaning shop, diaper service, shoe repair shop, steam baths, reducing salons and health clubs, and clothing rental shop.

**Post Office:** Any facility designed for the sorting, storage, including lock boxes, delivery and/or otherwise the general handling of mail including parcels whether operated publicly or privately.

**Potential Drinking Water Sources:** Areas which could provide significant potable water in the future.

**Public or Private Utility Facilities:** Facilities, equipment and structures necessary for generating electricity for commercial purposes, and/or for conducting a service by a public service corporation. (as Amended June 7, 1999, Article #12.)

**Quarry Manufacturing:** Quarrying; Asphalt Crushing, Block Crushing, Concrete Crushing, Screening, Drilling, Blasting, Aggregate Washing or Precast Plants; Rock, concrete, Asphalt, Earth, and Forest Products Processing; the related and accessory uses as well as the outside storage of the raw materials and manufactured products of the above uses. Quarry Manufacturing shall not be subject to the provisions of Zoning Bylaw Section 6.3.1 – Soil, Vegetation, Rock, and Gravel Removal.

**Recharge Areas:** Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas include areas designated as Zone I and Zone II.

**Recreation:** Non-commercial outdoor facilities for activities such as horseback riding, skiing, ice skating, swimming and tennis.

**Redemption Center:** Redemption centers shall be those businesses engaged in the return of beverage containers or products requiring deposits for return. The redemption center may be the full-time

business or as an ancillary use regarding the business. Such use shall be authorized in the following business and industrial zones: B-3, B-4, I-1 and I-2. Redemption centers with 5000 gross sq.ft. or less shall require a Special Permit by the Planning Board. Redemption centers in excess of 5,000 gross sq.ft. shall require a Special Permit with site Plan Review by the Planning Board.

**Registered Marijuana Dispensary (RMD):** A facility or location that has been registered, where medical marijuana is grown, processed and made available to a qualified patient or a personal caregiver.

**Regulations:** The rules and regulations of the Planning Board relative to subdivisions, special permits and site plans.

**Religious Use:** Use of land, buildings and structures for religious purposes by a religious sect or denomination.

**Research/Office:** Any facility used as technical and general technically related, non-medical office, a research laboratory engaged in research and development work, experimental and testing activities, including, but not limited to biology, chemistry, geology, engineering, electronics, medicine, and physics including prototype manufacturing utilizing microorganisms or biological substances in the fields of and uses accessory thereto including training activities, provided that all activities shall be conducted within enclosed structures.

**Residential Uses:** No more than one building for dwelling purposes shall be located upon a lot; except for multifamily dwellings pursuant to Section 7.2 of this By-law.

**Restaurant:** Establishment where food and beverages are sold within a building to customers for consumption 1) at a table or counter, or 2) on a patio closed on all sides with entrance to the patio normally available only from the building, or 3) off the premises as carry-out orders, except that drive-up service shall not be allowed, or 4) any combination of the above.

**Restaurant-Fast Food:** A food establishment where food and beverages are principally sold and packaged individually and or in a self-service manner with no at table service if so equipped. A drive up facility in addition to or in combination with the criteria above shall also be so classified.

**Retail Store:** An establishment engaged in displaying and selling goods or merchandise within a building to the general public or to business establishments which goods or merchandise are not intended for resale; except that a garden center, florist or commercial greenhouse may have open air display of horticultural products.

**Rifle Range:** Any facility enclosed or open designed and intended for the safe discharge of firearms for the purpose of sport, practice, or training.

**Shooting Range (Indoor):** A facility, including its component shooting ranges, classrooms, administrative offices, ammunition storage areas and other associated improvements, designed in conformity with the standards of the National Rifle Association, for the purpose of providing a place for the discharge of various types of firearms, as defined below, or the practice of archery. Firearm is a device which will or is

designed to or may readily be converted to expel a projectile by the action of an explosive or other form of combustion, but excluding "BB" gun, scuba gun, stud or nail gun used in the construction industry

Single Family Dwelling: A detached dwelling unit designed as the residence of one family.

Slaughterhouse and Similar: Any facility designed for the commercial slaughter, butchering, cleaning, skinning, or otherwise killing of animals for food, fur or hide and any subsequent related activity such as tanning or rendering. The term abattoir shall also apply. Such uses associated with the normal conduct of farming operations shall not be considered inclusive.

SOLAR ENERGY SYSTEM, GROUND-MOUNTED: A solar photovoltaic system on a parcel that is structurally mounted on the ground and is not roof-mounted,

SOLAR ENERGY SYSTEM, LARGE-SCALE: An Active Solar Energy System that has a rated minimum nameplate capacity of 250kW DC.

SOLAR ENERGY SYSTEM, MEDIUM-SCALE: An Active Solar Energy System that has a rated nameplate capacity of 10 - 250 kW DC.

SOLAR ENERGY SYSTEM, ROOF-MOUNTED: An Active Solar Energy System that is structurally mounted to the roof of a building or structure; may be of any size (small-, medium- or large-scale)

SOLAR ENERGY SYSTEM, SMALL-SCALE: An Active Solar Energy System that has a rated nameplate capacity of 10 kW DC or less.

Student Transportation Vehicle Parking: The parking and temporary storage of student transit vehicles including buses, special needs equipped vehicles, and related or support vehicles serving educational facilities. The term includes, if needed, the on-site repair and maintenance of vehicles, the storage of and dispensing of fuel products for the aforementioned vehicles and the provision for dispatching and securing personnel and necessary emergency vehicles and equipment.

Studio: A facility used as a place of work by an artist, photographer or artisan. Building Trade Shop An establishment for use by the practitioner of a building trade such as a carpenter, welder, plumber, electrician, builder, mason or similar occupation.

Telecommunications Facility: A wireless telecommunication facility, may include tower antennae, panels and structures to facilitate the following types of services: cellular telephone service, personal communication service and enhanced special mobile radio service.

Toxic or Hazardous Material: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual, or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water in the Town of Dracut. Toxic or hazardous materials include, without limitation; synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as Toxic or Hazardous

under Massachusetts General Laws (M.G.L.) Chapter(c.) 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

Two Family Dwelling: A detached dwelling unit designed as the residence for two families.

Veterinary Care: A facility where animals are given medical or surgical treatment and where boarding of animals is limited to short term care incidental to the medical or surgical treatment.

Warehouse: A facility for the enclosed storage of goods and materials where the wholesale of goods and materials is permitted provided it is incidental to the warehouse use.

Waste Recovery: Any process designed to treat, alter, clean, filter, distill, separate, or by any other method recover a usable material or liquid from a waste product prior to or as an alternative to disposal.

Waste Transfer Facility: Any facility designed for the temporary storage in bulk or containerized form of any solid or liquid waste prior to treatment or ultimate disposal at another location. The term waste transfer facility shall not apply to containers used for the storage of solid waste prior to disposal generated on site by any business or industrial use permitted by this By-law, however, all regulations pertaining to waste storage shall apply.

Waste Treatment: Any process designed to treat or alter a solid or liquid waste prior to disposal.

Wellhead Protection District: The zoning district defined to overlay other zoning districts in the Town of Dracut. The Wellhead Protection District includes Zone I and Zone II.

Wetlands: Land subject to the provisions of M.G.L. c. 131, ss. 40 and 40A and subject to the Dracut Non-Zoning, Wetlands By-law.

Zone I: The 400 foot protective radius around a public water system well.

Zone II: The area of an aquifer which contributes water to a well under the most severe pumping and recharge conditions that can be realistically anticipated (180 days of pumping at safe yield with no recharge from precipitation), as defined in 310 CMR 22.00 and in the Department of Environmental Protection's (DEP) Guidelines and Policies for Public Water Systems. This area is a ½-mile radius around the well.

Zoo: Any facility enclosed or open designed for the purpose of exhibiting live animals for the purpose of profit. This term does not include the exhibition of animals for contest or prize whose primary purpose is part of the operation of a bona fide farm and are considered farm or draft animals.

## **Appendix A**

### **Tracking of Updates and Amendments**

*The Zoning Bylaw was reorganized and updated in November of 2022. This appendix tracks changes and updates approved by Town Meeting voters after that date.*

## **Section 1. Authority and Purpose**

## **Section 2. Administration and Procedures**

2.4.2.A.5 Add to require Site Plan Review for Large Scale Solar Photovoltaic Facilities (November 13, 2023)

## **Section 3. District Regulations**

Table 3.3 Add to Use Table a row for Biotech and/or Pharmaceutical/Health Manufacturing and Distribution (June 3, 2024)

Table 3.3 Add to Use Table a row for Research/Office (June 3, 2024)

Table 3.3 Add to Use Table a row for Distribution Center (June 3, 2024)

3.1 Remove Business 2 (B-2) Zoning District (November 13, 2023)

3.2.3 Add sentence to clarify Multiple Uses on a single lot (November 13, 2023)

Table 3.3 Add to Use Table a row for Large Scale Solar Photovoltaic Facilities (November 13, 2023)

Table 3.3 Add to Use Table a row for Battery Energy Storage Systems (BESS) (November 13, 2023)

Table 3.3 Amend abbreviations for codes within Use Table (November 13, 2023)

Table 3.3 Amend entries to reflect uses with SPGA switch to Planning Board (November 13, 2023)

Table 3.3 Amend Footnote #9 (November 13, 2023)

Table 3.3 Remove unneeded and duplicative Uses (November 13, 2023)

Table 3.3 Amend table to add Quarry Manufacturing (November 13, 2023)

Table 3.3 Replace previous row “Accessory Dwelling Units #8” with two new rows for “First Accessory Dwelling Unit” and “Additional Accessory Dwelling Unit (#12)” (June 2, 2025)

3.4.1 Add Accessory Uses Permitted relating to Solar Photovoltaic Facilities (November 13, 2023)

3.5.3 Add sentence relating to Solar Photovoltaic Facilities (November 13, 2023)

## **Section 4. Intensity of Use (Dimensional) Requirements**

4.2 Replace Lot Perimeter section with new section Lot Shape (November 13, 2023)

4.3.6 Add language to clarify corner lots and non-rectangular lots (November 13, 2023)

Table 4.4 Amend various dimensional requirements and add Maximum Impervious Coverage (November 13, 2023)

4.4.1 Amend Multiple Principal Structures (November 13, 2023)

- 4.5 Amend Buffering Screening and Grading Section (November 13, 2023)
- 4.7 Amend Landscaping Requirements for Business and Industrial Districts (November 13, 2023)
- 4.8 Amend Grading and Retaining Walls Section (November 13, 2023)

## **Section 5. Overlay Districts**

- 5.1 Remove and Replace Floodplain and Floodway Overlay District (June 2, 2025)
- 5.4.2 Add Map 52, Lot 75 - 12 Arlington Ave to the Dracut Center Neighborhood Overlay District (June 5, 2023)

## **Section 6. General Regulations**

## **Section 7. Special Residential Regulations**

- 7.4 Remove and Replace Accessory Dwelling Units (June 2, 2025)

## **Section 8. Special Regulations**

- 8.7 Add section - Large Scale Ground-Mounted Solar Photovoltaic Facilities (November 13, 2023)
- 8.8 Add section - Battery Energy Storage Systems (BESS) (November 13, 2023)

## **Section 9. Definitions (sorted alphabetically)**

- Add definition of Biotech and/or Pharmaceutical/Health Manufacturing and Distribution (June 3, 2024)
- Add definition of Distribution Center (June 3, 2024)
- Amend definition of Research/Office (June 3, 2024)
- Add definitions relating to Solar Photovoltaic Facilities (November 13, 2023)
- Add definition of Quarry Manufacturing (November 13, 2023)
- Add definitions of Accessory Dwelling Unit (ADU), Accessory Dwelling Unit, Attached and Accessory Dwelling Unit, Detached (June 2, 2025)

## **Zoning Map Updates and Amendments**

- Map 69 Block 9 – 1100 Merrimack Ave – Amend Zoning District from B-3/R-1 to I-2 (June 3, 2024)
- Map 55 Block 32 – 1351 Methuen Street - Amend Zoning District from B-3/R-1 to I-2 (June 3, 2024)
- Map 52, Lot 75 - 12 Arlington Ave Add to the Dracut Center Neighborhood Overlay District (June 5, 2023)
- Amend Zoning District of parcels between Orchard St., Water St., Mill St., and Lakeview Ave. (November 13, 2023)
- Map 59, Lots 168 & 168-1 – 94 Hampson St. Amend Zoning District from R-3 to B-3 (November 13, 2023)
- Amend Zoning District of parcels included in 204 Pleasant Street from B-3 to R-3 (November 13, 2023)

Amend Zoning District of all parcels in B-2 to be in the B-1 District and eliminate B-2 District (November 13, 2023)

Amend Zoning District of all parcels in the I-1 zone in the vicinity of Merrimack Ave and the Methuen City Line to be in the I-2 District (November 13, 2023)