TOWN OF DUNSTABLE

ZONING BYLAWS

Adopted as of May, 2021

TOWN OF DUNSTABLE ZONING BYLAWS
CHRONOLOGY OF EVENTS

Date	Event	Zoning Bylaw Change
May 1947		**Zoning Bylaw adopted**
September 16, 1947	Approval	Attorney General approval of Zoning Bylaw
February 26, 1973	Annual Town Meeting	Amendment concerning camping districts
September 4, 1974	Special Town Meeting	Increased square foot requirements for buildable lots
April 18, 1978	Annual Town Meeting	Amended zoning of lot #164-3 as shown on Assessors Map
June 16, 1986	Special Town Meeting	1986 Proposal Adopted
September 16, 1987	Approval	Attorney General Approval of new zoning by law
April 11, 1988	Annual Town Meeting	Amendment in 11.3.1 requiring minimum of 40,000 contiguous square feet exclusive of wetlands for each residential lot; Adopted Section 6.6 "Open Space Development". Approved by Attorney General September 6, 1988
May 13, 1991	Annual Town Meeting	Amended exemptions from earth removal regulations in Section 15 clarifying removal allowable in subdivisions &Developments; Provision added to Section 11 Development Rules & Regulations for sub-division phasing. Approved by Attorney General July 17, 1991
May 11, 1992	Annual Town Meeting	Amendment and clarification of Section 6 provisions for uses permitted in R-1 Single Family District under article #23. Approved by Attorney General June 15, 1992
May 9, 1994	Annual Town Meeting	Amendment of Section 11.3.3 clarifying frontage requirements and addition of Section 11.7. describing provisions for acceptable BACKLAND LOTS. Approved by Attorney General August 16, 1994
May 8, 1995	Annual Town Meeting	Amendment of Section 11.7. establishing a special permit procedure & guidelines for BACKLAND LOTS. Approved by Attorney General June 6, 1995
May 12. 1997	Annual Town Meeting	Amendment and additions to Section 11.7 backland lots, addition to Section 6.6.3(g) Open Space Development & addition of new definition in Section 20 for "Land Unsuitable for Development"
August 4, 1997		Approved by Attorney General August 4, 1997
May 10, 1999	Annual Town Meeting	Amendment and additions to Section 3. Establishment of Districts and Section 14.5a Preservation of Landscape & addition of a new Section 21 Commercial Telecommunication Towers. Approved by Attorney General September 2, 1999

May 8, 2000	Annual Town Meeting	Amendment to Section 5, New construction and new uses; Section 15.2.1 Floodplain District and Section 16 definitions. Approved by Attorney General July 26, 2000
May 14, 2001	Annual Town Meeting	Added new section – Section 11.8 Growth Limitation. Approved by Attorney General August 30, 2001
May 15, 2002	Annual Town Meeting	Added new Section 6.7 Senior Residential Multifamily Development; amendment to § 15.1.2 General Regulations and new § 20.20 Wetlands definition. Approved by Attorney General August 26, 2002
May 10, 2004	Annual Town Meeting	Amendment to Section 1, Purposes; establishment of new Mixed Use District – see Sections 3 and 23; amendment to Section 6.7 to include Uses Permitted by Special Permit of the Planning Board including provisions for Bed & Breakfast establishments; amendment of Section 15.2.2. (b) providing for a Special Permit procedure before Planning Board in respect to certain activities in the Floodplain Overlay District and amendment of Section 17.2 – eliminating use variances. Approved by Attorney General July 12, 2004
May 9, 2005	Annual Town Meeting	Amendment to Section 13 providing for temporary signs and Section 23 amending density provisions for the Mixed Use District. Approved by Attorney General August 16, 2005
March 7, 2006	Special Town Meeting	Amended Section 2 Zoning Map by deleting the B-1 District Repealing & eliminating Map A (B-1 District Map) and then rezoning those parcels to R-1 and renumbering the remaining maps in alphabetical sequence. Approved by Attorney General June 14, 2006
March 7, 2006	Special Town Meeting	Amended Subsection 11.8 Growth Rate Limitation by clarifying dates of applicability and extending the date provided for its lapse. Approved by Attorney General June 14, 2006
May 14, 2007	Annual Town Meeting	Amended 20.18 Definitions – Street, Road or Way by further clarifying street, road or way in subsections a & b. Approved by Attorney General August 16, 2007
May 14, 2007	Annual Town Meeting	Amended 11.3.1 clarifying development standards. Approved by Attorney General August 16, 2007
May 11, 2009	Annual Town Meeting	Amended Sections 6.2, Section 6.6, Section 6.7, Section 7, Section 8, Section 9, Section 10, Section 11 to include site plan requirements, etc. needed for Planning Board review. Approved by Attorney General 24, 2009

May 10, 2010	Annual Town Meeting	Attorney General's approval September 20, 2010 – Sections 6.1.(g).v; Section 8 reclassify Lot 0, Block 41 and Lot 0, Block 61A to be w/I B-1 Retail; Section 15.2. Floodplain District Map; Section 20 Definitions to add Section 20.11; Section 24 newsection relative to Wind Energy Conversion Devices
May 9, 2011	Annual Town Meeting Definitions	Amended 11.8 (extended date to May 9, 2021); Approved by Attorney General June 22, 2011
May 13, 2013	Annual Town Meeting	Amended 11.8.1 to change date to May 10, 2021. Approved by AG September 13, 2013
May 13, 2013	Annual Town Meeting	Added Section 25 "Solar Photovoltaic Facilities". Approved by AG September 13, 2013
May 13, 2013	Annual Town Meeting	Added 6.8. following 6.7.13. Uses Permitted by Special Permit of the Planning Board. Added 6.a.7 following 6.a.6.R1a Commercial Recreational. Added 7.3. following 7.2. R-2 General Residence District. Renumbered and reorganized 8.2. (a), (b), (c) and added new 8.2. (b). Uses Permitted by Special Permit of the Planning Board. Amended 8.3.1. and 9.3.1. regarding Solar Photovoltaic facilities, Section 25. Added 9.2.(d). Uses Permitted by Special Permit of the Planning Board. Added 10.1.(e) and amended 10.3. Added 20.12A Large-Scale Ground-Mounted Solar Photovoltaic Installation and 20.14A Rated Nameplate Capacity to Section 20; Definitions. Approved by AG Sept.13, 2013
October 20, 2014	Special Town Meeting	Amended 6.2(g)ii and 6.2(g)iii. Uses Permitted by Special Permit of the Board of Appeals. Amended 6.7.3(B) Uses Permitted by Special Permit of the Planning Board. Approved by the Attorney General February 10, 2015
May 11, 2015	Annual Town Meeting	Delete Section 6.2(g) and add 6.2.1 Accessory Dwelling Units; Amend Section 6.3; Amend Section 6.7.5 Design Requirements and 6.7.11 Minimum Special Requirements; Amend Section 14 Site Plans; Amend Section 25 Large-Scale Ground-Mounted Solar Photovoltaic Facilities. Approved by Attorney General September 8, 2015
May 9, 2016	Annual Town Meeting	Added Section 27 "Registered Marijuana Dispensary". Approved by Attorney General July 15, 2016
November 12, 2016	Special Town Meeting	Added Section 26 "Temporary Moratorium on Medical Marijuana Treatment Centers". Approved by Attorney General November 30, 2016
November 12, 2016	Special Town Meeting	Amended Section 20 "Definitions" to add "Medical Marijuana Treatment Center" Approved by Attorney General November 30, 2016

May 8, 2017	Annual Town Meeting	Amended Sections 6, 7, 8, 9, 10, 20 and 25 with respect to solar energy systems. Approved by Atty. General September 11, 2017
May 8, 2017	Annual Town Meeting	Added Section 28 “Temporary Moratorium on Marijuana Establishments”. Approved by Attorney General September 11, 2017
May 8, 2017	Annual Town Meeting	Added Section 29 “Community Housing”. Approved by Attorney General September 11, 2017
May 14, 2018	Annual Town Meeting	Amended Section 28, 28.3. Approved by Attorney General July 3, 2018
May 14, 2018	Annual Town Meeting	Adopted Section 30 “Regulate Recreational Marijuana”. Approved by Attorney General July 3, 2018
May 13, 2019	Annual Town Meeting	Amended Section 3 “Floodplain District’. Approved by the Attorney General September 9, 2019
May 13, 2019	Annual Town Meeting	Amended Section 6.1(g)ii “Home Occupations. Approved by the Attorney General September 9, 2019
May 13, 2019	Annual Town Meeting	Amended Section 6.7 “Bed and Breakfast”. Approved by the Attorney General September 9, 2019
May 13, 2019	Annual Town Meeting	Amended Section 12.2.2 “Required Parking”. Approved by the Attorney General September 9, 2019
May 13, 2019	Annual Town Meeting	Amended Section 15.2.1 “Floodplain District”. Approved by the Attorney General September 9, 2019
May 13, 2019	Annual Town Meeting	Amended Section 20 “Definitions”. Approved by the Attorney General September 9, 2019
May 13, 2019	Annual Town Meeting	Adopted Section 31 “Adult Entertainment Facilities”. Approved by the Attorney General September 9, 2019
Oct. 15, 2019	Special Town Meeting	Amended various sections of Section 10. B-3 Expanded Commercial District. Amended Section 25.Approved by the Attorney General January 17, 2020
Oct. 15, 2019	Special Town Meeting	Adopted a new Solar Energy Overlay Zoning District Bylaw, Section 32. Approved by the Attorney General January 17, 2020
Oct. 15, 2019	Special Town Meeting	Rezoned Parcels 589 Pleasant Street, 583 Pleasant Street from R-1 to B-2. Approved by the Attorney General January 17, 2020

May 15, 2021	Annual Town Meeting	Added Town Center District in Section 3.2 “Overlay Districts”. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Amended 6.2.1(b)I “Accessory Dwelling Units”. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Added New Section 22 “Town Center District”. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Amended Section 6.7.12 Town Center Uses. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Added Town Center District Map. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Amended Section 6.7 “Uses Permitted by Special Permit”. Approved by Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Amended Section 20 “Definitions”. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Amended Section 29 “Community Housing”. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Amended B-2 Service Business District Map. Approved by the Attorney General August 30, 2021
May 15, 2021	Annual Town Meeting	Amended Solar Energy Overlay District Map. Approved by the Attorney General August 30, 2021

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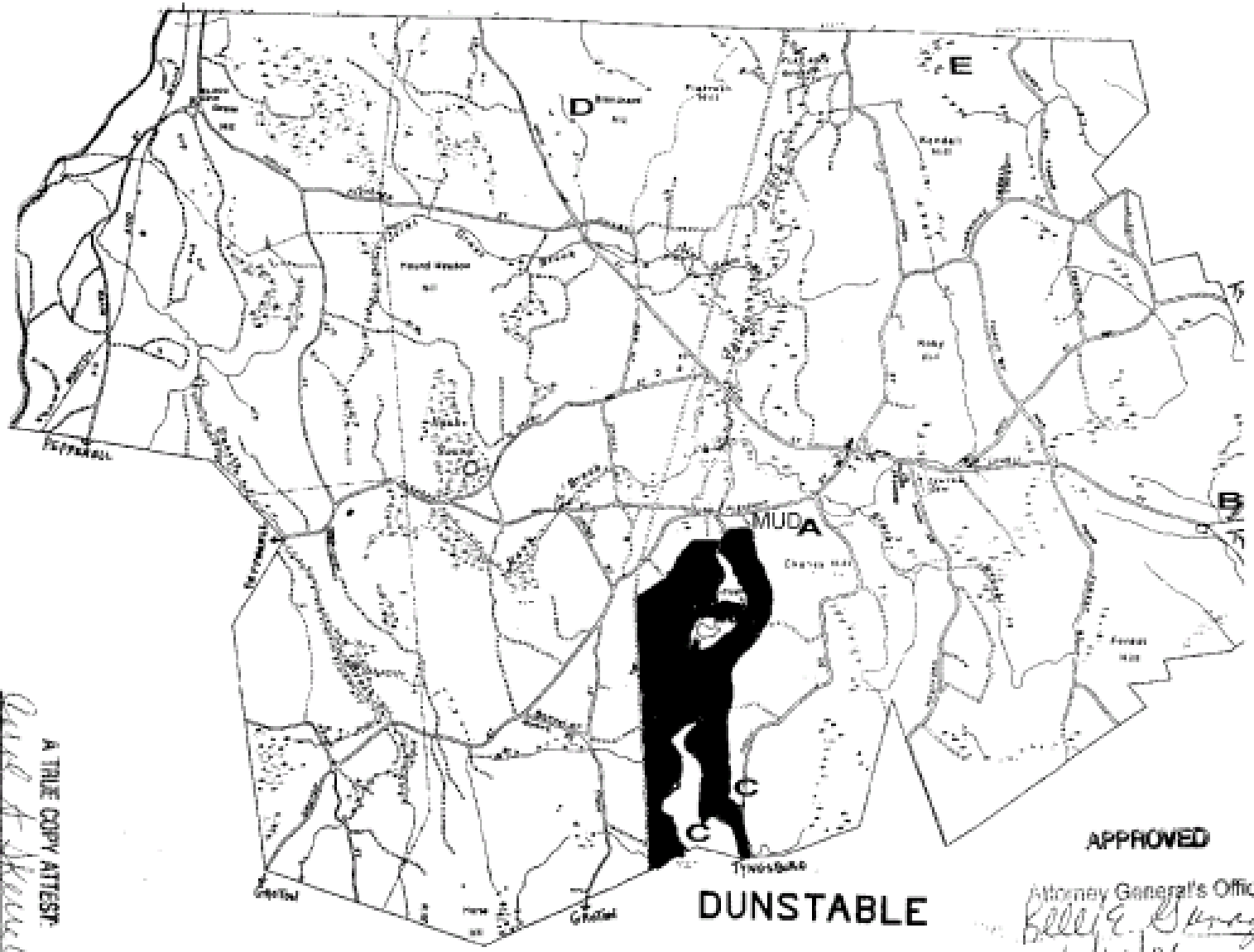
ZONING BYLAWS OF THE TOWN OF DUNSTABLE

SECTION 1. PURPOSES. Dunstable's character is defined by its rural quality including narrow roads, scenic landscape, agricultural uses, low density and appropriately sized housing, water quality and water bodies, open space, and diversity of housing types. The purpose of this Zoning Bylaw (the "Bylaw") is to promote the health, safety, morals, convenience and general welfare of residents of the Town of Dunstable (the "Town") while maintaining Dunstable's character, protecting its natural resources, and promoting affordable housing for Dunstable residents; to provide safe, efficient traffic flow to, from and along the streets; to lessen congestion in the streets; to lessen the danger from fire and flood; to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to conserve energy; to preserve and increase the amenities of the Town; to conserve natural conditions and increase resources; to conserve and protect public and private water supply, including ground water; to conserve and protect storage areas for seasonal or periodic high water; to conserve and protect public and private bodies of water and water courses; to facilitate the adequate provision of transportation, drainage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the prevention of blight and pollution of the environment; to preserve historic sites; to improve and beautify the Town by encouraging the most appropriate uses of land within the Town; to protect the community from the effects of unsuitable development; to avoid unsuitable traffic on residential streets; to facilitate future reuse and redevelopment of property; and to separate or otherwise isolate property uses which may be conflicting or incompatible.

In accordance with these purposes, the use, construction, erection, establishment, movement, repair, alteration, enlargement, height, location and occupancy of buildings and structures and the uses and occupancy of all land in the Town of Dunstable are hereby regulated and restricted as hereinafter provided, and no development use or occupancy of land shall be carried on except as permitted herein.



DUNSTABLE

Town of Dunstable Zoning Map

APPROVED

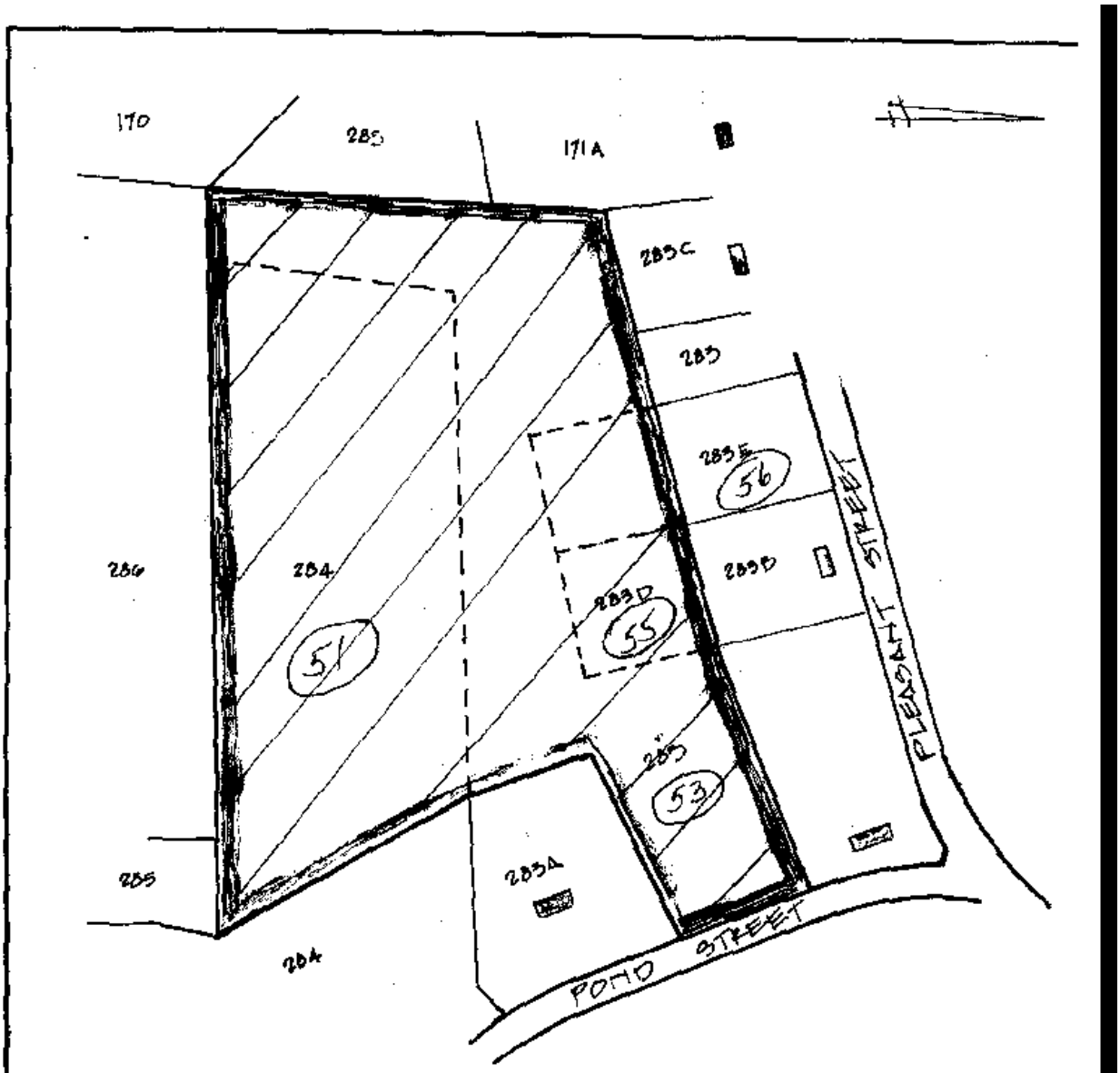
Attorney General's Office

6/19/06

6 Town Meeting Date 3/6/06

A TRUE COPY ATTEST:

TOWN CLERK, DUNSTABLE, MA.

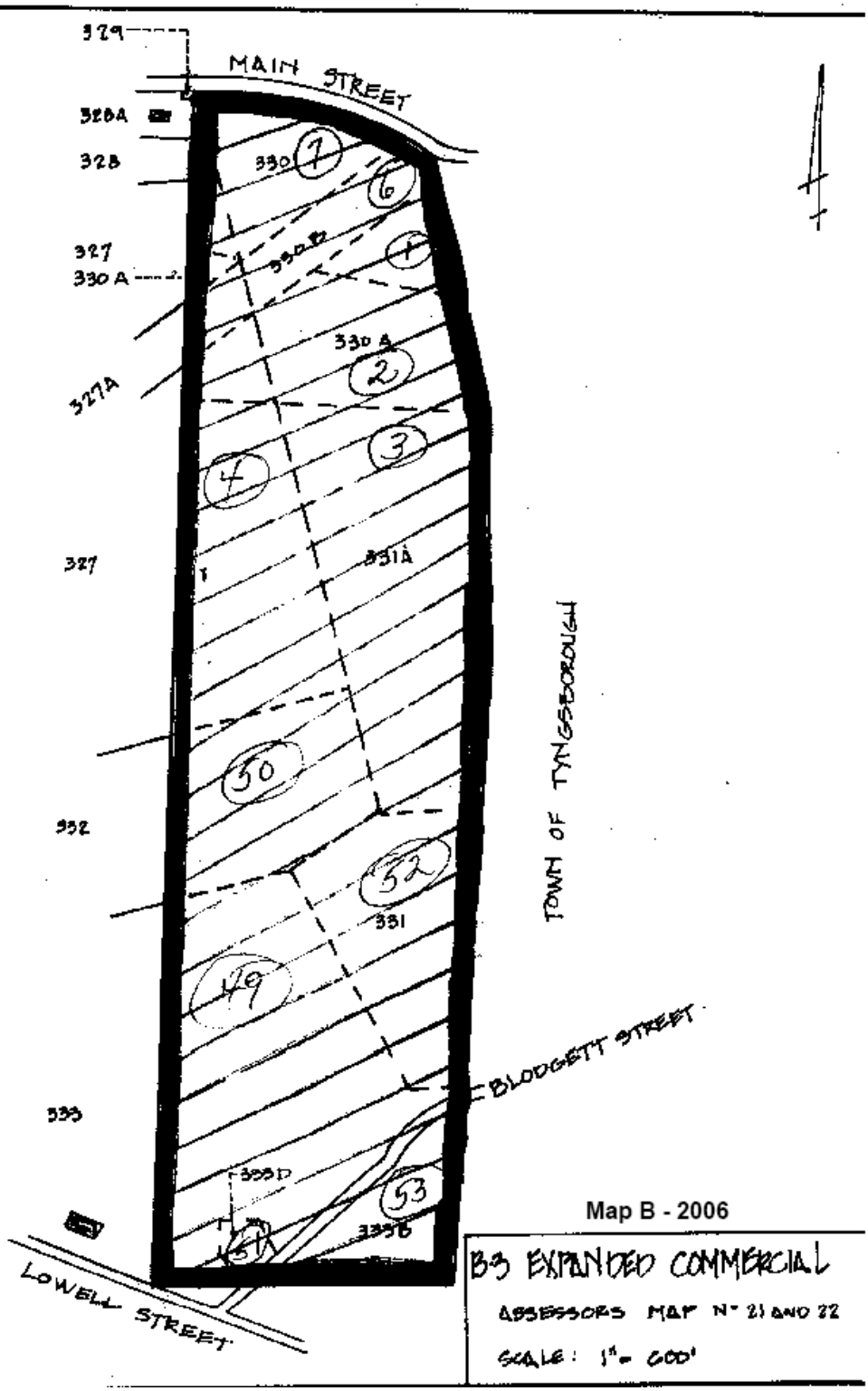


Map A - 2006

R-2 GENERAL RESIDENCE

ASSESSORS MAP N° 17

SCALE: 1" = 200'

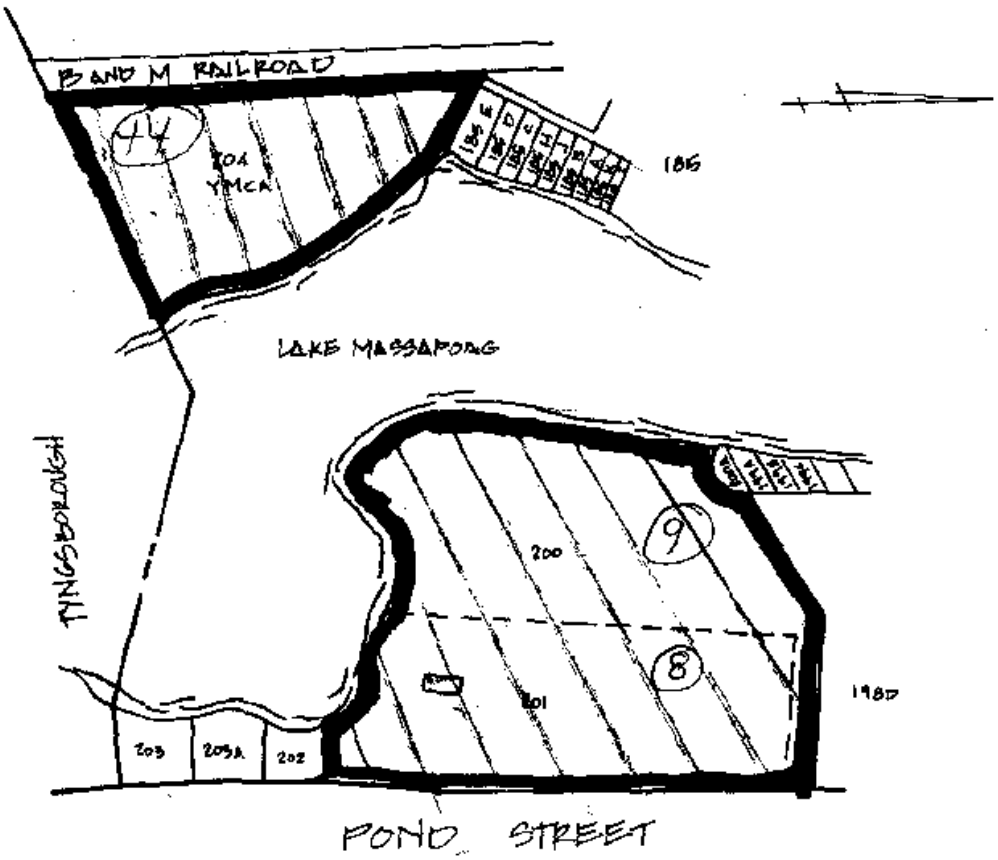


Map B - 2006

B3 EXPANDED COMMERCIAL

ASSESSORS MAP N° 21 AND 22

SCALE: 1" = 600'

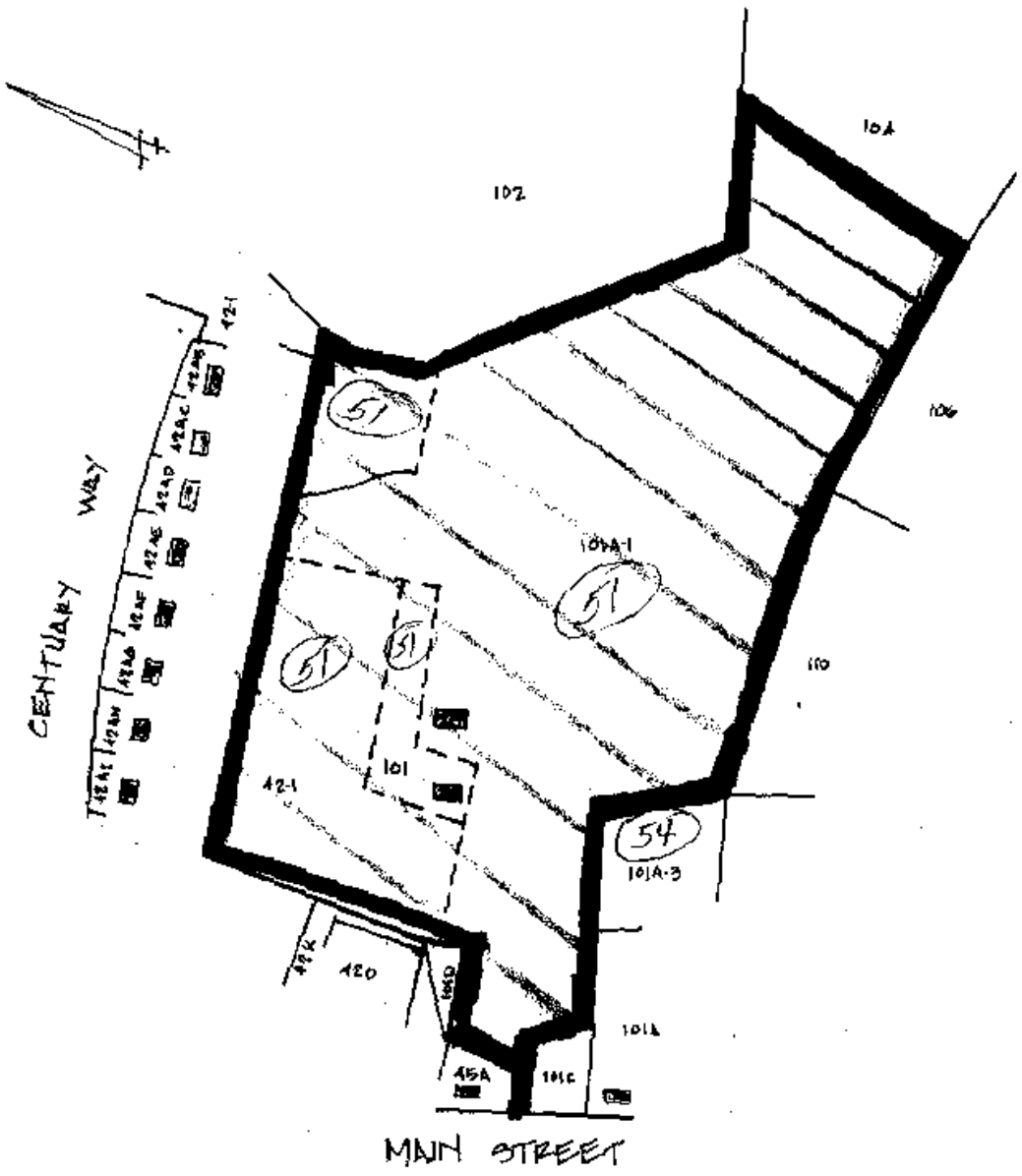


Map C

R-1a COMMERCIAL REC.

ASSESSORS MAP N° 14

SCALE: 1" = 500'



Map D

R1a COMMERCIAL REC

ASSESSORS MAP N° 10

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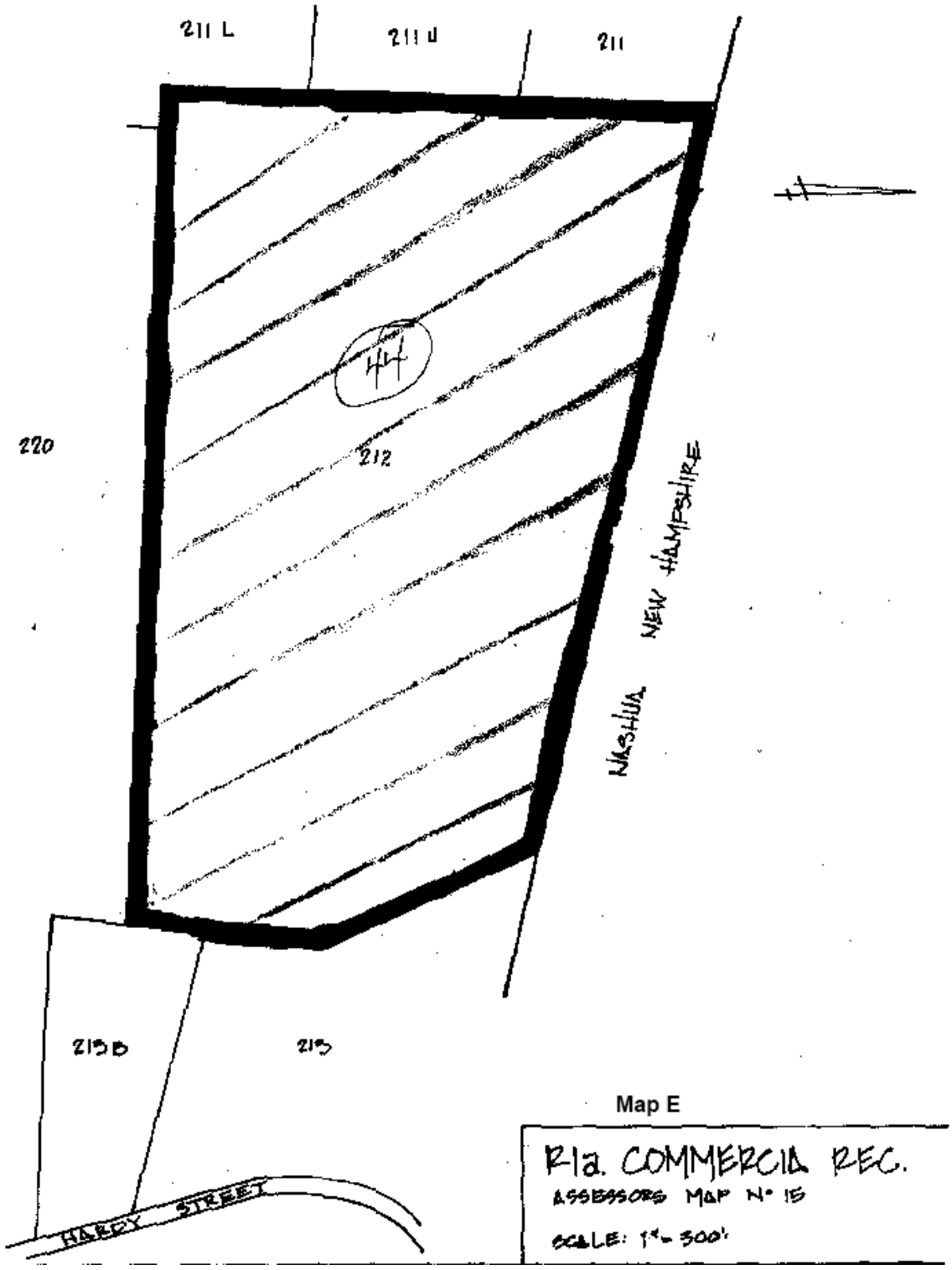
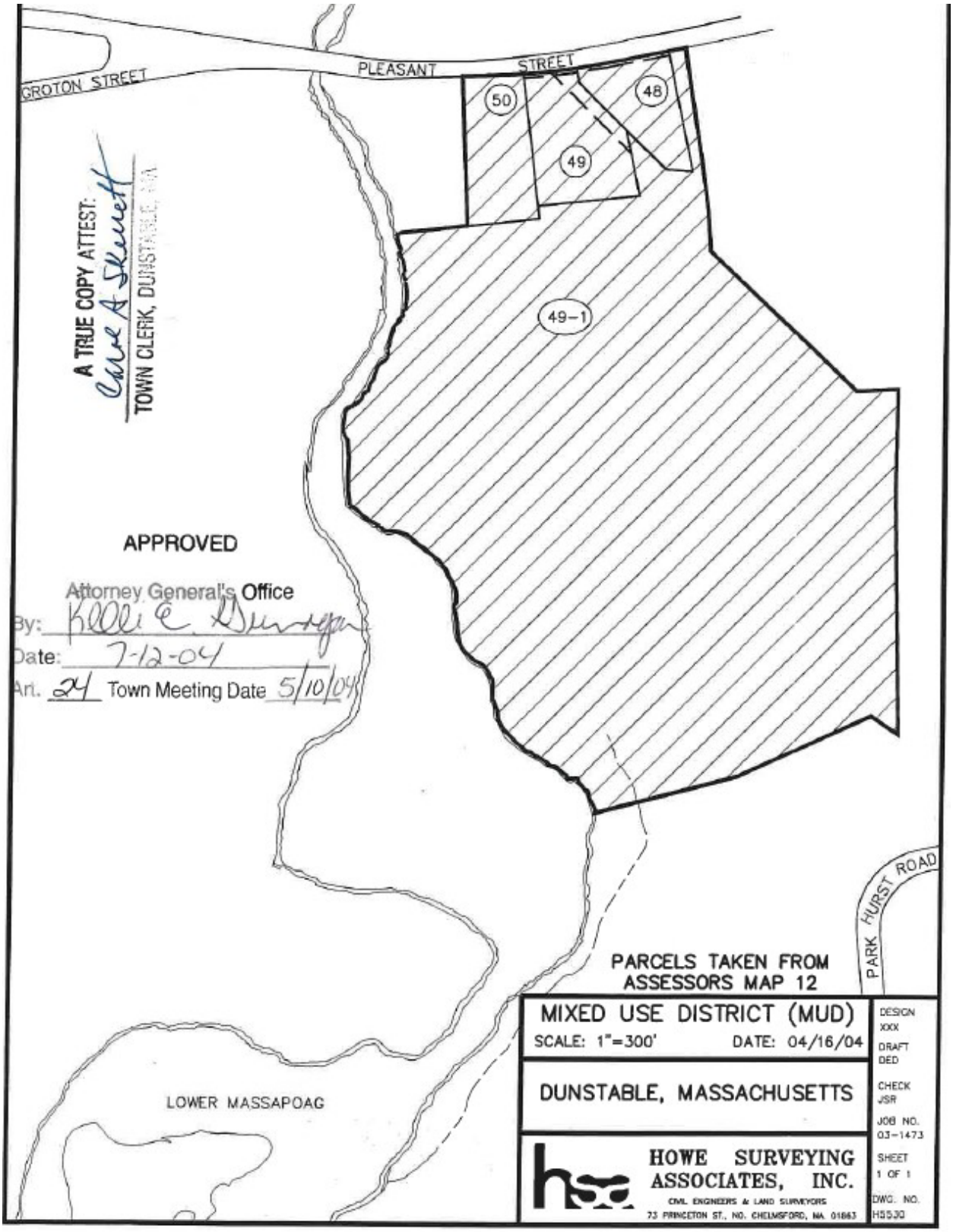
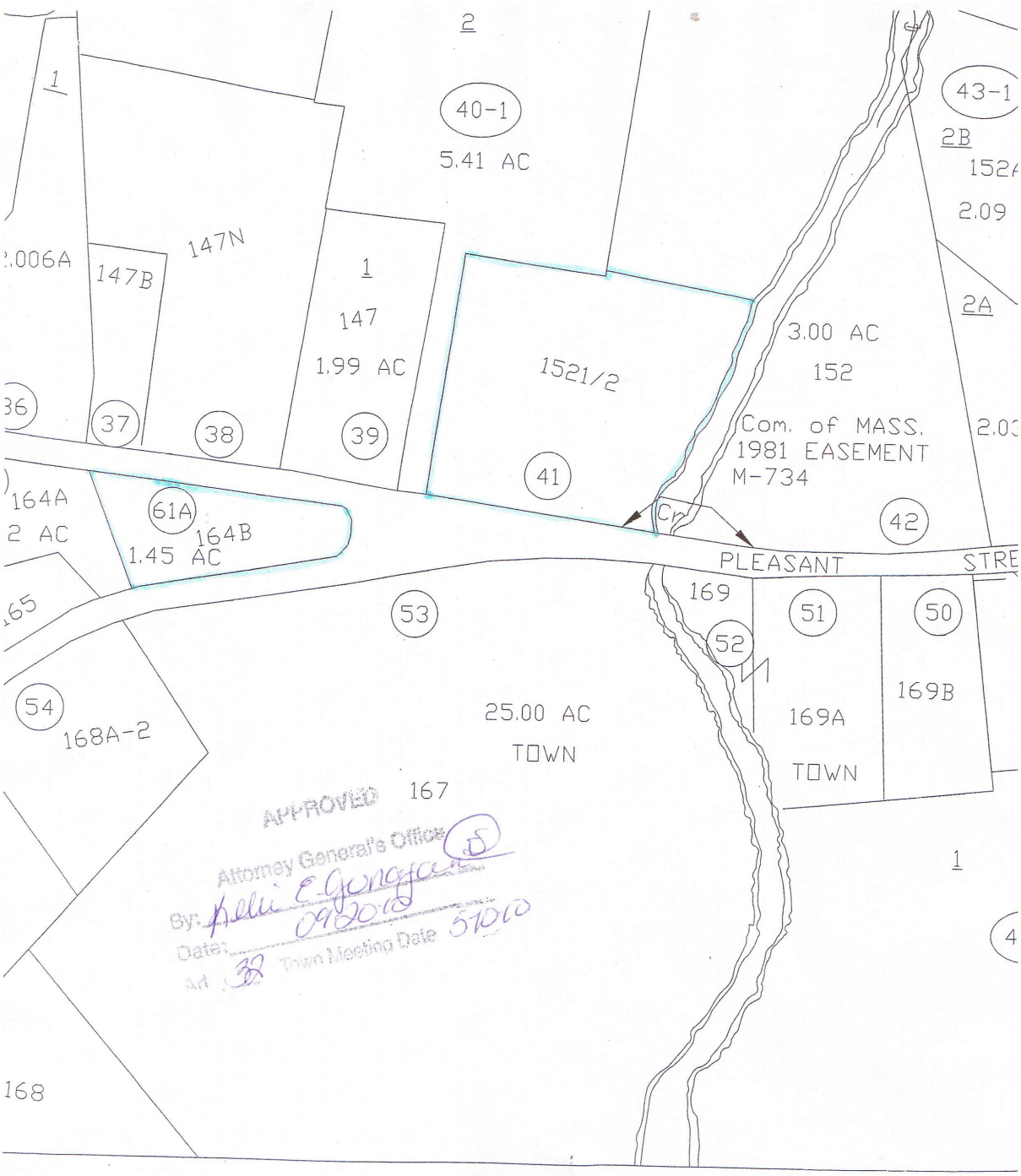

211 L
211 J
211
44
220
212
NASHUA NEW HAMPSHIRE
215 B
215
HARDY STREET
Map E
R1a. COMMERCIAL REC.
ASSESSORS MAP N° 15
SCALE: 1"= 500'

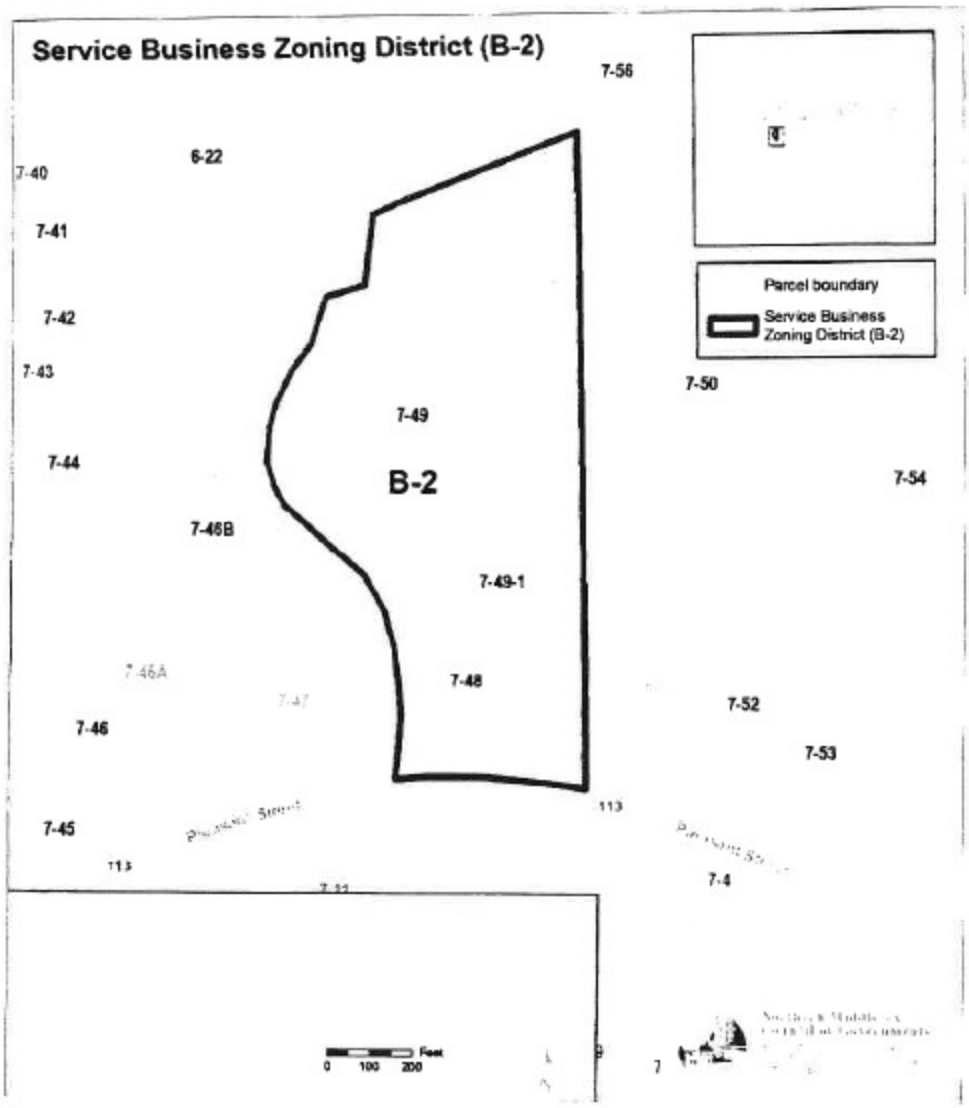

GROTON STREET
PLEASANT STREET
50
48
49
49-1
PARK HURST ROAD
LOWER MASSAPOAG
A TRUE COPY ATTEST:
Carol A Skinnett
TOWN CLERK, DUNSTABLE, MA
APPROVED
Attorney General's Office
By: Kelli E. Dunaga
Date: 7-12-04
Art. 24 Town Meeting Date 5/10/04
PARCELS TAKEN FROM
ASSESSORS MAP 12
MIXED USE DISTRICT (MUD)
SCALE: 1"=300'
DATE: 04/16/04
DUNSTABLE, MASSACHUSETTS
HOWE SURVEYING ASSOCIATES, INC.
CIVIL ENGINEERS & LAND SURVEYORS
73 PRINCETON ST., NO. CHELMSFORD, MA 01863
DESIGN XXX
DRAFT DED
CHECK JSR
JOB NO. 03-1473
SHEET 1 OF 1
DWG. NO. H5530



ASSESSOR'S MAP DUNSTABLE MASS. Scale 1"=
LAST REVISION 1/05

12

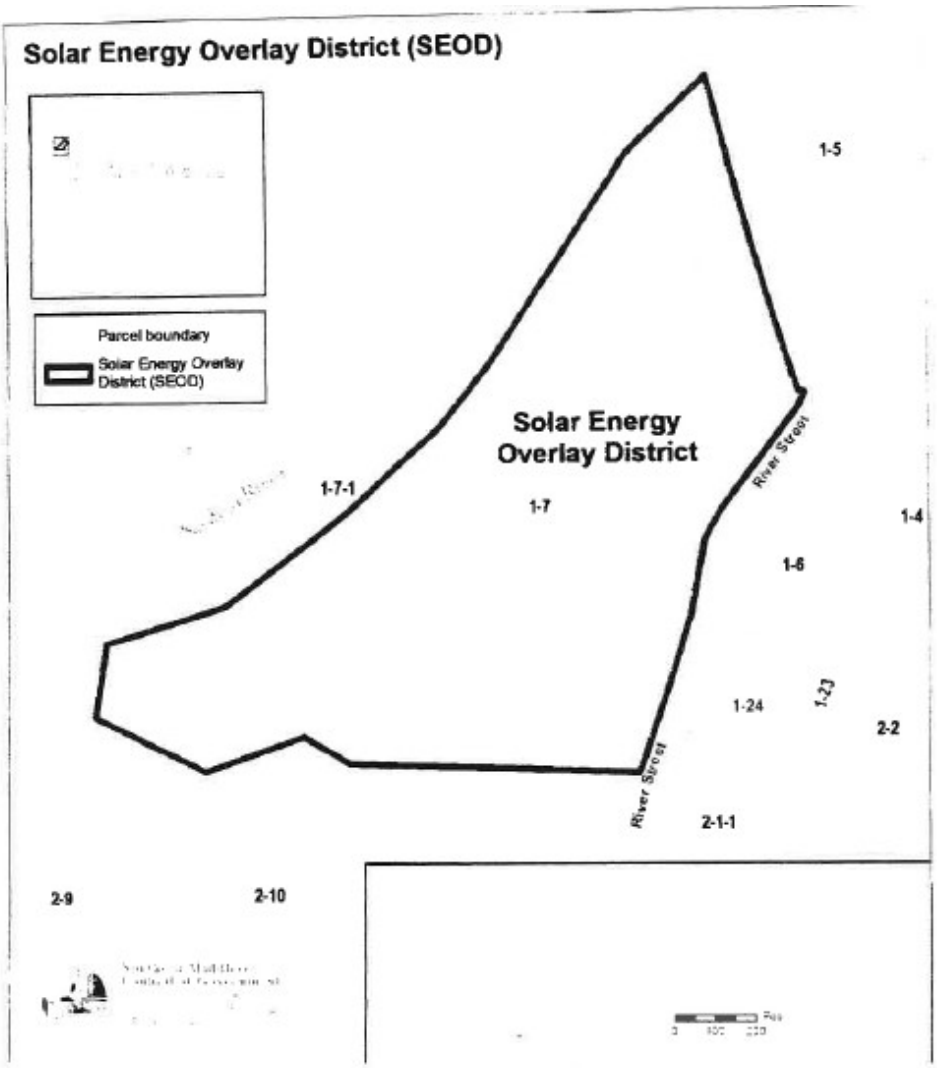
A TRUE COPY ATTEST:
TOWN CLERK, DUNSTABLE, MA.



APPROVED
Attorney General's Office
By _____
Date 05/30/21
Art 19 Town Meeting Date 05/15/21

True Copy Attest

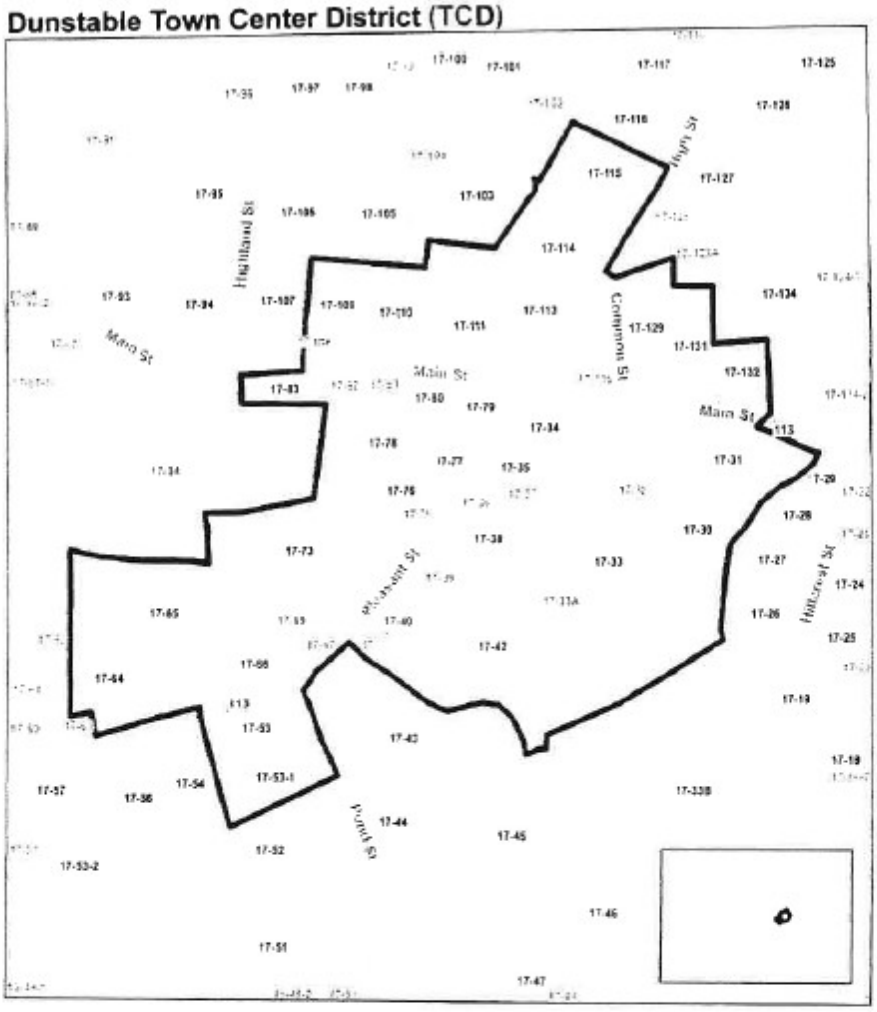
Carol A. Skerrett, Town Clerk



APPROVED
Attorney General's Office
By _____
Date 08/30/13
Art 20 Town Meeting Date 05/13/13

True Copy Attest
_____
Carol A. Skerrett, Town Clerk

Dunstable Town Center District (TCD)



Town Center Overlay District (TCD)

Parcel Boundary

Building

APPROVED
Attorney General's Office
By _____
Date 08/30/21
Art 16 Town Meeting Date 05/15/21

True Copy Attest

_____
Carol A. Skerrett, Town Clerk

SECTION 3. ESTABLISHMENT OF DISTRICTS

3.1 Zoning Districts

The Town of Dunstable is hereby divided into six (6) types of districts to be known as:

R-1 Single Family Residence District (Section 6)
R-la Commercial Recreational (Section 6a)
R-2 General Residence District (Section 7)
B-1 Retail Business District (Section 8)
B-2 Service Business District (Section 9)
B-3 Expanded Commercial District (Section 10)

3.2 Overlay Districts

3.2(a) Commercial Telecommunication Towers

An overlay district known as the Tower Overlay District is hereby established. The district will overlay and be coincident with the Commercial/Recreation, General Residence. Single Family Residential. Retail Business. Service Business and Expanded Commercial.

3.2(b) Mixed Use District

An overlay district known as the Mixed Use District is hereby established. The district dated April, 2004, to be incorporated in the Dunstable Zoning Bylaw, which map is on overlay and be supplementary to the underlying districts.

3.2(c) Floodplain District **[Added ATM 5/13/19 Article 23]**

The Floodplain District includes all special flood hazard areas designated as Zone A or Zone AE on the Town of Dunstable Floodplain District Overlay Map.

3.2(d) Town Center **[Added ATM 5/15/21 Article 16]**

An overlay district known as the Town Center District is hereby established. The Town Center District shall consist of those areas bounded and shown on a map entitled “Town Center District (TCD)” dated July 25, 2017, incorporated in these Zoning Bylaws. The Town Center District will overlay and be supplementary to the underlying zoning districts.

SECTION 4. NON-CONFORMING USES

4.1. Any use or structure lawfully existing at the time of the adoption of the Town's Zoning Bylaw or any amendment thereto, and any use or structure lawfully begun, or as to which a building or special permit has been issued, before the first publication of notice of the public hearing on this amendment to such bylaw or any future amendment thereto, may be continued or completed, although such structure or use does not conform to the provisions hereof or of such amendment; provided that;

(a) Construction or operations pursuant to such a building or special permit shall conform to the provisions of this bylaw as amended unless the use or construction is commenced within a period of six (6) months after issuance of the permit and, in cases involving construction, unless such construction is completed as continuously and expeditiously as is reasonable;

(b) Whenever a non-conforming structure, lot or use has been made conforming, it shall not thereafter revert to any such non-conforming structure, lot, or use, subject nevertheless to the provisions of subsections (d) and (e) of this section.

(c) Wherever a non-conforming use has been abandoned, it shall not, be re-established and any future use shall conform to the Zoning Bylaw and any amendment thereto. In any event, for purposes of this section, such use shall be deemed abandoned which has been discontinued for a period of two (2) years.

(d) No building or other structure put to a non-conforming use which is destroyed or damaged by fire or other cause, or demolished to the extent, in any of such cases, of more than one-half (1/2) of its replacement value at the time of said damage or demolition as determined by the Building Inspector, who may for these purposes consult qualified appraisers, may be rebuilt for the purpose of reestablishing the non-conforming use, in full or in part, unless the Board of Appeals finds with respect to such reconstruction or repair, that it will not be substantially more detrimental to the neighborhood, with reference to the purposes of this bylaw, than the use existing prior to such damage or destruction.

(e) Any reconstruction or repair of a partially destroyed, demolished or damaged structure put to a non-conforming use must be commenced within one (1) year of such damage or destruction, and the reconstruction completed and the structure occupied within two (2) years of such damage or destruction.

4.2. A non-conforming single or two-family residential structure may be the subject of alteration, reconstruction, extension or structural change provided that such alteration, reconstruction, extension or structural change does not increase the non-conforming nature of such structure.

4.3. Any other lawful pre-existing non-conforming structure or use, the change or alteration of which is not otherwise permitted as a matter of right by the provisions

hereof, may be extended, altered, reconstructed or repaired, provided that in each case, the Board of Appeals finds that such extension, alteration, reconstruction or repair is not more detrimental to the neighborhood than the existing non-conforming structure or use. Nothing in this subsection shall be construed per se to authorize additional non-conforming uses that would otherwise require a use variance. In addressing the question of detriment to the neighborhood, the Board may consider, among other factors, traffic, external appearance, noise, glare, dust, vibration, and the effect on the values of other properties.

4.4. A single-family or two-family residential lot which complied with minimum area, frontage, width, yard and depth requirements in effect at the time such lot was established in separate ownership from adjoining land as shown by public land records may be used in accordance with such requirements and need not comply with any subsequently adopted bylaw or amendment which increases the area, frontage, width, yard or depth requirements applicable to such residential lot, provided that the status of such lot as in separate ownership has continued since its establishment, and provided further that such lot has the minimum area, frontage, yard and depth requirements, if any, provided in the Massachusetts General Laws for lots of this status. However, two (2) or more contiguous lots or parcels of land in the same ownership which, when taken separately or in any particular combination, fail to comply with the minimum area, frontage, width, yard or depth requirements of this bylaw, shall be considered to have merged for the purposes of this bylaw; provided that such lots may be used or sold separately insofar as they contain structures that were lawfully constructed under the laws in effect at the time of their construction; and provided further that such merger shall not be deemed to affect lots which are effectively exempt therefrom under provisions of the Massachusetts General Laws.

4.5. No lot on which a building is located in any district, or which is otherwise used or developed in such a manner as to be within the purview of the dimensional provisions of this bylaw, shall be reduced or changed in size or shape so that the building lot or use fails to comply with such dimensional provisions; or if such building, lot or use already fails to comply with said provisions, such reduction or change would bring about a greater degree of non-compliance with said provisions. This prohibition shall not apply, however, in cases of takings for public purposes.

SECTION 5. **NEW CONSTRUCTION AND NEW USES**. No new structure shall be erected, constructed, established, altered, repaired, enlarged or moved, and no land shall be put to any use or shall be occupied except in conformity with the requirements, character and conditions laid down for each of the several districts established by this bylaw. Any use not specifically listed herein or otherwise permitted in a district shall, to the extent permitted by law, be prohibited, subject however to such provisions of applicable law as perforce limit the scope or authority of the zoning ordinances or bylaws; and subject further to the provision that municipal uses shall be permitted in any district. Any municipal use which would not be permissible in a district except for its municipal status shall require a special permit of the Planning Board, the application for which may require in the discretion of such Board supplementary information in the nature of a site plan as provided in Section 14 of this bylaw; and in the event that the municipal use is such that consideration by the Planning Board would be inappropriate by reason of a particular benefit that would accrue primarily to the Planning Board, such application shall be referred to the Board of Selectmen who shall act in place of the Planning Board.

SECTION 6. R-1 SINGLE FAMILY RESIDENCE DISTRICT. The R-1 District is intended primarily as a district of single-family homes with not more than one dwelling unit together with reasonable and customary accessory buildings upon one lot.

6.1. Uses Permitted:

(a) One (1) building containing one (1) dwelling unit used as a single-family residence.

(b) Rooming or boarding house for not more than three (3) lodgers.

(c) Museums and libraries owned and operated by the town or by a public charitable organization with respect to which the town elects, appoints or approves the members of the governing board; and open parks, playgrounds, conservation areas, water supply areas and land owned and operated for the public enjoyment or service by a public or quasi-public agency.

(d) Orchards, nurseries, truck gardens, and farms operated for agricultural, floricultural or horticultural purposes, or for the raising of cattle, horses and other ordinary domestic animals, but not including piggeries or farms operated in substantial part for disposal of garbage, sewage, offal or renderings; greenhouses for private use of the occupants of the premises; keeping of pets and farm animals for the use of the residents or occupants of the premises; the sale or offering for sale of farm produce by an owner or the resident tenant of land in the town is permitted providing that at least fifty-one percent (51%) of such produce is raised within the town, that any farm stand structure must be temporary in nature and removed at the end of the selling season of the crops grown in town for the purpose of sale (otherwise, as an Accessory Building, it must conform to the requirements of Section 11-5) that any farm stand must be setback at least thirty (30) feet from the roadway, and that adequate off-street parking must be provided. Nothing in this subsection shall be construed to prohibit persons from keeping not more than two (2) pigs on their own premises, provided that the premises remain clean and that no odors associated with the pigs or the keeping thereof are detectable outside property lines. In the event of litters, owners shall dispose of same within a reasonable time, not to exceed sixty (60) days, in order to comply with this subsection.

(e) Accessory uses on the same lot, including by way of illustration but not limited to: private garages, stables, greenhouses, barns, and other buildings and enclosures; provided in all cases that such accessory uses are entirely incidental and secondary to the primary permitted uses on said premises.

(f) Private non-commercial radio towers, windmills, or similar structures, provided that the height of such shall not be greater than the distance from the base of the tower to the nearest property lines, and in no event greater than one hundred (100') feet; and provided further that no offensive noise, vibration, electrical interference, smoke, dust, odor, heat, glare or unsightliness is

produced.

(g) Customary home occupations, as described hereinbelow, in a portion of a residential premises by a resident thereof, upon issuance of a permit by the Building Inspector which shall be available by right upon demonstration of compliance with the conditions and requirements of this subsection, and which permit shall be revocable by the Building Inspector in the event of use of the premises inconsistent with the permit and with the requirements of the Zoning Bylaw.

i. Customary home occupation shall include but not necessarily be limited to the following:

1. An office for the conduct of a profession or similar business, including but not limited to, the office of a physician, dentist, lawyer, engineer, architect, real estate or insurance agent, or consultant.

2. A studio or workshop, including but not limited to that of an artist, photographer, dressmaker, milliner, craftsperson of handmade items, musician or tutor where regular instruction is limited to not more than three students at one time.

3. An office or workshop for the conduct of a trade, including but not limited to that of a builder, carpenter, painter, plumber, or mason and further permitting in connection therewith incidental work and storage in connection with the off-premises trade.

4. Day care.

ii. Uses and occupations permitted under this subsection shall in every case comply with the following conditions and requirements and failing such compliance shall be deemed to require permission of the Board of Appeals in accordance with Section 62. hereof:

1. such use is clearly incidental and secondary to the use of the premises for dwelling purposes;
2. not more than four (4) people at any time other than residents of the premises is regularly employed therein in connection with such use; **[Amended May 13, 2019 Article 23]**
3. no offensive noise, vibration, smoke, dust, odor, heat, glare or unsightliness is produced, nor may the home occupation involve any process which results in the discharge of any hazardous material (as defined in Massachusetts General Laws, Chapter 21E as amended) into the ground or into any body of surface water. Any home occupation which will involve the use, production or storage of a hazardous material shall list such materials in the application for approval. The listing shall be reviewed by the Building

Inspector and if deemed to be a potential hazard. may serve as justification for denial of the application.

4. there is no public display of goods or wares and there are no signs except as permitted in Section 13;

5. there is no exterior storage of material or equipment (including the parking of more than one (1) commercial vehicle) and no other exterior indication of such use nor any variation or alteration from the residential character and appearance of the premises;

6. adequate off street parking spaces for employees and for visitors or patrons in connection with the home occupation is provided which does not substantially alter the appearance of the premises as a single family residence;

7. such use does not require the parking of more than four (4) vehicles used by persons engaged in the occupation, clients, customers, or patients on a regular basis.

iii. No merchandise and/or stock, commodities or parts shall be offered for sale on the premises with the exception of agricultural products (section 6.1.(d)) or items produced on site in the nature of crafts products such as pottery, crafts, weaving artwork etc.

iv. The maintenance or repair of automobiles or motor vehicles shall not be permitted as a home occupation.

v. The Building Inspector may refer any applicant for a permit described in this section to the Board of Appeals where there is a doubt about the character of any occupation as a customary home occupation or about compliance with the conditions of this section, and the matter shall thereupon be treated as an application for a special permit under Section 6.2 subject to the appeal provisions of Massachusetts General Laws, Chapter 40A, Section 17, as the same may be amended from time to time; but in the event the Board of Appeals finds the activity in question to be customary home occupation, the applicant shall be entitled to a permit under this section, subject to the conditions and requirements hereof**.** **[Amended ATM 5/10/2010]**

6.2. **Uses Permitted by Special Permit of the Board of Appeals.** (In cases of applications under this subsection, the Planning Board may provide written advice to the Board of Appeals, which the Board of Appeals shall consider in reaching any decision; furthermore, the Board of Appeals may refer any such application to the Planning Board or any other board or agency of the town for

review, in which event such board or agency shall make such recommendations as it deems appropriate, and shall send copies thereof to the Board of Appeals and the applicant.) Any such referral to the Planning Board shall be accompanied by a Site Plan in accordance with the Rules and Regulations of the Planning Board governing Site Plans, provided the application is subject to Site Plan review pursuant to this bylaw. **[Amended ATM 5/11/2009, Art. 24]**

(a) use of land or structure by a public utility;

(b) or country club and golf course;

(c) commercial greenhouse on residential premises or on parcels of less than five (5) acres, provided that size limitations may be imposed thereon if necessary in order to render the installation harmonious with the surrounding neighborhood in regard to scale or visual dominance;

(d) the raising and keeping of poultry on parcels in excess of five (5) acres, for purposes other than the use by the occupants of the residence, or the maintenance of dog kennels or stables for hire;

(e) any museum or library not referred to in Section 6.1.(c) above;

(f) the use of a dwelling or a portion of a building accessory thereto by a person resident on the premises for the sale of merchandise and/or stock, commodities or parts not created on site may be permitted, provided that in all cases the provisions of 6.1.(g). ii. 1 through 7 must be met.

6.2.1. <u>Accessory Dwelling Units</u> [Added 5/11/2015]

In order to increase the availability of moderately priced housing for the young, the elderly, people of low and moderate income, and dependent relatives of town residents without substantially altering the appearance of the Town, accessory dwelling units may be allowed by Special Permit of the Zoning Board of Appeals which shall subject to the following considerations:

(a) Procedures

i. A plot plan, prepared by a Registered Land Surveyor, of the existing dwelling unit and proposed accessory dwelling unit shall be submitted to the Board of Appeals, showing the location of the building on the lot, proposed accessory dwelling unit, location of any septic system, well and required parking.

ii. Any special permit application shall be subject to review and approval by the Board of Health as to sanitary wastewater disposal in full conformance with the provisions of 310 CMR 15.00 (Title V of the State Environmental Code). The Board of Health will also review and approve the water supply. Therefore, applicants are encouraged to seek Board of Health review prior

to making an application to the Board of Appeals.

(b) Standards

i. Except as otherwise provided in these Zoning Bylaws, not more than one accessory dwelling unit may be established on a lot **[Amended 5/15/21].** The accessory dwelling unit shall not exceed 35% of the gross living space of the existing or expanded principal structure or 1,200 square feet, whichever is greater, and have no more than two bedrooms. The expansion of an existing structure to accommodate an accessory apartment shall not increase the gross floor space of the existing structure more than 15%.

ii. The accessory dwelling unit may be located in the principal structure or in a detached accessory structure; provided, however, that an accessory dwelling unit may be located in such detached accessory structure only where such detached accessory structure has been in existence for at least ten (10) years. The burden shall be upon the applicant to demonstrate compliance with this subsection.

iii. An accessory apartment shall be a complete dwelling unit with a separate entry, kitchen facilities, at least one bedroom, and a bathroom with sink, toilet and bathing facilities.

iv. The external appearance of the structure in which the accessory dwelling unit is to be located shall not be significantly altered from the appearance of a single family structure or other structure ordinarily used and included in the context of single family dwellings, in accordance with the following:

(1) The expansion of an existing structure to accommodate an accessory apartment shall not increase the gross floor space of the existing structure more than 15%.;

(2) Any stairways or access and egress alterations serving the accessory dwelling unit shall be enclosed, screened, or located so that visibility from public ways is minimized;

(3) Sufficient and appropriate space for at least one (1) additional parking space shall be provided by the owner to serve the accessory dwelling unit. Said parking space shall be constructed of materials consistent with the existing driveway and shall have vehicular access to the driveway;

(4) All construction and/or renovation shall be performed in accordance with the applicable requirements of the State Building Code.

(c) Conditions and Renewal

i. Prior to the conclusion of a Site Plan Review the owner must provide certification, by affidavit, that one of the two dwelling units shall be occupied by the owner of the property as his/her primary residence at least six months in any calendar year. In addition, such owner shall occupy such dwelling unit as his or her primary residence as a condition of the validity of the Special Permit. The owner must also own the entire lot, any structures thereon, and both dwellings.

ii. The initial term and subsequent extensions of a special permit for an accessory dwelling unit shall terminate upon transfer of the ownership of the premises or when the owner no longer occupies the premises as his or her residence in accordance with Section (c) i above. Upon sale or transfer of the property to a new owner, the new owner must submit an affidavit to the Building Inspector of their intention to use one of the dwellings as their primary residence. A subsequent special permit may be granted after certification by affidavit is made by the applicant to the Board of Appeals that the accessory dwelling unit has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application.

iii. Use and occupancy of any accessory apartment other than is authorized herein shall be grounds for revocation of any permit granted under this section.

(d) Decision

i. Special Permits for an accessory dwelling unit may be issued by the Board of Appeals upon a finding that the construction and occupancy of the additional dwelling unit complies with foregoing provisions and will not be detrimental to the neighborhood in which the lot is located.

ii. Nothing in this subsection 6.2.1 shall be construed to change or reduce any dimensional or area requirements of this Zoning Bylaw relative to single-family dwellings and accessory structures thereto or to allow any uses not otherwise permitted by this Zoning Bylaw, other than accessory apartments as allowed."

6.3. No permit shall be granted to carry on any of the uses listed in Section 6.2. and 6.2.1 **[Added 5/11/2015]** in any structure not in existence on the date of approval of this bylaw or in any structure in existence on such date which is substantially altered after such date to accommodate such use, unless the structure conforms to the following development regulations:

(a) The minimum area of any lot shall be the greater of 87,120 square feet (8093.71 sq. m) or ten (10) times the total ground floor area of the structure or structures on such lot.

(b) Any structure and the lot on which it is located shall comply with the minimum height, frontage and yard requirements applied to the R-1 District, except that the Board of Appeals may, as a condition to granting the special permit, impose lower height restrictions and/or greater yard and frontage requirements if, owing to the size and character of the structure, such restrictions or requirements are appropriate to prevent or mitigate adverse or undesirable effects with regard to surrounding properties, including any diminution in the value thereof or the use and enjoyment thereof,

6.4. In connection with the application for a special permit for any use which is subject to the additional development regulations of subsection 6.3. above, the applicant shall submit a complete site plan (see Section 14) with the elevations of the land and the structure proposed to be located thereon to the Board of Appeals, The requirements of the preceding sentence may be modified upon specific application to the board in appropriate cases requiring less information. Subject to any such diminished requirement as shall be determined by the board, no permit for any such use shall be valid unless such site plan and elevations are specifically incorporated by reference in such permit and unless the structure, when built, conforms to such site plan and elevations are specifically incorporated by reference in such permit and unless the structure, when built, conforms to such site plan and elevations,

6.5. R-1 Development Regulations-Standard Development

Refer to Section 11.

6.6. Development Regulation - Open Space Development

6.6.1. For the purpose of promoting the more efficient use of land and the preservation of its natural features, an owner or owners of a tract of land situated within the R-1 Single Residence District, or a duly authorized agent of such owner or owners, may make application to the Planning Board for a special permit exempting such land from the lot area and frontage, yard and width of lot requirements of Section 11 and from the requirements of Section 6.1.(a) in favor of the requirements of this section relating to open space development. Such application shall be accompanied by a site plan in accordance with Section 14 of this bylaw and the

Rules and Regulations of the Planning Board governing Site Plans and Special Permits. **[Amended ATM 5/11/2009, Art. 24]**

6.6.2. Application under this section shall be submitted in accordance with the requirements of the Massachusetts General Laws and any rules and regulations of the Planning Board in connection with special permits. The Planning Board shall give notification of such application to the Conservation Commission, the Board of Health and the Board of Selectmen, and refer the application to any of the foregoing boards or any other board or agency of the town, for review. Any such board or agency to which referral is made for review shall carry out such review and submit a report giving such recommendations as it deems appropriate, and send copies thereof to the Planning Board and to the applicant.

6.6.3. After due consideration of the reports and recommendations of any referral board, and after notice and public hearing, the Planning Board may grant a special permit for such open space development, provided that

(A) It finds that the proposed open space development plan is in harmony with the purposes of this section;

(B) The area of the tract of land is not less than fourteen (14) acres;

(C) The total number of building lots in an open space development shall be no greater than the number of building lots that would otherwise be allowed in the district in which the land is located. In making the determination of the number of allowable lots, the board shall require that the applicant provide evidence, satisfactory to the board, that the number of lots shown on the proposed open space development plan is no greater than the number of lots that could otherwise be developed, taking into consideration any limitations upon the buildability of the land arising from the character and condition of the land, the subdivision control laws including the rules and regulations adopted thereunder by the Dunstable Planning Board, other provisions of this bylaw, or other applicable laws, bylaws or ordinances.

(D) Each of the lots shown on the plan has reasonable frontage on a public or private way deemed adequate by the Planning Board.

(E) Insofar as possible, each lot shall be of a size and shape as shall provide a building site which shall be in harmony with the natural terrain and other features of the tract;

(F) The front and side and rear yards of each lot shall be shown on the site plan by dashed lines indicating the area within which a building may be sited;

(G) Provision shall be made so that at least thirty-five (35%) percent of the land area of the tract, exclusive of land set aside for road area, shall be open land, and that the open land shall include all land not dedicated to roads or lots;

Furthermore, a portion of such open space free of land unsuitable for development as defined in Section 20 shall constitute at least thirty-five (35%) percent of the land area of the tract.

(H) Provision shall be made so that such open land shall be conveyed to and owned by:

1. The Town, to be held for park, conservation or open space use; or

2. Any not for profit land trust or non-profit or charitable corporation whose purpose in owning land is dedicated to conservation, wildlife protection, recreation and further that such trust or charitable corporation accept same subject to appropriate restrictions on said land; or

3. Any association of the owners of the land that may be approved by the Planning Board, with provision for limited easements for recreational use by residents of the town, provided that the town shall have sufficient rights to enable it to enforce compliance with the restrictions imposed by the Planning Board as conditions of its special permit;

(I) In any case where such open land is not conveyed to the town, a restriction enforceable by the town shall be recorded, providing 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 roadway;

(J) All dwelling units shall be in detached buildings and there shall not be more than one dwelling unit in a building.

6.6.4. The Planning Board may, in appropriate cases, impose such further conditions, safeguards and limitations as are reasonably ordered to the achievement and protection of the general purposes and intent of the bylaw and this section.

6.6.5. In connection with issuing or denying a special permit under this section, the Planning Board shall issue in the manner provided by applicable law and shall file with the Town Clerk a written decision which shall include as a minimum:

(A) A determination of the area of the tract usable for residential construction under this section;

(B) A determination of the number of lots upon which dwellings could be constructed without regard to this section, the calculations to be made in accordance with the provisions of Subsection 6.6.3.(c) hereof:

(C) A general description of the neighborhood in which the tract lies and the effect of the plan on the area;

(D) The relation to the plan to the long range plans or the master plan of the town, if any;

(E) The extent to which the plan is designed to take advantage of the natural terrain of the tract;

(F) The extent to which the proposed open land is of size and shape and has adequate access to benefit the town;

(G) In the event that the Planning Board grants the special permit, the finding required by Section 6.6.3. (a) hereof;

(H) In the event that the Planning Board denies the special permit, its reason for doing so;

(J) In the event that the Planning Board's decision disagrees with the recommendations of any other board or agency of the town which has submitted a report pursuant to this section, its reasons therefor, stated in writing.

Section 6.7. Uses Permitted by Special Permit of the Planning Board

6.7.1. Senior Residential Multifamily Development. For the purpose of providing a variety of housing opportunities within the Town for people who are 55 years of age and older while promoting maximum efficiency in the use of land and the preservation of its natural features, in a context of encouraging better overall site planning, protecting the value of real property, promoting the more sensitive siting of buildings and other structures, preserving the natural and scenic amenities of the property, fostering provision for suitable areas for both active and passive recreation, and assuring a high level of environmental protection, an owner or owners of a tract of land situated within the R-1 Single Residence District, or a duly authorized agent of such owner, or owners, may make application to the Planning Board for a special permit for Senior Residential Multifamily Development (SRMD), exempting such land from the lot area and frontage, yard and width of lot requirements of Section 11 and from the requirements of Section 6.6.1.(a) in favor of the requirements of this section 6.7. relating to Senior Residential Multifamily Development: Such application shall be accompanied by a site plan in accordance with Section 14 of this bylaw, and the Rules and Regulations of the Planning Board governing Site Plans and Special Permits as well as specimen bylaws, rules and regulations required under subsection 6.7.3.(G), and sufficient information to demonstrate compliance with subsection 6.7.4.(A) through (G). **[Added ATM 5/15/2002] [Amended ATM 5/11/2009, Art. 24]**

6.7.2. Application under this section shall be submitted in accordance with the requirements of the Massachusetts General Laws and any rules and regulations of the Planning Board in connection with special permits. The Planning Board shall give notification of such application to the Conservation Commission, the Board of Health and the Board of Selectmen; and may, in its discretion, refer the application to any other board or agency of the town, for review, including a Design Review Board which the Planning Board may and hereby is authorized to appoint for these purposes. Any such board or agency to which referral is made for review shall carry out such review and submit a report giving such recommendations as it deems appropriate, within forty-five (45) days of the submission or referral, and send copies thereof to the Planning Board and to the applicant.

6.7.3. After due consideration of the reports and recommendations of any referral board, and after notice and public hearing, the Planning Board may grant a special permit for such Senior Residential Multifamily Development (SRMD) provided that:

(A) It finds that the proposed Senior Residential Multifamily Development plan is in harmony with the purposes of this section.

(B) The area of the tract of land is not less than five (5) acres. **[Amended STM 10/20/2014, Article 7]**

(C) The total number of dwelling units in an SRMD shall be no greater than the number of building lots that would otherwise be allowed on the tract, multiplied by 1 ¼, and rounded to the next higher integer, subject to the bonus provisions of subsection 6.7.6., below. In making the determination of the number of allowable units in the SRMD, the board shall require that the applicant provide evidence, satisfactory to the Board, that the number of such units on the proposed SRMD plan is no greater than the number of lots that could otherwise be developed, taking into consideration any limitations upon the buildability of the land arising from the character and condition of the land, the subdivision control laws including the rules and regulations adopted thereunder by the Dunstable Planning Board, other provisions of this bylaw, or other applicable laws, bylaws or regulations.

(D) The SRMD plan meets the following density, structure and dimensional requirements in lieu of the requirements of Sections 6.1.(a) and 11:

(i) Density. The number of units permissible shall not exceed the number of units ascertained pursuant to subsection 6.7.3.(C), above (subject to the bonus provisions of subsection 6.7.6.). For purposes of any SRMD, in order to be included in the calculations for density, or 6.7.3.(c), above, the land area must contain at least seventy-five (75%) percent dry land, and not more than twenty-five (25%) percent wetlands. Wetlands in excess of twenty-five (25%) percent of the entire parcel shall not be used for purposes of calculating density, but may be added to Open Space within the provisions of subsection 6.7.5(J), below.

(ii) Structures. A SRMD may consist of any combination of single family or multifamily residential structures. A multifamily structure shall not contain more than five (5) dwelling units. The architecture of all multifamily

buildings shall be residential in character, particularly providing gabled roofs, predominantly wood or other material of good quality and function which simulates the look and feel of wood siding, an articulated footprint and varied facades. Residential structures shall be oriented toward the street or way serving the premises and not the required parking area.

(iii) Dimensional Controls. The following dimensional controls shall apply per building:

REQUIREMENT	SRMD
Minimum Lot Area	Two (2) acres
Minimum Frontage	Two hundred (200) feet
Minimum Front Yard Setback	Fifty (50) feet
Minimum Side and Rear Yards	Forty (40) feet

provided that the Planning Board may approve reduced dimensional requirements where it finds that such modified dimensions will more effectively achieve the purposes set forth in subsection 6.7.1, above.

(iv) Buffer. A buffer area of one hundred (100) feet shall be provided at the perimeter of the property, except for driveways/roadways necessary for access and egress to and from the site; and two hundred (200) feet from all natural bodies of water one (1) acre or larger under normal conditions, and from all rivers or streams within the scope of or regulated under the Rivers Protection Act; provided, however, that existing structures and existing access roadways are exempt from the requirements set forth in this subsection (iv). No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal and ordinary maintenance. The Planning Board may waive or limit the buffer requirement if it determines that a smaller buffer may suffice to accomplish the objectives set forth herein.

(E) The Planning Board finds that satisfactory provisions have been made and secured for Open Space within the project.

(F) The Planning Board finds that sufficient provision has been or will be made to ensure that each of the dwelling units is so restricted that at least one person fifty-five years of age or older (the "Senior Resident") is both an owner and a resident. A restriction to such effect, approved by counsel to the Planning Board, and having the longest available enforceability under applicable law, shall be recorded in the chain of title, and shall be enforceable both by an association of owners and by the Town of Dunstable. The restriction shall provide that insofar as any unit is occupied for dwelling purposes at all, it shall be occupied by at least one Senior Resident. In the event that any unit ceases to be occupied by a Senior Resident by reason of death, reasonable time shall be allowed, not to exceed eighteen months, to allow for such transfer of interest as is necessary in order to establish a Senior Resident in the unit. Furthermore, the continuing observance and enforcement of the age restriction described herein shall be a condition of compliance with this

Zoning Bylaw. An exception to the requirement of a Senior Resident shall be allowed for purposes of the restriction and for purposes of compliance with the Zoning Bylaw, only in the case where a Senior Resident is deceased, and there is no surviving Senior Resident, and the unit is owned and occupied by the deceased Senior Resident's surviving spouse.

(G) The Planning Board has reviewed and approved specimen bylaws and rules and regulations of the proposed SRMD which shall be submitted by the applicant and which shall provide means and mechanisms for the maintenance and enforcement of the restrictions required under this Section 6.7.

6.7.4. Design Process. Each SRMD shall follow the design process outlined below. When the development plan is submitted, applicants shall be prepared to demonstrate to the Planning Board with written and graphic exhibits that this design process was considered in determining the layout of proposed streets, dwelling locations, and contiguous Open Space. Applicants are encouraged to carry out the process in the order of steps hereinbelow listed, insofar as feasible.

(A) Understanding the Site. The applicant shall inventory existing site features, taking care to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and to determine the connection of these important features to each other.

(B) Evaluating Site Context. The applicant shall evaluate the site in its larger context by identifying physical (e.g., stream corridors, wetlands), transportation (e.g. road and bicycle networks), and cultural (e.g., recreational opportunities) connections to surrounding land uses and activities.

(C) Designating the Open Space. The applicant shall identify the buffer areas and the contiguous Open Space to be preserved on the site. Such Open Space should include the most sensitive and noteworthy resources of the site, and, where appropriate, areas that serve to extend neighborhood Open Space networks.

(D) Location of Development Areas. The applicant shall locate building sites, streets, parking areas, paths and other built features of the development. The design should include a delineation of private yards, public streets and other areas, and shared amenities, so as to reflect an integrated community.

6.7.5. Design Requirements. The following standards shall apply within the SRMD.

(A) Water Supply. SRMDs shall be served by a public water system or private communal water systems which conform to all applicable regulations of the Commonwealth of Massachusetts and the Town of Dunstable. The water supply shall be sufficient at all times to meet public water supply and fire protection requirements and, in that regard, shall incorporate the reasonable recommendations of the Town Water and Fire Departments and, if provided, the Board of Health. All main service lines for water, sewer and utilities shall be underground or as otherwise approved by the Planning Board through the plan review process.

(B) Drainage. Natural surface drainage channels shall be either incorporated into the overall design or preserved as part of the common land. The development area shall be served by storm sewers or open drainage systems complying with the Massachusetts Department of Environmental Protection's regulations for stormwater management. **[Amended ATM 5/11/2009, Art. 24]**

(C) Building Separation. The distance between buildings shall be a minimum of forty (40) feet, except that any buildings containing more than two (2) stories may not be closer than fifty-five (55) feet from any building.

(D) Parking. Onsite paved parking areas, including at least two (2) parking spaces for every Dwelling Unit with minimum dimensions of nine by eighteen (9 x 18) feet and adequate provisions for aisles, drives, visitor parking, and snow disposal, shall be provided. Separate buildings for parking may be permitted or located and designed so as to complement the building design and site layout as determined and approved by the Planning Board through the plan review process. Parking areas shall be designed so that parking for each Dwelling Unit will be located within one hundred (100) feet of the entrance to such dwelling unit.

(E) Dwelling Units per Building. A SRMD may consist of any combination of single family, and multifamily residential structures meeting the requirements of subsection 6.7.3.(D)(ii), above.

(F) Dwelling Unit Space. All dwelling units within multiple unit buildings shall have a minimum floor space are of seven hundred eighty (780) square feet.

(G) Bedrooms. No dwelling unit may contain more than three (3) bedrooms. No SRMD shall have more than ten (10%) percent of the total number of dwelling units with three (3) bedrooms. A combined sleeping and living room in an efficiency or studio unit, so-called, shall be considered one (1) bedroom, and any other separate room in any unit which is not a single living room or equipped kitchen and is shown on a plan as being for other than bedroom use but which, because of location, size or arrangement could, in the opinion of the Board, be used or adapted for use as a bedroom shall be considered as a bedroom for density calculations. No attic, loft or other storage or similarly usable space shall be used as or altered to create bedroom space, nor shall the construction or other aspects facilitate such use or alteration.

(H) Screening. All sewage facilities, service areas and equipment, trash conveniences, parking, and recreational areas shall have screening as required by the Board, and as otherwise required by the Planning Board through the plan review process.

(I) Landscaping. The site shall be preserved and enhanced by retaining and protecting trees, shrubs, ground cover, stone walls, and other site features insofar as practicable. Additional new plant materials shall be added for privacy, shade, beauty of building and grounds, and to screen features which the Board deems detrimental to the aesthetics of the development, and as otherwise required by the Planning Board through the plan review process.

(J) Open Space. All of the land within a SRMD which is not used to meet building separation requirements, and is not comprised of structures, roadways, driveways,

necessary infrastructure or above ground utilities (including sewerage treatment or disposal and stormwater management) shall be considered as "Open Space". Open Space shall be laid out in such manner as to tend to assure compliance with the foregoing standards, to provide for pedestrian safety within the site and to provide an aesthetically pleasant setting for the SRMD within its neighborhood, and to be coordinated with other open or protected spaces in the vicinity. The Open Space shall be so designated, shall be at least two times the area of the land described in the first sentence of (J), above, and include no more than twenty (20%) percent of wetlands; provided that, a larger area of Open Space may be designated with a greater complement of wetlands, as long as the Applicant is able to show an area of Open Space at least twice as large as the developed area and including no more than twenty (20%) percent wetlands. Such Open Space shall be located and shall be laid out so as to provide for contiguous green areas uninterrupted to the degree practicable by roadways and structures. Such Open Space shall meet the ownership and maintenance and conservation restriction requirements as provided for under Sections 6.6.3.(H) and (I). Any restriction as described in Section 6.6.3.(I) shall meet all the requirements of G.L., c. 184, Sections 31 through 33.

(K) Rubbish Disposal. Rubbish and garbage disposal facilities with screening shall be provided in full conformity with all applicable health or other laws and regulations and shall be protected against scattering of contents, rodent or other unhealthy infestation or condition and odor transmission.

(L) Environmental Protection. There shall be no filling, draining, altering or relocation of any stream, lake, pond, river, or wetland or work within applicable buffer zones except that performed in full compliance with applicable laws, the requirements of pertinent governmental agencies and the requirements of the Dunstable Conservation Commission. Provisions for wastewater treatment and/or disposal shall be completed in accordance with the provisions of applicable regulations of the Commonwealth of Massachusetts Department of Environmental Protection and applicable regulations of the Dunstable Board of Health.

(M) Roads. The principal roadway(s) serving the SRMD may be designed to conform with the standards of the Planning Board under the Subdivision Rules and Regulations where the roadway is or may be ultimately intended for dedication and acceptance by the Town of Dunstable. Private ways shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the applicant.

(N) Affordable Units. As part of the site plan approval, a minimum of five (5%) percent of the total number of dwelling units shall be restricted for a period not less than thirty (30) years in one or more of the following ways:

a. The units shall be affordable to persons or families qualifying as low income;
b. The units shall be affordable to persons or families qualifying as moderate income; and
c. The units shall be affordable to persons or families qualifying as median income.

The thirty-year restriction shall be approved as to form by legal counsel to the Planning Board. Such affordable units shall be integrated into the overall development of the SRMD so as to prevent the physical segregation of such units. The Applicant shall be encouraged to seek designation of the units referenced in paragraphs a and b, above, as affordable units which qualify as part of the subsidized housing inventory as approved and compiled by the Department of Housing and Community Development (DHCD), or its successor. The Planning Board may require that the Applicant affirmatively take steps to utilize a public agency, a nonprofit 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 a and b, above, as affordable units qualifying as part of the Town's subsidized housing inventory. The Planning Board may require submission of application, forms and appropriate information to the DHCD as a condition of approval.

6.7.6 Density Bonus. The Planning Board may award a density bonus to increase the number of dwelling units beyond the maximum number provided for herein. The density bonus for the SRMD shall not, in the aggregate, exceed ten (10%) percent of the maximum density. All dwelling units awarded as a density bonus shall be limited to not more than two bedrooms. Computations shall be rounded to the next higher integer. A density bonus may be awarded in the following circumstances:

(A) Open Space. For each additional ten (10%) percent of the site (over and above the required Open Space minimum set aside as contiguous Open Space), a bonus of five (5%) percent of the basic maximum number may be awarded;
(B) Affordable Units. For each additional one (1%) percent of the total number of dwelling units restricted to affordable units (over and above the required percentage) pursuant to subsection 6.7.5.(O) a. and b., above, a corresponding one (1%) percent of total units (relative to the maximum number) may be awarded.

6.7.7. Relation to Subdivision Control Law. Planning Board approval of a site plan or Special Permit hereunder shall not substitute for compliance with the Subdivision Control Law nor oblige the Planning Board to approve any related definitive plan for subdivision nor reduce any time periods for Board consideration under the law. For any project proposing a subdivision pursuant to the Subdivision Control Law, application for approval of a definitive plan in accordance with the Subdivision Control Law and the applicable Rules and Regulations of the Dunstable Planning Board may be submitted in satisfaction of the site plan review requirements of this Section 6.7., provided that all information required in connection with site plan review is included thereon.

6.7.8. Bed and Breakfast Establishment: In order to help to preserve the special character of the Town as a rural village by encouraging the utilization of existing homes which, because of their size, are costly and/or difficult to maintain as

private residences, and by providing an economic incentive to maintain and/or rehabilitate older, larger residences, and by regulating Bed and Breakfast establishments to insure sensitivity and compatibility with the surrounding neighborhoods in the Town through minimizing adverse impacts on neighboring residential use, an owner or tenant of an existing single family dwelling house in any district may make application to the Planning Board for a Special Permit for a Bed and Breakfast Establishment. **[Added ATM 5/10/2004, Art. 22]**

6.7.9. Submittal and Review Requirements. Application under this section shall be submitted in accordance with the requirements of the Massachusetts General Laws and any rules and regulations of the Planning Board in connection with Special Permits and Site Plans **[Amended ATM 5/11/2009, Art. 24].** The Planning Board may, in its discretion, refer the application to any other board or agency of the Town, for review. In addition, applicants shall comply with the requirements of Site Plans as set forth in Section 14 of this Bylaw, provided that specific requirements of such section may be waived by the Planning Board at the request of the applicant as long as the Board deems that such waiver will not impair the due and proper interests of the Town or otherwise adversely affect the review process. In general, applicants for Special Permits under the provisions of this section shall provide sketches, drawings, or plans necessary to illustrate compliance with the requirements of the section and this Bylaw. Illustrations required may include, but not be limited to, parking and driveway plan, room layout, sanitary facilities, and kitchen facilities.

6.7.10. Minimum Special Requirements:

(a) The Bed and Breakfast establishment and operation shall be located within an existing owner (or tenant) occupied single family dwelling as of the adoption of this section. **[Amended May 13, 2019 Article 23] [Amended May 15, 2021]**

(b) Rooms dedicated to the Bed and Breakfast establishment shall be separate from those rooms ordinarily used by the resident family.

(c) Up to three (3) bedrooms may be dedicated to the Bed and Breakfast establishment, and additional rooms may be authorized by the Planning Board provided that it finds that such additional rooms do not adversely impact the operation and the neighborhood in terms of density, the ability of the location to handle the higher level of parking and traffic, and other such considerations.

(d) The Special Permit authorizing the operation of a Bed and Breakfast establishment shall be issued by the Planning Board to the owner of the property (or tenant applicant) only and shall not be transferable to a subsequent property owner or tenant unless application is made to the Planning Board for such transfer following the requirements and procedures of this section.

(e) The owner of the property (or tenant as the case may be) and the recipient of the

Special Permit shall have responsibility for operation of the Bed and Breakfast establishment as long as the Bed and Breakfast establishment is in operation. The owner shall file an affidavit with the Dunstable Building Inspector and Town Clerk on an annual basis between December 1 in the year and January 15 in the following year, stating that the property is the principal residence of the owner (or tenant) and that the owner (or tenant) is in residence at all times that the Bed and Breakfast is being operated. Such affidavit shall be a condition of the issuance of the annual Certificate of Occupancy referred to hereinbelow.

(f) The single-family residence in which the Bed and Breakfast operation is located shall be maintained so that the appearance of the building and grounds remain that of a single-family residence.

(g) No cooking facilities, including, but not limited to, stoves, microwave ovens, toaster ovens, and hot plates, shall be available to guests. Meals provided shall be limited to guests. **[Amended May 15, 2021, Article 17]**. Additionally, there shall be at least one (1) bathroom exclusively dedicated to the guests of the Bed and Breakfast establishment. **[Amended May 13, 2019 Article 23]**

(h) The applicant shall provide evidence to the Planning Board of a satisfactory and sufficient water supply. If the Planning Board finds that the proposed use will have a detrimental effect on any water supply, on or off site, such finding shall be grounds for denial of the Special Permit.

(i) Any septic system serving the premises shall have the design capacity to support the proposed number of rooms available for rent, as said design capacity is defined by the Dunstable Board of Health or its Agent. Before any Certificate of Occupancy can be issued by the Dunstable Building Inspector for operation as a Bed and Breakfast establishment, the application shall be approved by the Dunstable Board of Health. New Bed and Breakfast establishments served by an existing septic system shall not be granted approval for operation until the Dunstable Board of Health confirms compliance with inspection and/or design requirements as set forth in 310 CMR 15.301; 302; 303; 352; 414 State Environmental Code Title V Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, as the same may from time to time be amended, and the Town of Dunstable Board of Health Rules for On-Site Disposal Supplemental to the State Environmental Code, 'Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, "Title 5"', and all other applicable local Board of Health rules and regulations.

(j) No additional parking required for operation of the Bed and Breakfast establishment shall be located in any required building yard setback. All required additional parking areas shall be screened from adjoining residential properties by a fence or dense evergreen plantings, not less than five (5) feet in height, as specified by the Planning Board. Furthermore, such additional parking shall be prohibited in the front yard(s). All parking for a Bed and Breakfast establishment shall be located on the premises unless otherwise approved by Planning Board waiver. There shall be provided two (2)

parking spaces for the home owner and one (1) parking space for each bedroom which the Bed and Breakfast establishment has available for rent to guests. Provisions in this Bylaw relative to parking inconsistent with this section shall be resolved in accordance with the provisions of this section.

(k) Any sign relating to a Bed and Breakfast establishment shall maintain full compliance with Section 13 of this Bylaw – but under no circumstance may any sign for Bed and Breakfast operation exceed 2' X 3' or equivalent surface area.

(l) The burden shall be upon any applicant to demonstrate that the building which is the subject of the Special Permit application for Bed and Breakfast establishment was in existence at the time of adoption of this section.

(m) Prior to the renting of any rooms to guests the applicant shall obtain a Certificate of Occupancy signed by the Dunstable Building Inspector. The Certificate of Occupancy shall be renewed every year in January. Such renewal shall be in accordance with any applicable fee schedule established by the Board of Selectmen or such Board or officer as may be duly empowered to establish such fee schedule.

6.7.11. Mixed uses, as set forth in Section 23 of this Bylaw [subject to enactment].

6.7.12. Town Center Uses, as set forth in Section 22 of this Zoning Bylaw.

6.8 Solar Energy Systems **[Amended May 8, 2017 Article 32]**

6.8.1 Small Systems, roof-mounted, shall be allowed as a use by right; ground-mounted, shall require Site Plan approval from the Planning Board.

6.8.2 Medium systems, roof-mounted and ground-mounted, shall require Site Plan approval from the Planning Board.

6.8.3. Large systems, roof-mounted or ground-mounted, shall require a Special Permit from the Planning Board.

See Section 25 of this bylaw for additional requirements.

SECTION 6a. R-la COMMERCIAL RECREATIONAL. Uses permitted in this district shall include any use permitted in an R-l District, subject to the same conditions and restrictions as are prescribed therefor. Additional uses shall be by special permit of the Board of Selectmen and shall be limited to facilities designed for group or individual participation in recreational pursuits which are carried on primarily out of doors and which do not generate offensive noise, odor, pollution, traffic congestion on public ways, lighting beyond the property or other noxious effects.

6.a.l. Also permitted as an ancillary enterprise shall be the rental of recreational equipment only for same day use on site, and the sale of such items as might ordinarily and reasonably be used or consumed by persons observing or participating in the recreational activities.

6.a.2. All such ancillary enterprises shall function only during such times as the primary recreational facility is actually operating.

6.a.3. Without necessarily implying approval of activities not listed hereinbelow, there are specifically excluded from uses permitted in this section, tracks or courses to be used for motor driven vehicles of any kind; the offering, taking or otherwise being involved with gaming, betting, wagering, or any other activity involving games of chance; drive-in or outdoor theaters, or similar amusements providing for passive participation by attendees, except when the same involve entertainments by live performers.

6.a.4. No enterprise allowed by this section shall be permitted without having first received all authorizations, licenses and permits as may be required from time to time by any local, county, state or federal agency.

6.a.5. Permits granted under this section may be conditioned upon reasonable regulations in regard to parking, maintenance of facilities, intensity of use, hours of operation, and other such considerations as shall in the discretion of the board conduce to the protection of surrounding properties, the preservation of the health and welfare of persons or animals, and the best interests of the town.

6.a.6. Applications for uses under the special permit provisions of this section shall be accompanied by a site plan submitted and approved in accordance with the provisions of Section 14 of this bylaw. Development regulations as to area, frontage, setbacks, parking (see Section 12), etc. shall be as prescribed by the Board in consideration of the uses and facilities proposed and incorporated on the site plan.

6.a.7. Solar Energy Systems **[Amended ATM 5/8/17 Article 32]**

6.a.7.1 Small systems, roof-mounted, shall be allowed as a use by right; ground-mounted, shall require Site Plan approval from the Planning Board.

6.a.7.2 Medium systems, roof-mounted and ground-mounted, shall require Site Plan approval from the Planning Board.

6.a.7.3 Large systems, roof-mounted or ground-mounted, shall require a Special Permit from the Planning Board.

See Section 25 of this bylaw for additional requirements.

SECTION 7. R-2 GENERAL RESIDENCE DISTRICT. The R-2 General Residence District is intended as a district of single and two-family dwellings, and limited types of multi-family development.

7.1. Uses Permitted:

(a) Any use permitted in an R-l Single Residence District, subject to the same conditions and restrictions as are prescribed therefor.

(b) Two-family dwelling, provided that there shall be only one (1) residential structure per lot.

(c) Nursing or convalescent home.

(d) Multi-family housing for the elderly or old-age housing, under state or federal law or program, or any other multi-family use mandated by applicable law, provided that no building permit for any such use or development shall be issued unless a site plan has been submitted to and approved by the Planning Board in accordance with the provisions of Section 14 of this bylaw and the Rules and Regulations of the Planning Board governing Site Plans.

7.2. R2. Development Regulations.

Refer to Section 11.

7.3. Solar Energy Systems **[Amended ATM 5/8/17 Article 32]**

7.3.1 Small systems, roof-mounted, shall be allowed as a use by right; ground-mounted, shall require Site Plan approval from the Planning Board.

7.3.2 Medium systems, roof-mounted and ground-mounted, shall require Site Plan approval from the Planning Board.

7.3.3 Large systems, roof-mounted or ground-mounted, shall require a Special Permit from the Planning Board.

See Section 25 of this bylaw for additional requirements.

SECTION 8. B-1 Retail Business District. The B-1 Retail Business District is intended primarily to provide for retail shopping and other consumer needs and services of like character.

8.1. Uses Permitted

(a) Any use permitted and as regulated elsewhere in this bylaw in an R-l or R-2 District.

(b) Store for retail sale of merchandise where all display and sales are conducted within a building and where no significant manufacturing, assembly or packaging occur on the premises, except as permitted under (f), hereinbelow.

(c) Barber shop, beauty shop, laundry and dry cleaning service, shoe repair, or other similar retail service establishment; but excluding establishments involving bodily massage or other physical therapy or manipulation, except as practiced by licensed professional practitioners.

(d) Business office, professional office or bank.

(e) Post Office.

(f) Craft workshops, including retail sales of products produced on the premises, provided that no objectionable noise, dust, glare or other noxious emanations result from the activity, and provided further that the products are marketed primarily at retail sale on the premises.

(g) Restaurant or other place for serving food, on the condition that the parking spaces serving the premises are provided immediately adjacent to the restaurant on the same lot as the building in which the restaurant is located, and are reserved exclusively for the use of patrons and employees of the restaurant. Drive-up or drive-through restaurant service is specifically prohibited under this bylaw, whether as the sole method of operation of the establishment, or a component operation thereof.

(h) Uses accessory to the foregoing, provided in all cases that such accessory uses are entirely incidental and secondary to the primary permitted uses on said premises, and do not result in noise, dust, glare, or other emanations greater than would be produced by the primary permitted activity.

8.2. Uses Permitted by Special Permit of the Planning Board

(a) Office for contractors and tradesmen including carpenters, electricians, plumbers, landscapers, painters, and masons. Storage and maintenance of

vehicles used in the business. Parking for employees and customers. Interior and exterior storage of materials directly used in the operation of the business provided any exterior storage is screened from view from any public way, residential zone or use. Provided further that any such use or storage will not create a noise, dust, vibration or odor nuisance. No retail sale of material is allowed at the site.

i. The Planning Board may impose any requirements or limitation on size of buildings and storage areas, number of parking spaces, hours of operation, setbacks of buildings, and pavement/parking area from property lines, provided that the setbacks are not less than otherwise required by this bylaw. (Renumbered 5/13/13)

ii. All applicants granted a special permit by the Planning Board under this section of the Zoning Bylaw who are required to obtain a National Pollution Discharge Elimination System (NPDES) permit for stormwater discharge associated with industrial activity shall provide a copy of the Notice of Intent (NOI) and Stormwater Pollution Prevention Plan (SWPPP) to the Planning Board. Failure to comply with all provisions of the NOI, SWPPP and resultant permit shall be grounds for revocation of the site plan and special permit approval by the Planning Board. (Renumbered 5/13/13)

8.3. Solar Energy Systems [Amended ATM 5/8/17 Article 32]

8.3.1 Small systems, roof-mounted, shall be allowed as a use by right; ground-mounted, shall require Site Plan approval from the Planning Board.
8.3.2 Medium systems, roof-mounted and ground-mounted, shall require Site Plan approval from the Planning Board.
8.3.3 Large systems roof-mounted or ground-mounted, shall require a Special Permit from the Planning Board.

See Section 25 of this bylaw for additional requirements.

8.4 Development Regulations for the B-1 District. [Amended ATM 5/8/17 Article 32]

8.4.1. **Refer to Section 11 [Amended ATM 5/8/17 Article 32]**

8.4.2. Uses permitted under Section 8.l.(b) - (h) and 8.2 shall require a site plan under Section 14 of this bylaw and the Rules and Regulations of the Planning Board governing Site Plans to be submitted to the Planning Board.

SECTION 9. B-2 SERVICE BUSINESS DISTRICT.
The B-2 Service District is intended for buildings and selected commercial uses providing goods and services for inhabitants of the Town.

9.1. Uses Permitted:

Any use permitted and as regulated elsewhere in this bylaw in an R-l District, an R-2 District or a B-1 District.

9.2 Solar Energy Systems [Amended ATM 5/8/17 Article 32]

9.2.1 Small systems, roof-mounted and ground-mounted, systems shall require Site Plan approval from the Planning Board.
9.2.2 Medium systems, roof-mounted and ground-mounted, shall require Site Plan approval from the Planning Board.
9.2.3 Large systems, roof-mounted or ground-mounted, shall require a Special Permit from the Planning Board.

See Section 25 of this bylaw for additional requirements.

9.3. Uses Permitted by Special Permit of the Planning Board:

(In cases of applications under this subsection, the Planning Board may refer any such application to any other board or agency of the town for review, in which event such board or agency shall make such recommendations as it deems appropriate, and shall deliver copies thereof to the Planning Board and to the applicant.)

(a) Service station or repair shop for motor vehicles, appliances and other light equipment, or auto body repair shop; provided that, except for the storage of school buses, there shall be no storage of such motor vehicles, appliances or other light equipment on the premises, other than those in process of or awaiting repair, or awaiting delivery or pickup after repair.

(b) Sale and rental of light equipment.

(c) Offices for general building contractors, building maintenance contractors, landscaping contractors, electrical contractors and similar building trades contractors, including outdoor storage of supplies, tools, equipment and vehicles incidental to and in regular use in the actual conduct of the activity, provided that any such storage may be the subject of limitation or regulation by the Planning Board as to quantity, intensity, duration, screening, etc., in order to prevent harm or inconvenience to nearby owners and properties or to the general public.

(d) Additional uses by Special Permit of the Planning Board: Large-scale ground mounted Solar Photovoltaic Facilities, all in accordance with the provisions of Section 25 of this Bylaw. [Added ATM 5/13/2013]

9.4. Development Regulations for the B-2 District.

9.4.1 Refer to Section 11 [Amended ATM 5/8/17 Article 32]

9.4.2. Uses by special permit under Section 9.2. and uses in this district provided under Section 8.l.(b) - (h) shall be subject to the site plan requirements of Section 14 and the Rules and Regulations of the Planning Board governing Site Plans and Special Permits. Development regulations as to area, frontage, setbacks, parking (see Section 12), etc., shall be as prescribed by the board in consideration of the uses, operations and facilities proposed and incorporated on the site plan.

9.5. Permits for Uses in the B-2 District.

9.5.1. The Planning Board may permit more than one use on a lot or in a building, provided it determines that such uses are compatible with each other and that the existence of such uses on the same lot or in the same building is consistent with the purposes of this bylaw; and provided further that with regard to uses permitted in the R-1 and R-2 Districts and carried on in the B-2 District, the limitations and exclusions as to use in those districts shall apply to such lot or building in the B-2 District.

9.5.2. Any use which existed in the B-2 District as of the effective date hereof, or any amendment hereto, whether by right or by special permit, shall be entitled to continue in existence, insofar as permitted by applicable law; but all renewals of any such special permit shall conform to the provisions of Section 4 and this section of the bylaw. Furthermore, no such use shall be modified, extended or enlarged in any fashion without first complying with the special permit provisions of this section.

SECTION 10. B-3 EXPANDED COMMERCIAL DISTRICT. The B-3 Expanded Commercial District is intended for use and development of limited types of research laboratories, office building and selected entrepreneurial uses and business uses permitted in the B-1 and B-2 Districts, but not including any residential use and not including dumps, refuse disposal facilities, transfer stations, offal or rendering plants, junk yards, or other uses incidental to any of the foregoing. **[Amended portions STM 10/15/19]**

10.1. Uses Permitted As of Right

(a) roof-mounted solar energy systems of any size

(b) ground-mounted solar energy systems up to two-acres in size, inclusive of appurtenant structures and 30-foot setbacks (approximately 300 kw in rated nameplate capacity).

10.2. Uses Permitted Subject to Special Permit of the Planning Board.

In each case, the Planning Board shall consider, in addition to the requirements of Section 15.2., screening and setbacks from adjacent lots, proximity to park lands, conservation lands, public lands, or sites of historical interest or importance, location of exits and entrances from adjoining streets and highways, location and arrangement of parking areas, control of signs and architectural appearance, and shall impose such conditions and safeguards as are required to protect the public interest in regard to same.

(a) research laboratories with incidental processing or pilot manufacturing, but excluding any such use that in the opinion of the Planning Board presents any actual or potential hazard or detriment to surrounding properties or the town at large. Any such uses shall require as a condition of the permit the right of free and full inspection and inquiry by the town or its appointed agents;

(b) office buildings;

(c) light manufacturing enterprises, provided that any applicant demonstrates clearly and convincingly that such activities do not appear likely to be offensive, injurious or noxious because of gas, glare, noise (steady or intermittent), dirt, sewage and refuse, vibration, smoke, fumes, dust, odors, other emanations, danger of fire or explosion or other characteristics, detrimental or offensive, that tend to diminish property values in the same or adjoining districts, or otherwise be detrimental to surrounding properties or the town at large;

(d) uses accessory to or which serve the reasonable needs of the entrepreneurial uses permitted hereunder, provided that they are subject to all of the requirements and limitations of this section, and provided that they are not offensive by reason of the criteria set forth in subsection (c) above; provided, however, that in submitting any application under this section for any of the foregoing entrepreneurial uses

permitted in the B-3 Expanded Commercial District, an applicant shall submit a copy thereof to the Board of Health, together with a complete statement of all applicable state and federal health, safety and environmental standards, including a description of the manner in which compliance with same shall be effected. The Board of Health shall thereafter submit a report in connection therewith to the Planning Board, which report the Planning Board shall consider in deciding upon the issuance of any permit.

10.3. <u>Requirements Applicable to all Entrepreneurial Uses</u>.

(a) Before any building permit may be granted by the Building Inspector for any buildings, structures or uses in a B-3 Expanded Commercial District for which a permit has been issued by the Planning Board as hereinabove provided, there shall first be submitted to the Building Inspector such detailed plans as shall evidence that such buildings, structures and uses conform to the standards for design, construction, use, operation, and other requirements set forth in the permit, and such plans shall be certified as to compliance by the architects or engineers responsible for such plans. In the event of any reasonable doubt by the Building Inspector as to compliance with said requirements, he may consult with the Planning Board.

(b) No dangerous or hazardous radiation shall be detectable outside any structure, or within any structure in areas ordinarily used by or accessible to employees or members of the public.

(c) Site plan authority shall specifically include the authority to regulate water service and waste disposal installations in any particular development in order to minimize adverse impact on the lands affected.

(d) Fuel, raw or partially processed, finished or other material, machinery, supplies and equipment, including company owned or operated vehicles, shall not be stored between the street line and the front line of structures on the subject lot or, if there be no structure, within forty (40') feet (12.19 m) of the street line, and in no case shall any of these be visible from the street.

10.4. <u>Development Regulations</u>.

All development in a B-3 District shall be in accordance with an approved site plan submitted in accordance with Section 14 of this bylaw and the Rules and Regulations of the Planning Board governing Site Plans and Special Permits. Regulations as to area, frontage, setbacks, etc., shall be as prescribed by the Planning Board in consideration of the uses, operations and facilities proposed and shall be incorporated in the site plan. In any case, the height of any building shall not exceed thirty-six (36') feet (10.97 m), and the minimum area of any tract to be developed shall be 100,000 square feet (9290 sq. m). No building shall

serve to occupy an area larger than twenty-five (25%) percent of the lot size, nor shall any parking area, adequate for the use of the building (see Section 12), cover an area greater than twenty-five (25%) percent of the lot size. Notwithstanding the foregoing, Solar Photovoltaic facilities shall be governed under Section 25. **[Amended October 15, 2019]**

See Section 25 of this bylaw for additional requirements.

SECTION 11. DEVELOPMENT RULES AND REGULATIONS FOR ALL DISTRICTS. All development in the Town of Dunstable shall comply in respect to dimensional characteristics with the maximum or minimum requirements provided herein.

11.1. See chart.

11.1. DIMENSIONAL REQUIREMENTS

DISTRICT	MAXIMUM HEIGHT OF BUILDINGS	MINIMUM LOT AREA	MINIMUM FRONTAGE	MINIMUM SETBACKS		
				FRONT YARD	SIDE YARD	BACK YARD
R-1	36 ft. (9.84 m)	87,120 sq. ft.* (8093.7 sq. m)	200 ft. (60.96 m)	30 ft. (9.14 m)	30 ft.** (9.14 m)	30 ft.** (9.14 m)
R-1a	36 ft.	see § 6a.6.	------	------	------	------
R-2	36 ft.	87,120 sq. ft.* plus: 20,000 sq. ft. for 2nd & 3rd unit plus: 15,000 sq. ft. for each additional unit	200 ft.	30 ft.	30 ft.**	30 ft.**
B-1	30 ft.	Residential uses: as provided in R-1 and R-2 Districts B-1 uses: 43,560 sq. ft. (4046.85 sq. m)	Residential: 200 ft. B-1 uses: 150 ft. (45.72 m)	Residential: 30 ft.	Residential: 30 ft.**	Residential 30 ft.**
B-2	30 ft.	Residential uses: as provided in R-1 and R-2 Districts B-1 uses: 43,560 sq. ft. B-2 uses: see § 9.3.2.	Residential: 200 ft. B-1 uses: 150 ft. B-2 uses: see § 9.3.2.	Residential: 30 ft.	Residential: 30 ft.**	Residential 30 ft.**
B-3	30 ft.	B-1: 43,560 sq. ft. B-2: see § 9.3.2. B-3: see § 10.3.	B-1: 150 ft. B-1: § 9.3.2. B-3: Per site plan	Per site plan	Per site plan	Per site plan

* See in addition, § 6.3. (a)

** Accessory buildings: 20 ft.

11.2. Height.

11.2.1. Height shall be measured as the vertical distance from the average ground elevation around the exterior walls of the structure to the highest point of the top story in the case of flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof, provided that the ridge of a pitched roof shall not be higher than one hundred thirty (130%) percent of the stipulated height for the district.

11.2.2. In determining the height of a building, any floor level shall be counted as a story if it is to be used in part for sleeping rooms, or if it is higher than three (3') feet below the average ground level around the exterior walls of the structure. Limitations of height relative to buildings shall not apply to radio and television towers, nor to chimneys, ventilators, skylights, spires, tanks, antennas, solar panels, or other features of such building usually carried above roofs; provided that in a residential district such features are in no way used for living purposes; and provided further that in no case shall the height of any such feature be greater than the distance between its base and any lot boundary.

11.3. Area. Frontage - Yard Requirements.

11.3.1. In computing the area of any lot, no part of a public road or way, or other way used in the manner thereof, provided that this exclusion shall not include driveways, and no part of a pond or stream shall be included. In addition, at least forty thousand (40,000) contiguous square feet of every lot laid out for any development purpose shall be land exclusive of wetland area subject to the protection under either the Dunstable General Wetlands By-Law or Massachusetts General Laws, Chapter 131, Section 40, (the "Wetlands Protection Act"). In addition, each lot shall be capable of containing a 150 foot diameter circle within which there is not wetland subject to protection under the Dunstable General Wetlands By—Law or Massachusetts General Law, Chapter 131, Section 40, (the "Wetlands Protection Act"), and within which any principal building shall be located.

11.3.2. It is the intent of this bylaw to prohibit the use of long, narrow strands of land not part of the substantial body of a lot as a means for satisfying minimum area requirements. Therefore, when any portion of a lot is defined by parallel lines, or irregular lines that generally oppose one another, such that the mean distance between points on the lines is less than fifty (50') feet, the land lying within such lines shall be excluded in the computation of minimum lot area; furthermore, in the event that such sections of lot lines connect separate portions of a lot in a dumbbell configuration, the smaller of the connected sections shall also be excluded; provided that these exclusions shall not be applicable to lots on which the aggregate linear distance along such sections of width less than fifty (50') is less than one hundred fifty (150') feet. This subsection is subject to the additional provisions of subsection 6.3.(a).

11.3.3. Frontage shall be measured along the street line, connecting points of intersection of the side lot lines with the street line, and the distance between said lot lines shall not be less than the minimum frontage requirement, as defined elsewhere in this section, between the street line and the principle building on the lot.

11.3.4. A lot having frontage on two streets which do not intersect shall have two (2) front yards, each of which shall comply with the requirements of this bylaw, but need meet the minimum frontage requirement only with respect to one of the streets. A corner lot having frontage at the junction or intersection of two streets must have the minimum frontage on at least one of the streets, and arcs constituting flared turnouts at said junctions or intersections shall not be counted in computing such frontage; such lots shall be deemed to have two (2) front yards, each of which shall comply with the requirement of this bylaw.

11.3.5. In the event of an irregularly shaped lot and a question as to the identification of the appropriate side lot lines for the foregoing measurements, the matter shall be decided by the Building Inspector, in the first instance, who may consult the advice of the Planning Board in any instance at his discretion.

11.3.6. Front yards shall be measured from the street side line to the nearest point of the front wall of any dwelling or any structure, provided that nothing shall prevent the projection of uncovered steps, cornices, window sills and other such incidental ornamental features, nor the construction of walls or fences which do not interfere with vision at the intersection of two or more streets.

11.3.7. Side and rear yards shall be measured, in cases of residential premises, from the nearest part of any dwelling, and in other cases from the nearest part of the main non-residential structure, to each side lot line and to the rear lot line. Where yard requirements apply to accessory buildings, measurement shall be from the nearest part of any such building.

11.4. Lot Coverage. The total area of the enclosed space in all buildings on any lot shall not exceed twenty-five (25%) percent of the area of the lot.

11.5. Accessory Buildings. Accessory buildings shall not be located closer to the street line than principal buildings.

11.6. Subdivision Phasing. In order to encourage a steady pace of residential development, provide long-term support to the local building industry, stabilize property values and facilitate adequate provision of public services to individual developments and the Town in general, the following regulations shall apply to development upon lots created in accordance with the Massachusetts Subdivision Control Law, as amended.

11.6.1. Applicability. The following regulations shall apply to all subdivisions of land into more than ten (10) lots in any twelve (12) month period. They shall not apply to divisions of land pursuant to Section 81P of the Act, pertaining to so-called "Approval-Not-Required" plans.

11.6.2. Building Limitations. Within any approved subdivision, no more than ten (10) lots or twenty (20%) percent of the total number of lots within the approved subdivision, whichever is greater, may be built upon for residential purposes in any twelve (12) month period commencing on the date of final approval of such subdivision. Any lot existing at the lime of adoption of this Section 11.6. shall be considered as a single unit for the purpose of this Section 11.6. and the subdivision of such a lot by two or more definitive subdivision plans shall be considered as a single subdivision plan for the purposes of this Section 11.6.

11.6.3. Exemptions. The provisions of this Section 11.6. shall not apply to, nor limit in any way, the granting of building or occupancy permits required for enlargement, restoration or reconstruction of dwellings existing on lots as of the effective date of this Section 11.6.

11.7. Backland Lot Requirement. Notwithstanding anything to the contrary in the preceding subsections 11.1. DIMENSIONAL REQUIREMENTS and 11.3., AREA, FRONTAGE AND YARD REQUIREMENTS, land in any district may be developed and used for residential purposes as one or more Backland Lots by special permit of the Planning Board authorizing same and by the recording of a plan defining such lot or lots endorsed by the Planning Board in accordance with the Subdivision Control Law, including a so-called Approval Not Required plan pursuant to Chapter 41 of the Massachusetts General Laws, Section 81P, as amended. Such plan shall include the statement, "Lot _____ is a Backland Lot; building is permitted only in accordance with a Special Permit issued by the Planning Board pursuant to Section 11.7. of the Zoning Bylaw of the Town of Dunstable."

Issuance of any such Special Permit shall be subject to the following provisions:

1. Each such lot must meet the following criteria:

(a) A minimum of street frontage on a public way of forty (40) feet

(b) A minimum lot width of forty (40) feet between the public way and the principal building on the lot

(c) A radius of at least eighty (80) feet on the centerline of that portion of the lot having reduced width or frontage under this section, from the point of contact with the road and the location of the principal building on the lot

(d) The minimum lot size shall be five (5) acres, of which at least three contiguous acres shall be free of land unsuitable for development as defined in Section 20.

(e) Setback minimum of two hundred (200) feet from the public way sideline and fifty (50) feet from any lot line.

(f) No more than two (2) backland lots with contiguous frontage will be allowed.

(g) No such reduced frontage lot shall be allowed on a cul-de-sac roadway.

(h) In the calculation of minimum lot size, with the exception of the proposed driveway, there shall not be included any land which would be excludable as provided in section 11.3.2.

2. In addition to the foregoing requirements, the Planning Board may impose as a condition of any such Special Permit further requirements to facilitate safe and convenient access to the backland lot and lots in the vicinity thereof, including the following:

(a) Shared or common driveways in order to limit the frequency or density of driveway openings in any given stretch of roadway. Any such driveway shall be contained entirely within the boundaries of the lots served by it, and no more than three lots may be served by one driveway unless the applicant can demonstrate to the Planning Board that additional connection can be made to such driveway without detriment to the needs of safe, suitable and convenient access. The Board may require a shared driveway maintenance agreement. All shared or common driveways shall conform to the Planning Board's Rules and Regulations Governing the Subdivision of Land related to common driveways.

(b) Provisions relative to driveways serving backland lots for maximum gradient of ten (10%) percent; turnaround/pulloff area within the driveway length to serve emergency and other vehicles; manner of surfacing where the driveway connects to road or public way. These provisions may apply to shared or single driveways.

No building permit shall be issued unless the lot complies with all provisions of this section and any Special Permit issued thereunder. Subject to the foregoing provisions Backland lots shall comply with other provisions of the Dunstable Zoning Bylaw.

11.8. <u>Growth Rate Limitation</u>. The rate of development in Dunstable should not exceed the ability of the Town to provide necessary schools, roads, police, fire protection, water and other municipal services. The purpose of controlling the rate of residential development is to ensure that Dunstable is able to provide the necessary municipal infrastructure and services needed to protect and promote public health, safety and welfare while maintaining a steady growth and avoiding wide variations in the rate of development.

11.8.1 Applicability.

The rate of development established hereunder shall apply to the issuance of all building permits for construction of new dwelling units on lots created after May 14, 2001. This Subsection 11.8. of the Zoning Bylaw shall lapse at midnight on Monday, May 10, 2021, unless the Town shall sooner vote to extend its provisions at a Special or Annual Town meeting following notice and hearing duly carried out according to Chapter 40A of the General Laws, as amended. In the event of any such vote, the Planning Board shall report to any such Town Meeting

regarding the effectiveness of the Growth Rate Limitation provisions of this bylaw and regarding the need, if any, to continue and/or amend such provisions. [Amended ATM 5/13/13 from Monday, May 9, 2021, to Monday, May 10, 2021. Approved by the Attorney General September 13, 2013]

Nothing in this Bylaw shall be deemed to alter any requirement that building permit applications be referred to the necessary Boards and/or Departments for review or approval.

11.8.2. <u>General</u>

a) Unless exempted by Section 11.8.3. (below), building permits shall not be issued authorizing construction of more than forty-eight (48) dwelling units in any twenty-four (24) month period, with the first such period beginning with the effective date of this bylaw.

b) No more than twenty-four (24) permits in any twenty-four (24) month period may be issued for Approval Not Required (ANR) lots, and no more than twenty-four (24) permits in any twenty4our (24) month period may be issued for dwelling units in a subdivision, subject to the exemption provisions of Section 11.8.3.

c) 'Applicant' within the meaning of this section shall mean the owner, beneficial owner, or person/entity in lawful control of ownership of the premises which are the subject of an application~ without regard to 'straws' or other forms of nominal ownership.

d) No applicant shall be issued more than seven *(7)* building permits for new dwelling units on lots within the scope of this Section in any twelve (12) month period, regardless whether the permits pertain to subdivision lots, ANR lots, or *any* other lots.

e) Further in limitation, no more than five (5) building permits shall be issued in any one subdivision for new dwelling units per year regardless of the identity of the applicant. The limitation imposed under this § shall be in addition to and independent of any limitation arising out of Section 11.6.2.

f) In the case of any lot created after the effective date of this Section by a process involving neither an ANR plan nor a subdivision plan, such lot shall be treated under the provisions hereof as though it were an ANR lot and shall be counted towards the maximum complement of ANR lots.

11.8.3. <u>Exemptions.</u> Building Permits for the following types of dwelling units are exempt from the Growth Rate Limitation provisions of this Bylaw:

a) Dwelling units created under any statute or statutory program, the provisions of which, including any regulations duly adopted thereunder,

specify a purpose of assisting or fostering the construction of low or moderate income housing.

b) Any lot created prior to May 14, 2001, by Special Permit, subdivision plan, ANR plan, or other lawful process.

c) Any lot created in any lawful manner which has an area of one hundred percent (100%) over the required minimum excluding Land Unsuitable for Development as defined in Section 20.

d) Any lot created in an Open Space Development, Section 6.6. of this Bylaw and pertinent subsections, where the open space is at least one hundred percent (100%) over the required minimum excluding Land Unsuitable for Development as defined in Section 20.

11.8.4 Procedures. The procedure for establishing priority in the issuance of building permits shall be as follows:

a) Initial priority will be established on a 'first come, first served' basis by the submittal of a complete application for a building permit to the Building Inspector in the manner authorized by law.

b) The Building Inspector will assign consecutive numbers (RD Numbers) to each application for building permits as each is received and time stamped at the office of the Building Inspector.

c) Building permit application packages that are incomplete or rejected for any valid reason will be returned to the applicant, and that application will be deemed to have lost its priority position. Such applicant may re-submit a corrected or amended application and receive the next available RD Number in the manner provided herein.

d) For purposes of calculating numbers of building permits issued within applicable time frames under Section 11.8.2., the date of issuance of any permit shall be deemed to be the date of receipt of the properly completed application by the Building Inspector.

e) Building permits issued, but subsequently abandoned under applicable laws, rules or regulations shall be deemed lapsed and shall not be counted towards the forty-eight (48) new dwelling units allotted under Section 11.8.2.; and the lot for which the permit was issued shall lose its priority position. Building permits for which an extension has been duly granted pursuant to the State Building Code, or other applicable law, rule or regulation, shall retain their priority position. Lots subject to the Growth Rate Limitation section of this bylaw, for which a building permit formerly issued has lapsed, may be the subject of the reapplication provided all of the requirements and provisions of the bylaw are met.

SECTION 12. PARKING AND LOADING AREAS.

12.1. Purpose. It is the purpose of this section to provide that land use for arrival, departure, parking or storage of motor vehicles shall be designed in such a way that all users shall have sufficient parking and maneuvering spaces and storage spaces to meet their needs.

12.2. Regulations and Restrictions.

12.2.1. General Provisions. No permit or special permit shall be issued, including a permit issued under a variance, for any use or construction, authorized under this bylaw, for which a site plan is required to be filed, unless sufficient provision is made for off-street parking, loading, or storage of vehicles, the same to be incorporated in the site plan and in accordance with this section and with rules and regulations of the site plan authority relative to parking. Information on the site plan in this connection shall include but not be limited to the following:

(a) the quantity, location and dimensions of all driveways, maneuvering spaces and aisles, parking spaces, storage areas, drainage facilities and landscaping;

(b) the location, size and type of materials for surface paving, curbing or wheel stops, trees, screening and lighting; -

(c) the location of all buildings and lot lines from which the parking lot must be set back.

12.2.2. Required Parking. In all districts, all uses, structures and facilities shall provide for parking, loading or the storage of vehicles according to the following ratios, unless any applicant can demonstrate in clear and convincing manner to the site plan authority that owing to circumstances particularly affecting the subject property or project, the reasonable purposes to be served under this section can be satisfied alternatively:

(a) Dwellings: One (1) parking space for each dwelling unit therein, plus sufficient parking space provided to permit off-street parking either by employees or visitors.

(b) Places of public assembly: One (1) parking space for each three (3) seats therein.

(c) Schools: One (1) parking space for each classroom therein, plus one (1) space for each two (2) employees or staff members other than teachers; and, in addition to the above, where an auditorium is provided, one (1) space for each three (3) seats therein.

(d) Hotels, motels and rooming houses: One (1) parking space for each room accommodation therein, and loading spaces for all delivery trucks or sanitary collection vehicles and two spaces for those persons principally resident therein. **[Amended May 13, 2019, Article 23]**

(e) Other service establishments and retail businesses: The minimum required parking and loading spaces, excluding driveways, for these establishments shall be in proportion to at least one (1) parking space for each one hundred forty (140) square feet or fraction thereof of gross floor area, excluding basement storage area.

(f) Establishments permitted only in the B-3 District: One (1) parking space for each person employed on the largest shift, plus one (1) space for each company-owned or operated vehicle, plus spaces for customers' vehicles as appropriate, and loading space for all delivery or shipping trucks.

(g) Other uses requiring off-street parking and loading space: Spaces in accordance with anticipated needs as determined by the site plan authority or as listed otherwise in this Bylaw. **[Amended May 13, 2019]**

SECTION 13. SIGNS.

13.1. In Residence Districts, the following exterior signs, and no others excepting temporary signs as provided in Subsection 13.6., are permitted:

(a) In the case of a permitted or authorized use other than a dwelling or private use accessory thereto; or in the case of the sale or lease of a dwelling or any premises; or in the case of a home occupation permitted under subsection 6.1.(g) of this bylaw: two (2) signs, each not over twenty-four (24") inches by thirty-six (36") inches (60.96 cm X 91.44 cm) pertaining to such use, sale or lease.

(b) Historic signs and others pertaining to the identity of the occupants, the name of the premises, or other information pertinent to the residential character of the premises.

(c) A sign indicating the street number of the premises, in compliance with the Dunstable Building Numbers Bylaw.

13.2. In any Business District, the following exterior signs, and no others, excepting temporary signs as provided in Subsection 13.6., are permitted, provided they pertain to the business conducted on the premises:

(a) A sign displayed on the wall of a building, provided that no such sign shall exceed twenty (20) square feet in area or extend beyond the building lines.

(b) One sign shall be permitted for each separate and distinct establishment on any premises, or for each two hundred (200') linear feet (60.96 m) of lot frontage •on the principal street, whichever allows the greater number of signs, provided that no such sign exceeds twenty (20) square feet in area.

13.3. Moving signs are prohibited in all districts, whether moved by mechanical means or natural forces such as wind or sun. This section shall not be construed to prohibit hanging signs, provided that they can remain stationary under ordinary weather conditions.

13.4. In all districts, no exterior signs shall be illuminated except by reflected white light emanating from a source external to the sign proper (but which may be attached thereto) • The source of light shall be steady, and shall be shielded from direct view at normal eye level from streets and from adjacent premises.

13.5. Nothing in this section shall be construed to prohibit, nor shall the foregoing regulations pertain to, legal notices, signs placed or required by governmental

bodies or applicable law, or signs directing pedestrian or vehicular traffic on private property, provided that the same do not bear advertising or promotional matter.

13.6. In all districts, notwithstanding the foregoing provisions, temporary signs may be erected and displayed provided they meet the following requirements: **[Added May 9, 2005]**

(a) They may only be employed for temporary purposes in order to give notice of special or community events, local occasional sales of goods of a non-recurring nature such as yard sales, or occasional events of a similar nature.

(b) Temporary signs on private property shall require the permission of the owner.

(c) Temporary signs within public ways shall not be attached to trees, utility poles or fences, nor shall they obstruct necessary sight lines .

(d) Signs noticing specific events may be displayed no earlier than twenty-one days prior to the commencement of the event and shall be removed forthwith following the event, not to exceed five calendar days.

(e) Signs such as banner signs erected over public ways in the town shall first be approved as to content upon application to the Board of Selectmen (which approval shall not be unreasonably refused), and shall be subject to further procedures through the Board of Road Commissioners pursuant to Massachusetts General Laws, Chapter 85, Section 8, as amended.

(f) Signs pertaining to public elections shall be allowed provided that none shall be erected earlier than sixty (60) days prior to the election and each shall be removed forthwith following the election, not to exceed five calendar days.

SECTION 14. SITE PLANS.

14.1. For the purpose of administering the provisions of this bylaw, and to ensure the most advantageous use of all properties within the same district, and for the reasonable protection of the legitimate interests of adjoining property owners, no building permit shall be issued for any building, structure or use for which a site plan is required by this bylaw, until a site plan, prepared by a licensed professional engineer, has been submitted to and approved by the board or authority having jurisdiction of such permit or special permit (referred to elsewhere in this section as "the authority") See Section 15.1 Removal of Earth (amended 5/11/2015)

14.2. The provisions of this section shall govern the content of the site plan, unless the authority has adopted their own rules and regulations governing the submittal of site plans (added 5/11/2015). All site plans shall be submitted in triplicate, and shall be prepared in accordance with the rules and regulations of the authority governing site plans. Unless some particular provision is waived by the authority because of the minimal scale of the development, site plans shall be at a scale of 1" = 40', (2.54 cm = 12 m), and shall show, as a minimum, all existing and proposed buildings, structures, existing and proposed grades, parking areas and spaces as required under Section 12 of this bylaw, driveway openings, service areas, lighting, signs, refuse and other waste disposal, and facilities for surface water drainage, all proposed landscape features (such as fences, walks, planting areas, type, size and location of planting materials, methods to be employed for screening) and any existing building or other structure located at adjoining property within one hundred (100') feet (30.48 m) of the lot boundary lines of the development site, and any other information requested by the authority; provided that in any R-l development, the site plan may show the proposed building sites instead of the proposed buildings, in cases where there is only one (1) dwelling unit per lot.

14.3. The rules and regulations adopted under this section shall provide for procedures relative to notice and hearing, which shall be in substance similar to those for a definitive subdivision plan, and they shall be applicable in all respects to the review of a site plan under this section. Once approved, site plans may be modified with the approval of the authority, upon hearing with appropriate notice, unless the authority deems such modification to be insubstantial.

14.4. The rules and regulations adopted under this section shall also provide for reasonable development standards for parking areas in order to carry out the purposes of Section 12 of this bylaw, as well as the larger purposes of the bylaw generally. These standards may include dimensional requirements for spaces, aisles, maneuvering areas, access and egress; construction standards; landscaping; and other matters ordered to said purposes.

14.5. In approving or disapproving a site plan, the authority shall, as a minimum, take into consideration the following matters:

(a) Preservation of Landscape. The landscape shall be preserved in its natural state,

insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be such as not to be unharmonious with or detrimental to the neighborhood and the general appearance of the surrounding developed areas.

(b) Regulation of Development. Proposed development shall be related harmoniously to the terrain and to the use, scale and proportions of existing and proposed buildings in the vicinity that have functional or visual relationship to the proposed buildings.

(c) Interrelationship of Buildings. The proposed buildings shall be related harmoniously to each other with adequate light, air, circulation, privacy, and separation between buildings where appropriate. Permanent bounds showing property lines shall be installed [Added 5/11/2015).

(d) Open Space. Open space shall be located and designed with due regard to its visibility for persons passing the site or overlooking it from nearby properties, in order to add to the visual amenities of the vicinity.

(e) Circulation. With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls and mass transit facilities), width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities, and arrangements of parking areas that are safe and Convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties. To avoid confusion, Planning Board reserves the right to approve/disapprove street names [Added 5/11/2015)

(f) Surface Water Drainage. Special attention shall be given to proper site surface drainage, so that removal of surface waters will not adversely affect neighboring properties or any public storm drainage system. Where appropriate, storm water shall be removed from all roofs, canopies and paved areas, and provision shall be made for its transport away in an underground drainage system where required. Surface water in all paved areas shall be collected at intervals, so that it will not obstruct the flow of vehicular or pedestrian traffic and will not create puddles in the paved areas.

(g) Utility Service. Electric, telephone, cable TV and other such lines and equipment shall be located underground, unless the Authority specifically finds in writing that due to the particular Circumstances of the proposed development, the public interest and convenience demand that this requirement be waived. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated.

(h) Signs. The size, location, design, color, texture, lighting and materials of all signs shall not detract from the use and enjoyment of proposed buildings and Structures

and surrounding properties.

(i) Special Features. Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures and similar accessory areas and structures shall be subject to such setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous or objectionable in regard to the existing or contemplated environment and surrounding properties.

(j) Screening. Screening consisting of a solid fence, wall, evergreen planting or other installation which in the discretion of the Authority is suitable, not less than six (6') feet in height unless specified otherwise by the Authority, shall be provided, erected and maintained where necessary in the discretion of the Authority in order to shield adjoining properties from business and light industrial uses of land.

(k) Compliance with the Bylaw. Where specific standards are established for parking and loading spaces, lot size, yards, frontage, heights and coverage of buildings, the site plan shall comply with such standards, as well as all other provisions of this bylaw.

SECTION 15. GENERAL REGULATIONS

15.1. Removal of Earth.

15.1.1. No earth shall be removed from any parcel of land within the Town unless such removal (a) will constitute an exempt operation as hereinafter provided, or (b) is done pursuant to a special permit therefor issued by the Board of Selectmen.

15.1.2. The removal of earth in any of the following circumstances shall be an exempt operation:

(a) The removal of not more than fifteen (15) cubic yards of earth in the aggregate in any year from one parcel of land; or of not more than 150 cubic yards of earth in the aggregate in connection with a building permit or subsurface septic system permit duly issued and on file for said parcel of land;

(b) The transfer of material from one section of a parcel of land to another section of the same parcel, or to an adjacent parcel in the same ownership, incidental to the grading of such land or agricultural or similar uses, provided that this section shall not authorize the removal of earth material to sections of any such parcel which are outside the confines of the Town as part of an enterprise in the nature of a commercial earth removal operation;

(c) The removal of material from land in use by the Town;

15.1.3. Nothing in the preceding subsection shall be construed to supersede or waive the requirements of any other law, bylaw or ordinance of the Town applicable by its terms to any activity which includes earth removal.

15.1.4. The grant of a special permit for earth removal shall be subject to the following limitations:

(a) No permit shall be granted for operations to be carried on in the R-l or R-2 district(s), excepting only in such districts the removal of material necessarily excavated in connection with the lawful construction of a building or buildings and/or accessory uses or structures, and/or a roadway or roadways where the aggregate removal is less than five thousand (5,000) cubic yards and is, in the case of a subdivision, in compliance with the requirements of a subdivision plan approved by the Planning Board. Special permits granted in connection with excavation in an approved subdivision may include conditions providing for control or supervision by the Planning Board, and may incorporate directly appropriate provisions from the Planning Board's rules and regulations adopted under the Subdivision Control Law.

(b) No permit shall authorize the removal of loam, peat, organically enriched topsoils, or soils occurring naturally in A and B Soil Horizons as classified by the United States Department of Agriculture;

(c) No permit shall authorize the crushing or processing of rock, or commercial blasting;

(d) No permit shall authorize the removal of more than five thousand (5,000) cubic yards of earth from any parcel in any year.

15.1.5. The grant of special permits and the process of applying therefor shall be subject to the reasonable regulations of the Board as they shall be adopted and from time to time amended, and which may provide among other things for the following as safeguards to the neighborhood or the Town:

(a) method of removal;

(b) type and location of temporary structures;

(c) hours of operation;

(d) rules for transporting the material through the Town;

(e) area and depth of excavation;

(f) distance of excavation to street and lot lines;

(g) steepness of slopes excavated;

(h) re-establishment of ground levels and grades;

(i) provision for temporary and permanent drainage;

(j) disposition of boulders and tree stumps;

(k) replacement of loam over the area of removal;

(l) planting of the area to suitable cover, including trees;

(m) the duration of any permit.

15.1.6. No permit shall be granted hereunder by the Board of Selectmen unless the Board shall find that operations conducted under such permit, subject to the conditions imposed by the permit, will not be contrary to the best interests of the Town. For this purpose, an operation shall be considered contrary to the best interests of the Town which (1) will be injurious or dangerous to the public health or safety, (2) will produce noise, dust, or other effects observable at the lot lines in amounts seriously objectionable or detrimental to the normal use of the adjacent property or public ways, (3) will result in transportation of materials on ways giving access

to the land in question which will cause traffic congestion or hazards, (4) will result in transportation which will cause undue injury to the roadway surfaces, (5) will result in change in topography and cover which will be disadvantageous to the most appropriate use of the land on which the operation is conducted, or (6) will have a material adverse effect on the health or safety of persons living in the neighborhood or on the-use or amenities of adjacent land.

15.1.7. The Board of Selectmen may, in its discretion in granting any permit, require a bond or other security to insure compliance with the conditions stipulated in the permit, in such amount as the Board deems sufficient.

15.1.8. The members of the Board of Selectmen or their agents may enter upon the premises covered by any permit from time to time to inspect and insure proper conduct of the work. Upon petition of the owner of the premises, permit holder or abutters or upon its own initiative, the Board of Selectmen may hold a new hearing and reissue or modify the permit, or order the revocation of or suspension of a permit if the conditions provided in the permit are not complied with; but neither the permit holder in such case nor any surety on a bond furnished to secure compliance with the conditions of the permit shall be relieved of his obligations thereunder.

15.1.9. Except as provided in Section 15.1.2.(d), no approval of a subdivision plan by the Planning Board shall be construed as authorizing the removal of earth material from any parcel of land except pursuant to the provisions of this Section.

15.2. <u>Floodplain District</u> [Amended ATM May 10, 2010]

15.2.1. The Floodplain District is herein established as an overlay district effective in all districts. The uses permitted in the underlying district are allowed provided that they meet the following additional requirements. **[Amended May 13, 2019, Article 23]**

15.2.2. <u>Development Regulations</u>. The following requirements apply in the Floodplain District:

(a) The exact boundaries of the District shall be defined and determined with reference to the 100-year base flood elevations shown on the FIRMs and further defined by the Middlesex County Flood Insurance Study (FIS) report dated and effective June 4, 2010, which FIRMs and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Inspector.

(b) All development in the district, including structural and non-structural activities, whether permitted by right or by special permit must be in compliance with Chapter 131, Section 40 of the Massachusetts General Laws ("The Wetlands Protection Act") and with the following:

(i) Sections of the Massachusetts State Building Code which address floodplain and coastal high hazard areas (as of the effective date of this section, 780 CMR 120.G, "Flood Resistant Construction and Construction in Coastal Dunes");

(ii) Wetlands Protection Regulations, Department of Environmental Protection (DEP) (as of the effective date of this section, 310 CMR 10.00);

(iii) Inland Wetlands Restriction, DEP (as of the effective date of this section, 310 CMR 13.00);

(iv) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (as of the effective date of this section, 310 CMR 15, Title 5);

(v) The Dunstable Wetlands Protection Bylaw.

Any variances from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state regulations.

(c) Base flood elevation data is required for subdivision proposals or other developments greater than 5 acres within unnumbered A zones. In Zones AE, along watercourses that have a regulatory floodway designated on the Middlesex County FIRMs, encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(d) No building or structure shall be erected in, nor shall fill be placed within the 100-year floodplain as defined in Section 15.2.1. of this Bylaw, provided that, upon the issuance of a Special Permit by the Planning Board, placement of fill and related activity may be allowed subject to the following requirements:

(i) The Board finds that such placement of fill is in all regards in compliance with the Commonwealth of Massachusetts Wetlands Protection Act as in force and effect and the Town of Dunstable Wetlands Protection Bylaw;

(ii) The proposed use shall comply in all respects with the provisions of the underlying district;

(iii) Within ten (10) days of receipt of the application, the Board shall transmit one copy of the proposal plan to each of the Conservation Commission, the Board of Health and the Building Inspector; final action shall not be taken until reports have been received from the above Boards or officials, or until thirty five (35) days have elapsed without receipt thereof;

(iv) Certification by a registered professional engineer is provided by the applicant, demonstrating that such filling shall not result in any increase in flood levels during the occurrence of the one-hundred-year flood; no

such filling nor any new construction substantial improvement or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed filling and development when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood at any point in the Town of Dunstable;

(v) The Board finds that all other requirements of this Section 15.2. are met;

(vi) The Board may specify such additional requirements and conditions as it finds necessary to protect the health, safety and welfare of the public and the occupants of the proposed fill area.

(e) Construction of ways, public or private, and whether or not subject to Subdivision Control, shall be reviewed to determine whether such development will be reasonably safe from flooding. If any part of a subdivision proposal or other new development involving a way is located within the Floodplain District established under this Section, it shall be designed to assure that:

(i) the proposal is designed consistent with the need to minimize flood damage; and

(ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and

(iii) adequate drainage systems shall be provided to reduce exposure to flood hazards; and

(iv) all other requirements of this Section 15.2. are met.

The requirements of this subsection shall be enforced by the Planning Board in collaboration with the Building Inspector, as to subdivisions, or by the Building Inspector, as to other development.

(f) All proposed water and sewer facilities to be located in the Floodplain District established under this Section shall be reviewed by the Board of Health for the following determination and certification:

(i) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system; and

(ii) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

15.3. **Uses Accessory to Scientific Endeavor.** Uses, whether or not on the same parcel as activities permitted as a matter of right, accessory to activities permitted as a matter of right, which activities are necessary in connection with scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided said Board finds that the proposed accessory use does not substantially derogate from the public good. Nothing in this subsection 15.3. shall be construed to enlarge the availability of principal activities permitted in any zoning district of the Town not otherwise provided in this bylaw.

SECTION 16. ADMINISTRATION. The provisions of this bylaw shall be administered and enforced by the Building Inspector, in accordance with the provisions of Massachusetts General Laws, Chapter 40A.

16.1. Building Permits:

(a) No application to the Building Inspector for a building permit shall be approved unless the plans, specifications and intended use set forth in said application conform in all respects with this bylaw, or unless the applicant is otherwise entitled to such permit under applicable law.

(b) Any application for a permit for a new or altered use of land or structure, or for a building permit for the construction, reconstruction, alteration or relocation of a building, shall be accompanied by plans and specifications with specific and accurate references to the subject lot as recorded in the Registry of Deeds, or as otherwise shown or defined of record, in cases where a deed reference is inapplicable, and showing the actual shape and dimensions of the lot to be built upon or to be assigned to the proposed use, the names of all present owners of record, the exact location of all buildings or structures already on the lot, all abutting streets, the lines within which all buildings or structures are to be erected, and such other information as may be necessary to provide for the administration of this bylaw.

(c) Two (2) copies of the plan of the lot shall be filed, and one (1) copy referred by the Building Inspector to the Planning Board.

(d) A record of all such applications, plans, building permits and certificates of occupancy shall be kept on file by the Building Inspector, together with a record of non—conforming uses and buildings or structures.

16.2. Certificate of Occupancy. Prior to occupancy of any new structure, or any structure that has been renovated, repaired or restored after becoming uninhabitable for any reason, a certificate of occupancy from the Building Inspector shall be required. No certificate of occupancy shall be signed or issued by the Building Inspector unless the premises, building or structure, and its uses and accessory uses, comply in all respects with this bylaw or any superseding applicable law.

16.3. Violations and Penalty. Whoever violates any provision of this bylaw shall be punished by a fine not exceeding Three Hundred ($300.00) Dollars for each offense. Each day or portion thereof that such violation continues shall constitute a separate offense.

SECTION 17. BOARD OF APPEALS.

17.1. Members.

(a) A Board of Appeals is hereby established in accordance with Chapter 40A of the Massachusetts General Laws, as the same may be amended. Said board shall consist of five (5) members, each appointed by the Board of Selectmen. In order to provide for a staggering of the terms of office of the members of the Board, the initial Board shall consist of members whose terms shall be for one (1), two (2), three (3), four (4) and five (5) years, respectively, with the term of any subsequent appointee to be for five (5) years. In addition, there shall be at least two (2), but no more than three (3) associate members, each appointed by the Board of Selectmen, their terms of office to be such that the term of one associate member shall expire each year. Any vacancy in a regular or associate position shall be filled as in an original appointment, for the remainder of the unexpired term.

(b) The Board of Appeals shall elect annually a Chairman from its own number and a Clerk. The Chairman, in addition to the powers granted to the Chairman under the rules adopted by the Board of Appeals, shall have the power to designate one or more associate members to sit on the Board of Appeals in case of absence, declination, conflict of interest or other inability to act on the part of any member or members thereof; or in the event of a vacancy, until said vacancy is filled in the manner provided in this section.

17.2. Powers of the Board.

(a) The Board of Appeals, which shall be the zoning board of appeals and which shall also be the Board of Appeal under the Building Laws, shall have all the powers of a board of appeals under Chapter 40A of the General Laws and as provided under this bylaw.

(b) The Board of Appeals shall adopt such rules governing its procedure and the conduct of its business and shall exercise such powers and duties as are consistent with Chapter 40A of the General Laws,, as may be from time to time amended. Said rules of procedure shall include provisions for submission of petitions in writing, for advertising and holding hearings, for keeping records of proceedings, for recording the vote of each member upon each question, for setting forth the reason or reasons for each decision, for notifying the parties in interest, including the Building Inspector and the Planning Board, as to each decision, and for filing decisions with the Town Clerk. Said rules may in addition provide for such other functions and procedures, including the granting of certain powers to the Chairman and Clerk, as shall suit the purposes of the Board.

(c) In addition to the generality of the sections of this bylaw regarding the powers of the Board of Appeals, it shall hear and decide such requests for special permits as are specifically committed to its jurisdiction hereinbefore. Before granting any special permit, the Board of Appeals shall determine that the use for which such

permit is requested is in harmony with the general purposes and intent of this bylaw, and that the proposed use is not detrimental or injurious to persons or property. In any case in which the Board of Appeals disagrees with the written advice of the Planning Board or the Conservation Commission, it shall State its reasons for so doing in writing.

(d) The Board of Appeals shall hear and decide requests for variance from the terms of this bylaw, in accordance with provisions of the Massachusetts General Laws, as they may be from time to time amended. Variances for use in any district shall not be granted.

(e) In granting any special permit under this bylaw, or variance from the provisions thereof, the board may impose, as a condition of its decision, such restrictions as to manner and duration of use as will in its opinion safeguard the legitimate use of the property in the neighborhood and the health and safety of the public, and conform to the intent and purpose of this bylaw, and such restrictions shall be stated in writing by the Board and made part of the permit, or variance as the case may be; but no variance shall be conditioned on the continued ownership by any owner of the land or structures to which the variance pertains.

Section 17D amended May, 2004. Approved by Attorney General July, 2004

SECTION 18. PROCEDURAL MATTERS.

18.1. All procedural matters arising under this bylaw, including amendments, administration, enforcement, interpretation, notice, and other matters, not specifically provided for herein, shall be governed by appropriate provisions of the Massachusetts General Laws relative to zoning or land use.

18.2. In the event that any board or authority shall fail to act on any application, appeal or petition, such that under applicable law, the application, appeal or petition is deemed approved, then the same shall be approved and granted, subject to the following requirements:

(a) The petitioner, after the expiration of the period or periods provided by law, shall file with the Town Clerk a copy of his petition, together with an affidavit stating the date of the public hearing or filing as the case may be, and the failure of the authority in question to render a decision or otherwise act as required by law within the required period.

(b) Upon receipt of the petition and affidavit, the Town Clerk shall forthwith give notice of the filing to those persons entitled to a notice of the decision under the applicable provisions of the Massachusetts General Laws. The filing of a petition and affidavit in the office of the Town Clerk shall be deemed the equivalent of the filing of a decision, for purposes of judicial appeals provided for under Chapter 40A, section 17 of the Massachusetts General Laws, as the same may be amended.

(c) If no appeal is taken within the required statutory period, then the Town Clerk shall furnish the petitioner with a certified copy of the petition and affidavit, together with a certificate that no appeal has been filed, all of which shall be recorded in the manner prescribed under Chapter 40A, section 11, as the same may be amended, in lieu of the documents required to be recorded under that section.

18.3. Special permits shall lapse within a period of eighteen (18) months from the grant thereof, plus such time as is required to pursue or await the determination of a judicial appeal under the General Laws, if a substantial use has not sooner commenced, except for good cause or, in the case of a permit for construction, if construction has not begun by such date, except for good cause.

18.4. The failure of any board or agency to which a petition for a special permit is referred for recommendation and/or a report to make such recommendation and/or the report within thirty-five (35) days of receipt by such board or agency of the petition shall be deemed lack of opposition thereto.

SECTION 19. VALIDITY AND CONFLICT OF LAWS.

Where any provision of this bylaw imposes a greater restriction upon the development or use of land or structures than is imposed by other bylaws, the provisions of this bylaw shall control. The invalidity of any section or provision of this bylaw shall not invalidate any other section or provision thereof.

SECTION 20. DEFINITIONS. In this bylaw, the following terms shall have the meanings described below:

20.1 Accessory Use or Structure. A use or structure on the same lot with, and of a nature customarily incidental and secondary to, the principal use or structure.

20.2. Attached Building. A building separated from another building on one or both sides either by a vertical party wall or walls or by a contiguous wall or walls, having no doors, or passageways through which persons, materials or light may pass.

20.3. A Bed and Breakfast Establishment is a single-family dwelling having a mixed use as a home for the residential owner or tenant and as an accessary use for guest(s) lodging on a short term basis. Meals provided shall be limited to the guest(s). **[Amended May 15, 2021 Article 17]** The home is to be the primary and legal residence of the owner or tenant. **[Amended May 13, 2019 Article 23]**

20.4. Boarding House. See Rooming House **[Amended May 15, 2021 Article 17]**

20.5. Building. A combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof' shall include any awning or any similar covering, whether or not permanent in nature.

20.6. (Reserved for "Cluster Development")

20.7. Cooking Facilities. Any facilities, including without limitation a hot plate or portable oven, which permit the occupant of a building to prepare or serve hot meals in the building on a regular basis.

20.8. Dwelling or Dwelling House. A building which is designed or occupied as a residence and contains one or more dwelling units, but not including a trailer or mobile home, however mounted.

20.9. Dwelling Unit. A portion of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a family or single housekeeping unit, with its own cooking, living, sanitary and sleeping facilities, but not including trailers or mobile homes, however mounted, or commercial accommodations offered for periodic occupancy.

20.10. Family. Any number of persons related to one another by blood, adoption, foster home placement, or marriage plus not more than two (2) additional persons, all residing together as a single, integral housekeeping unit, or where such persons are not related to one another by blood, adoption, foster home placement, or marriage, not more than three (3) persons residing together as a single, integral housekeeping unit.

20.11. Flood Plain District An area established as an overlay district as indicated on the Town of Dunstable Flood Insurance Rate Maps (FIRM) and the flood boundary and flood insurance maps developed by the Federal Emergency Management Agency (FEMA) and Federal Insurance Administration.

20.12. Frontage. A street providing frontage is defined as provided in subsection 20.19. Street, Road or Way

20.13. Land Unsuitable for Development. The following land shall be defined as land unsuitable for development:

a. Wetlands as defined in the Dunstable General Wetlands Bylaw and Chapter 131, Section 40A of the Massachusetts General Laws and the rules and regulations adopted thereunder, all as amended;
b. Land located within any Zone A as shown on the most recent FEMA Flood Insurance Rate Maps;

20.14. Lot. An area of land in uniform ownership with definite boundaries ascertainable by recorded deed or plan.

20.15. Medical Marijuana Treatment Center. Any enterprise or facility operating or intending to operate in a manner involving or implementing the various functions related to medical marijuana, as described and discussed in Chapter 369 of the Acts of 2012 of the Commonwealth of Massachusetts, wherein such an enterprise is defined as a not-for-profit entity, as defined by Massachusetts law only, registered by the Massachusetts Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana (as defined in said Chapter 369 of the Acts of 2012), products containing marijuana related supplies, or educational materials to qualifying patients or their personal caregivers." or take any action in relation thereto. **[Added 11/30/16].**

20.16. Off-grid system: A solar energy system that is not connected to an electric circuit served by an electric utility. **[Added ATM 5/8/17 Article 32]**

20.17. Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity. **[Added ATM 5/8/17 Article 32]**.

20.18. Public. The word "public" means the Town of Dunstable, Commonwealth of Massachusetts, United States Government or an agency thereof.

20.19. Rated Nameplate Capacity. The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC). (Added 5/13/13).

20.20. Recorded. The due recording in the Middlesex Northern District Registry of

Deeds, or, as to registered land, the due filing in the Middlesex Northern District Land Registration Office.

20.21. Rooming House. A dwelling house in which the person or Persons principally resident therein provide eating and/or sleeping accommodations on a weekly or monthly basis for not more than three (3) paying guests who are not provided with separate cooking facilities separate from the cooking facilities ordinarily used by the principal residents. **[Amended May 13, 2019 Art. 23]**

20.22. Sign. The word "sign" shall include any letter, word, symbol, drawing, picture, design, device, flag (except any flag authorized by law to designate a governmental unit), banner, pennant, article and object that advertises, promotes, calls attention to or indicates any premises, person or activity, whatever the nature of the material and manner of composition or construction, but excluding integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights.

20.23. Solar Access: The access of a solar energy system to direct sunlight. [Added ATM 5/8/17 Article 32]

20.24. Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy. [Added ATM 5/8/17 Article 32]

20.25. Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector. [Added ATM 5/8/17 Article 32]

20.26. Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating. [Added ATM 5/8/17 Article 32]

20.27. Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally-mounted to the ground and is not roof-mounted; may be of any size (small-, medium-, or large-scale). [Added ATM 5/8/17 Article 32]

20.28. Solar Energy System, Large: An Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater). [Added ATM 5/8/17 Article 32]

20.29. Solar Energy System, Medium: An Active Solar Energy System that occupies more than 1,750 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 10-250 kW DC). [Added ATM 5/8/17 Article 32]

20.30. 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). [Added ATM 5/8/17 Article 32]

20.31. Solar Energy System, Small: An Active Solar Energy System that occupies 1,750 square feet of surface area or less (equivalent to a rated nameplate capacity of about 10 kW DC or less). [Added ATM 5/8/17 Article 32]

20.32. Special Permit A use by special permit is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if

controlled as to number, area, location or relation to the neighborhood would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning district as special permits, if specific provision for such special permits is made in this zoning bylaw.

20.33. Street, Road or Way. An area of land dedicated, approved by the planning Board, or legally open for public travel under at least one of the following classifications:

(a) A public way duly laid out and accepted by the Town of Dunstable, the Middlesex County Commissioners, the Commonwealth of Massachusetts, or other governmental body with jurisdiction and competent authority in the matter, or a way which the Dunstable Town Clerk certifies is maintained by public authority and used as a public way excluding, however, limited access highway; or

(b) A way shown on a definitive plan approved and endorsed in accordance with the Subdivision Control Law; or

(c) A way in existence prior to said Subdivision Control Law having become effective in the Town of Dunstable, having, a minimum right-of way width of 40 feet, and a traveled way consisting of 16 feet of asphalt pavement a minimum of three inches thick over compacted, well draining gravel base with two feet wide shoulders of 1 ½ inch angular crushed stone six inches deep, to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

20.34. Structure. Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground. Among other things, structures include buildings, walls, fences, athletic courts, tents, antennae of all types, artificial pools. The term structure shall be construed to include the words “or portion thereof”.

20.35. Wetlands: Land regulated by or protected under G.L. c. 131, §. 40 and 40A; or The General Wetlands Bylaw of the Town of Dunstable, including temporary or intermittent manifestations thereof.

20.36. Wind Energy Conversion:

(a) Nacelle: The frame and housing at the top of the wind energy conversion facility tower that encloses the gearbox and generator and protects them from the weather.

(b) Rotor: The blades and hub of the wind energy conversion device that

rotates during energy conversion device operation.

(c) Small Scale Wind Energy Conversion Device: A wind energy conversion device that may be free-standing or mounted on a structure not exceeding 65 feet in height.

(d) Special Permit Granting Authority (SPGA): The Planning Board

(e) Large Scale Wind Energy Conversion Device: A wind energy conversion device that exceeds 65 feet in height.

(f) Wind Energy Conversion Device: A device that converts kinetic energy of the wind into electrical power. A wind energy conversion device typically consists of a rotor, nacelle and supporting tower.

(g) Wind Energy Conversion Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use. A wind energy conversion facility may consist of one or more wind energy conversion devices.

(h) Wind Energy Conversion Device Height: The distance measured from the natural grade to the highest point on the device during operation.

(i) Windmill: A device usually associated with agriculture, that converts kinetic energy of the wind into mechanical power, not electrical power. A windmill is not a wind energy conversion device per these definitions.

(j) Wind Monitoring or Meteorological ("test" or "met") Tower: A tower, whose period in existence shall not be greater than 18 months, used for supporting anemometer, wind vane, and other equipment to assess the wind resource at a predetermined height above the ground, erected as part of a wind-energy conversion feasibility process.

SECTION 21. Commercial Telecommunication Towers

A. Purpose: The purposes of this section include: minimizing adverse impacts of wireless communications facilities, satellite dishes and antennas; minimizing the overall number and height of such facilities to only what is essential, and promoting shared use of existing facilities to reduce the need for new facilities.

B. General Requirements:

1. No wireless communications facility, which shall include monopoles, satellite dish(es) over three (3) feet in diameter or antenna, shall be erected or installed except in compliance with the provisions of this Section. In all cases, a Special Permit is required from the Planning Board (the "Board"). Any proposed extension in the height, addition of cells, antenna, or panels, or construction of a new or replacement of a facility or revision to access shall be subject to a new application for a Special Permit. However, the phrase "wireless communications facility" shall not include private non-commercial towers, or other structures described in Section 6.1 (f) of this bylaw, nor shall it include private television antennae installed and used for residential dwellings.

2. Only free-standing monopoles, with associated antenna and/or panels are allowed as specified in Paragraph D. below. Lattice style towers and similar facilities requiring three or more legs and/or guy wires for support are not allowed unless the Board determines that based on specific findings of fact that a monopole is not suitable for the location and that the best interest of the Town will be served by the construction of a lattice style tower.

3. Wireless communications facilities shall be located in Tower Overlay Districts and shall be suitably screened from abutters and residential neighborhoods, and the public way.

4. Structures shall be removed within one (1) year of cessation of use. Certification demonstrating continuing compliance with the standards of the Federal Communications Commission, Federal Aviation Administration and the American national Standards Institute and required maintenance shall be filed with the Building Commissioner by the Special Permit holder if requested by the Building Commissioner.

5. The Board shall require the applicant to post a bond acceptable to the Town in an amount sufficient to pay the cost for the removal of the facility. The value of the bond will be adjusted every two years based on the construction cost index published by American City & County magazine.

C. Application Process: All applications for wireless communication facilities, antenna and satellite dishes shall be made and filed on the applicable application form in compliance with the Special Permit requirements of the Board.

1. In addition to the Special Permit Application and site plan submittal requirements the following items shall be submitted with the application for a Special Permit.

2. A color photograph or rendition of the proposed monopole or tower with its antenna and/or panels. A rendition shall also be prepared illustrating a view of the monopole, tower, dish, and antenna from the nearest street or streets with a visual impact analysis statement.

3. The following information prepared by one or more professional engineers:

   a description of the monopole and the technical, economic and other reasons for the proposed location, height and design;

   confirmation that the monopole complies with all applicable Federal and State standards;

   a description of the capacity of the monopole including the number and type of panels, antenna, and/or transmitter receivers that it can accommodate and the basis for these calculations.

4. If applicable, a written statement that the proposed facility complies with, or is exempt from applicable regulations administered by the Federal Aviation Administration (FAA), Federal Communication Commission (FCC), Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health.

D. Design Guidelines: The following guidelines shall be used when preparing plans for the siting and construction of all wireless communications facilities.

1. All monopoles shall be designed to be constructed at the minimum height necessary to accommodate the currently proposed and anticipated future use. The setback of a monopole from the property line of the lot on which it is located shall be at least equal to the height of the monopole and any antenna plus twenty (20) feet.

   No monopole, or attached accessory antenna on a monopole, shall exceed (120) feet in height as measured from ground level at the base of the pole. No monopole shall be constructed which requires guy wires. Monopoles shall not be located on buildings unless the Board makes a determination with specific findings of fact that such location on a building is in the best interest of the Town. Applicants are encouraged to locate antennas inside suitable existing buildings to minimize the visual impact on the surrounding area.

2. All wireless communications facilities shall be sited in such a manner that the view of the facility from adjacent abutters, residential neighborhoods and other

areas of Town shall be as limited as possible. All monopoles and dishes shall be painted or otherwise colored so they will blend in with the landscape or the structure on which they are located. A different coloring scheme shall be used to blend the structure with the landscape below and above the tree or building line.

3. Satellite dishes and/or antenna shall be situated on or attached to a structure in such a manner that they are screened, preferably not being visible from abutting streets. Free standing dishes or antenna shall be located on the landscape in such a manner so as to minimize visibility from abutting streets and residences and to limit the need to remove existing vegetation. All equipment shall be colored, molded, and or installed to blend into the structure and/or the landscape.

4. Wireless communications facilities shall be designated to accommodate the maximum number of users technologically practical. The intent of this requirement is to reduce the number of facilities, which will be required to be located within the community.

5. An applicant proposing a wireless communications facilities shall prove to the satisfaction of the Board that the visual, economic and aesthetic impacts of the facility on abutters will be minimal. And, that the facility must be located at the proposed site due to technical, topographical or other unique circumstances. Further, the monopole shall be located at a minimum of 500 feet from the nearest residential structure unless waived by the owner(s) of said residential structure. Application shall include a list of other sites considered and reason for rejection.

6. Fencing shall be provided to control access to wireless communications facilities and shall be compatible with the scenic character of the Town and shall not be razor wire or barbed wire.

7. 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) hour basis. All signs shall conform to the Town Zoning Sign By-Law.

8. Night lighting of towers shall be prohibited unless required by the Federal Aviation Administration. Lighting shall be limited to that needed for emergencies and/or as required by the FAA.

9. There shall be a minimum of one (1) parking space for each facility, to be used in connection with the maintenance of the site, and not to be used for the permanent storage of vehicles or other equipment. Any buildings or enclosures shall not be used as an office, substation, or other similar use.

E. Special Use Permit Review:

1. Application for Special Permits shall be approved or approved with conditions if the petitioner can fulfill the requirements of these regulations to the satisfaction of the Board.

2. Applications for Special Permits may be denied if the petitioner cannot fulfill or address the requirements of these regulations to the satisfaction of the Board.

3. When considering an application for a wireless communication facility, the Board shall place great emphasis on the proximity of the facility to residential dwellings and its impact on these residences. New facilities shall only be considered after a finding that existing (or previously approved) facilities cannot accommodate the proposed user(s). The Board may require, for new facilities, an agreement and/or condition for co-use by the other users of such facilities.

4. When considering an application for an antenna or dish proposed to be placed on a structure, the Board shall place great emphasis on the visual impact of the unit from the abutting neighborhoods and street(s).

SECTION 22. TOWN CENTER DISTRICT [Added May 15, 2021 ATM]

Section 22. Town Center District.

A. Introduction: The Town Center District (TCD) is an overlay district established to provide a comprehensive set of criteria to be applied in Dunstable's town center to distinguish its unique qualities from other business areas within the town. These criteria are established for the continuance and enhancement of the historic town center area as the functional and symbolic center of Dunstable. The intent of this district is to allow owners of existing historical home sites and qualifying new buildings to incorporate additional uses within principal or accessory buildings while maintaining the historic integrity of the structures, the site, and the town center area.

B. Purposes: The TCD is established to achieve the following objectives for the town: to maintain continuance and enhancement of the historical town center area; to generate a sense of pride and confidence in the preservation of history in the town center; to create and maintain an attractive and aesthetic cultural and business environment throughout the area; to maintain a consistently high level of design quality; to encourage pedestrian activity by creating a positive pedestrian experience; to protect property values through quality and design control; and to provide incentives for new and existing businesses in the town center area. Encourage the adaptive reuse of historic properties to maintain and increase property values.

C. Uses Permitted by Special Permit: Uses permitted by Special Permit from the Planning Board in the TCD are:

Note: For the purpose of this bylaw "existing buildings" is a building that is at least 10 years old at the time this bylaw was approved. The burden shall be upon the applicant to demonstrate compliance with this subsection

1. Conversion of existing one-family dwellings to 2-family dwellings;
2. Authorization of multi-family dwellings existing at the time of adoption of this subsection;
3. Conversion of existing buildings to incorporate a multi-family arrangement on upper floors of commercial buildings, with the number of such dwelling units being limited to two provided that the first floor must be commercial
4. Conversion of existing buildings for use as gift or antique shops;

5. Conversion of existing buildings for use as Bed and Breakfast Establishments in accordance with the provisions of Section 6.7.8. thru 6.7.11 of these Bylaws;
6. Conversion of existing buildings for use as restaurants, cafés, taverns or pubs, serving alcohol on premises (with no drive-up or drive-through service);
7. Conversion of existing buildings for the on-premises consumption and retail sales of alcohol products brewed or fermented on site.
8. Conversion of existing buildings for use as government, educational, not-for-profit or religious facilities;
9. Conversion of existing buildings for use as professional offices;
10. With regards to home occupations in the TCD, the provisions of Section 6.1.(g)v. shall apply, but the referral shall be to the Planning Board, which shall serve as the special permit granting authority for such uses in the TCD;
11. Conversion of existing buildings for use as museums, art galleries, art studios, performing arts theaters, and other similar cultural uses;
12. Conversion of existing buildings for use as agricultural cooperatives.

D. Requirements:

1. Any new construction in the TCD, which is incidental to any Special Permit, shall conform to the density and dimensional requirements in Section 11 of these Bylaws.

2. Applicants shall comply with the requirements for Site Plans as set forth in The Planning Board's Rules and Regulations Governing Site Plans in Dunstable, Massachusetts and Rules and Regulations Governing Special Permits in Dunstable, provided that specific requirements of such Rules and Regulations may be waived by the Planning Board at the request of the applicant as long as the Board deems that such waiver will not impair the due and proper interests of the Town or otherwise adversely affect the review process.

3. Applicants shall submit with the Site Plan package, an architectural design plan ensuring that changes to the building will preserve the integrity of the historical district.

4. The burden shall be upon any applicant to demonstrate that the building or buildings, which are the subject of the Special Permit application, were in existence at the time of adoption of this Section.

5. Any required parking for additional uses shall be located to the side or rear of the building and screened from view from the adjacent public way.

E. Criteria for Approval: In addition to the requirements of the above referenced Planning Board Rules and Regulations, the Planning Board may issue a special permit in the TCD upon finding that:

1. The appearance of the exterior of any existing building which is the subject to a Special Permit application under this Section shall not be substantially changed as viewed from any street adjacent to the site in order to make possible the use applied for. The historic architectural character of each building shall be maintained or restored. Buildings shall be rehabilitated to reveal their historic materials and details. Missing architectural elements shall be recreated. Significant existing materials shall be retained by stabilizing, repairing or matching them with compatible new materials as required.

2. Any renovations or replacement of an existing building shall be compatible with the historic architecture of the existing buildings in the TCD. The architectural character of each historic period is made up of several key factors. Each period interpreted these design elements in its own characteristic fashion. These factors or elements are:
Scale – Relationship to human size, form and perception.
Rhythm – The pattern of repeating elements such as windows, columns, arches and other façade elements, trees, other buildings, etc.
Form – Overall shapes, combinations or shapes as seen from different perspectives, skylines, and contours.
Massing – Height, setback of major building elements, roof panes.
Proportion – The relationship among the dimensions of various elements.
Features – Building elements such as windows, doors, cornices, roofs, porches, widow walks, balconies, cupolas, and decorative trim.
Materials – The “skin” of each building, consisting traditionally of brick, cast iron, steel, sheet metal, wood, glass, terra cotta and slate.
Signs – Refer to Section 13 of the Zoning Bylaw.

Maintenance Advisory - Owners of all buildings should provide sufficient maintenance to keep such buildings from falling into a state of poor repair. Owners shall therefore be responsible for providing maintenance necessary to prevent the deterioration of the structure, which could cause either an unsafe condition or a detrimental effect upon the character of the Town Center District or

which could lead to a later claim that deterioration has become so advanced that demolition or removal of the architectural features is necessary.

F. New Buildings in the TCD

1. The demolition of buildings in the TCD may be subject to the Demolition Delay Bylaw, General Bylaws, of the Town of Dunstable.
2. A new building located in the TCD may be governed by the TCD's provisions if (i) it is constructed in the footprint of the original building on a parcel, and (ii) the Planning Board finds, through a special permit decision, that the building will be compatible with the other historic structures in the TCD.
3. Any replacement building in the TCD that does not qualify to be governed by the TCD's provisions shall comply with all underlying rules and regulations of the Zoning Bylaw.

SECTION 23. Mixed Use District.

A. Purposes:

The purposes of the Mixed Use District (MUD) are to:

a. allow for greater variety and flexibility in development forms;
b. encourage the development of affordable housing, rental and ownership;
c. reduce traffic congestion and air pollution by providing opportunities for housing and employment in close proximity;
d. encourage more compact and efficient developments.

B. General Description:

A "Planned Unit Development for Mixed Uses" shall mean development containing a mixture of residential uses and building types, including single family and multifamily dwellings, and other uses, as listed under the category "Uses Allowed within a Planned Unit Development for Mixed Uses". A Planned Unit Development for Mixed Uses may be allowed by Special Permit of the Planning Board. The Special Permit may allow the development to exceed the normal density requirements for the district to the extent authorized by this Bylaw provided that standards for the provision of affordable housing and other standards specified herein are met.

C. Uses Allowed within a Planned Unit Development for Mixed Uses:

Planned Unit Developments for Mixed Uses shall be permitted in the Mixed Use District only upon issuance of a Special Permit and Site Plan Approval from the Planning Board.

In a Planned Unit Development for Mixed Uses, the following uses may be allowed:

1. Two-family dwellings;
2. Townhouses, i.e., multiple single family dwellings connected by one or more walls, provided they meet the requirements of affordable housing, which shall be defined as housing meeting the requirements of Section 6.7.5.(O)of this Bylaw;
3. Multifamily dwellings;
4. Business uses which are permitted in the B-1 district;
5. Senior Center;
6. Affordable housing for the elderly (over 55 years).

D. Density and Dimensional Regulations:

The following density and dimensional requirements shall apply to any project in the MUD, subject to adjusted requirements as stated for projects including affordable housing as defined hereinabove:

1. The minimum area allocation for each dwelling unit shall be five thousand (5,000) square feet;
2. The minimum total land area for a Planned Unit Development shall be (10) acres subject to a reduction of up to twenty (20%) percent in the discretion of the

Planning Board for projects including affordable housing ;

3. There shall be no frontage requirements within a Planned Unit Development, provided that the applicant demonstrates to the Planning Board satisfactory legal access to the premises;
4. Minimum setback, rear and side yard requirements specified in the Table of Dimensional Requirements (Section 11 of this Bylaw) shall pertain only to the periphery of the Planned Unit Development;
5. Dwellings shall make up a minimum of seventy-five percent (75%) of the floor area of development in a Planned Unit Development; the balance of the area shall be business use;
6. Individual commercial areas shall not exceed one thousand five hundred (1,500) square feet each.

E. Utility, Parking, Landscaping and Open Space Requirements:

1. Planned Unit Developments for Mixed Uses must meet the utility, parking, landscaping and open space requirements in Section 6.6 of The Dunstable Zoning Bylaw.

2. A natural protective buffer shall be provided around any water body. Said buffer shall conform to the development and not exceed 200 (two hundred) feet, provided that, in special circumstances, the Dunstable Planning Board may allow a lesser buffer at certain locations upon a demonstration by the applicant providing clear evidence that with appropriate safeguards the water body can be adequately protected. The Planning Board may impose limitations on any development within such buffer, and strict limitation shall be imposed within the 100 (one hundred) feet of the buffer nearest to the water body.

SECTION 24: Wind Energy Conversion Device

A. Purpose. The purpose of this section is to regulate and provide criteria for the construction and operation of wind energy conversion facilities in order to address the public health, safety, and welfare, and minimize impacts on scenic, natural, and historic resources of the Town.

B. Applicability. No wind energy conversion facility shall be placed, constructed, modified, or operated except in conformance with the provisions of this section and other applicable sections of this By-law.

(1) Wind monitoring or meteorological tower. No wind monitoring or meteorological tower shall be erected, constructed, installed, or modified without first obtaining a building permit. The Building Inspector may issue a permit only if the tower complies with the following requirements:

(a) Setbacks. The base and all anchor points or guy wires for wind monitoring or meteorological towers shall comply with the building setback requirements of the zoning district in which they are located. Additionally, wind monitoring or meteorological towers shall be set back a distance of at least 1.5 times the overall height of the tower from the nearest property line.

(b) Time limit. A wind monitoring or meteorological tower shall be removed within eighteen months of the start of construction.

(2) Small-scale wind energy conversion devices. No small-scale wind energy conversion device shall be erected, constructed, installed or modified without first obtaining a building permit. The Building Inspector may issue a permit only if the small-scale wind energy conversion device complies with § 24.B(2) of this By-law. 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 waiving 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. In no event shall the Planning Board grant a waiver of height requirements.

(a) Setbacks. The base and all anchor points or guy wires for small-scale wind energy conversion devices shall comply with the building setback requirements of the zoning district in which they are located. Additionally, small-scale wind energy conversion devices shall be set back a distance of at least 1.5 times the overall height of the device from the nearest property line.

(b) Height. No small-scale wind energy conversion device shall be higher than 65 feet.

(c) Number. No more than two (2) small-scale wind energy conversion towers shall be on any parcel.

(d) Lighting. There shall be no lighting affixed to a small-scale wind energy conversion device.

(e) Appearance, color, finish. The small-scale wind energy conversion device shall be painted a non-reflective color that blends with its surroundings.

(f) Signage and advertising. Signs on the small-scale wind energy conversion facility shall comply with Section 13 of this By-law, and shall be limited to:

[1] Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.

[2] Educational signs providing information about the facility and the benefits of renewable energy.

[3] Reasonable identification of the manufacturer or operator of the wind energy facility, not to include any advertising display.

(g) Noise. The small-scale wind energy conversion device and associated equipment shall comply with the provisions of the Massachusetts Department of Environmental Protection's ("DEP") Division of Air Quality Noise Regulations (310 CMR 7.10) in effect on April 27, 2009, unless the applicant provides written confirmation from DEP that those provisions are not applicable to the proposed facility.

(h) Connection to the power grid. Approval of a wind-energy device neither permits nor denies access to the power grid.

(i) Unauthorized access. Small-scale wind energy conversion devices and other parts of the facility shall be designed to prevent unauthorized access.

(3) Large-scale wind energy conversion devices. No large-scale wind energy conversion device shall be erected, constructed, installed or modified without a special permit from the Planning Board as provided herein.

(a) Special permit. Large-scale wind energy conversion devices, where permissible (under) shall be subject to the special permit requirements set forth below and must be operated in compliance with said requirements and any further requirements which the Planning Board may impose upon the special permit, and in a

manner that minimizes any adverse visual, safety, and environmental impacts. The Planning Board shall act as the special permit granting authority for all applications under this section. For sites proposed on conservation land, the installation must be reviewed and approved by the Conservation Commission. No special permit shall be granted unless the Planning Board finds in its written evaluation and opinion that:

[1] The specific site is an appropriate location for such use;

[2] The use will not adversely affect the neighborhood;

[3] There will not be any serious hazard to pedestrians or vehicles from the use;

[4] No nuisance will be created by the use;

[5] Adequate and appropriate facilities will be provided for the proper operation of the use; and

[6] The use demonstrates economic and energy benefits to the Town.

In granting a special permit under this Section, the Planning Board may impose reasonable conditions, safeguards and limitations and may require the applicant to implement all reasonable measures to mitigate unforeseen adverse impacts of the wind facility, should they occur.

(b) General siting standards.

[1] Height. The height of a large-scale wind energy facility will be proposed by the applicant and shall be determined by the Planning Board, after consultation with the Board's engineer, along with a finding that the height of the facility will not derogate from the intent of this chapter or be detrimental or injurious to the public.

[2] Setbacks. Large-scale wind energy conversion devices shall be set back a distance equal to the overall height of the wind energy conversion facility plus twenty-five (25) feet from the nearest property line and from the nearest private or public way right-of-way line. Any supporting structure including guy wires shall not be located closer to any property line or right-of-way line than the distance equal to the minimum building setback required for the zoning district in which the facility is located. The Planning Board

may reduce the above minimum setback distances, (but in no case shall the setback be less than the height of the large scale wind energy conversion device) as appropriate based on site-specific considerations, if the project satisfies all other criteria for the granting of a special permit under the provisions of this section.

(c) Design standards.

[1] Color and finish. The color of the large-scale wind energy conversion device shall be subject to final approval by the Planning Board, although a neutral, non-reflective exterior color designed to blend with the surrounding environment is encouraged.

[2] Lighting. Large-scale wind energy conversion devices shall be lighted only if required by the Federal Aviation Administration. Lighting of other parts of the wind facility, such as appurtenant structures, shall be limited to that required for safety and operational purposes and shall be reasonably shielded from abutting properties.

[3] Signage. Signs on the large-scale wind energy conversion facility shall comply with Section 13 of this By-law and shall be limited to:

[a] Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.

[b] Educational signs providing information about the facility and the benefits of renewable energy.

[4] Advertising. Wind energy conversion devices shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the wind energy facility.

[5] Connections. Reasonable efforts shall be made to locate wires from the wind energy conversion device underground, depending on appropriate soil conditions, shape, and topography of the site or any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider but should not be pole mounted.

[6] Appurtenant structures. The Planning Board may impose reasonable requirements concerning the bulk, height, setbacks, and building coverage of structures appurtenant to large-scale wind energy conversion device, as well as parking requirements for such structures. All appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other and shall only be used for housing of equipment for the particular wind energy conversion facilities on the site. Whenever possible, structures should be shielded from view by vegetation and/or located in an underground vault and joined or clustered to avoid adverse visual impacts.

[7] Support towers. Monopole towers are the preferred type of support for the large scale wind energy conversion devices.

(d) Safety, aesthetic and environmental standards.

[1] Unauthorized access. Large-scale wind energy conversion devices and structures appurtenant to large-scale wind energy conversion facilities shall be designed to prevent unauthorized access.

[2] Shadow/Flicker. Large-scale wind energy conversion devices shall be sited in a manner that minimizes shadowing or flicker impacts. The applicant has the burden of proving that any shadow or flicker effect resulting from the facility will not have any significant adverse impact on neighboring or adjacent uses either because of the proposed siting of the facility or because of proposed mitigation measures.

[3] Noise. The large-scale wind energy conversion devices and associated equipment shall conform with the provisions of the Department of Environmental Protection's ("DEP") Division of Air Quality Noise Regulations (310 CMR 7.10) in effect on April 27, 2009, unless the applicant provides written confirmation from DEP that those provisions are not applicable to the proposed facility. An analysis prepared by a qualified engineer shall be presented to demonstrate that the proposed

facility will be in compliance with these noise standards.

[4] Connection to the power grid. Approval of a wind-energy device neither permits nor denies access to the power grid.

[5] Land clearing, soil erosion, and habitat impacts. Clearing of natural vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the wind facility and is otherwise prescribed by applicable laws or regulations.

[6] Waivers of standards. In considering an application for a special permit for a large-scale wind energy conversion facility, the Planning Board may waive any of the standards in the foregoing Subsections (3)(b), (3)(c) or (3)(d), provided that it finds that such waiver is in the public interest and does not derogate from the intent of this section.

[7] Modifications. All material modifications to a large-scale wind energy conversion facility made after issuance of the special permit shall be subject to further special permit approval by the Planning Board in accordance with this section.

(e) Abandonment or decommissioning.

[1] Removal requirements. Any large-scale wind energy conversion facility which has reached the end of its useful life or has been abandoned shall be removed. When the wind facility is scheduled to be decommissioned, the applicant shall notify the Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal. The owner/operator shall physically remove the wind facility no more than 150 days after the date of discontinued operations. Within the same 150-day period, the wind facility site shall be restored to the state it was in before the facility was constructed.

Upon request by the owner/operator, the Planning Board may grant an extension to the removal period based on weather or sol conditions.

More specifically, commissioning shall consist of:

[a] Physical removal of all wind energy conversion devices, structures equipment, security barriers and transmission lines from the site.

[b] Disposal of all solid and hazardous waste in accordance with local and state waste disposal regulations.

[c] Re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

[2] Abandonment. Absent notice of a proposed date of decommissioning, the facility shall be deemed to be abandoned if the facility is not maintained or operated for a period of one year except where prior written consent of the Planning Board was obtained, or upon expiration of the special permit without renewal or extension.

[3] Financial surety. As a condition of the special permit, the Planning Board shall require the applicant to provide surety in an amount approved by the Board to be necessary to ensure proper removal of the facility upon abandonment. Such surety may be provided in the form of a bond acceptable to the Planning Board or by placing a sum of money into an account to be held by an independent escrow agent appointed by the applicant and the Planning Board. Such surety will not

be required for municipally-owned facilities. The applicant shall submit to the Planning Board a fully inclusive estimate of the costs associated with removal, prepared by a qualified, professional engineer registered to practice in the Commonwealth of Massachusetts. The applicant shall provide written authorization and, as necessary, shall provide the written authorization of the owner of the subject property, for the Town or the escrow agent to enter upon the subject property to remove the wind facility in the event that the applicant fails to do so within the required time after abandonment or decommissioning as required under this section.

(f) Term of special permit. Unless abandoned earlier, a special permit issued for a large scale wind energy conversion facility shall automatically expire after 25 years, unless extended or renewed by the Planning Board upon a finding that there has been satisfactory operation of the facility in accordance with the requirements of the special permit and this section. An application for renewal or extension must be submitted at least 180 days prior to expiration of the special permit. Upon final expiration of the special permit (including extensions and renewals), the wind facility shall be removed by the owner/operator as required by this section.

(g) Application process and requirements.

[1] Application procedures.

[a] General. The special permit application for a large-scale wind energy conversion facility shall be filed in accordance with the rules and regulations of the Planning Board concerning special permits.

[b] Pre-application conference. Prior to the submission of an application for a special permit under this section, the applicant is strongly encouraged to meet with the Planning Board at a public meeting to discuss the proposed wind energy conversion facility in general terms and to clarify the filing requirements.
The purpose of the conference is to inform the Planning Board as to the preliminary nature of the proposed wind energy conversion facility. As such,

no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the location of the proposed facility as well as its scale and overall design.

[c] Professional fees. The Planning Board may impose reasonable fees for the employment of outside consultants to be expended in accordance with the requirements and provisions of MGL C. 44, § 53G, and as specified in The Board's Rules and Regulations.

[d] Additional requirements. The Planning Board may require that the applicant arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time, and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14 days, but not more than 21 days, prior to the test. In addition, notice shall be provided to the Town, abutters, and abutting Historic Commissions and an identical courtesy notice shall be sent to the Town Clerk of all adjacent towns.

[2] Required documents.

[a] General. Upon filing of the special permit application with the Town Clerk as required under MGL c. 40A, § 11, the applicant shall provide the Planning Board with the appropriate number of copies as required by the Board's Rules and Regulations, including the Town Clerk's certification as to the date and time of the filing. All plans, calculations and drawings shall be prepared, stamped, and signed by a professional engineer licensed to practice in Massachusetts. In addition to the submittal requirements contained in the Board's Rules & Regulations the application shall include:

[i] Location map: copy of a portion of the most recent USGS Quadrangle Map, at a scale of 1:25,000, identifying the parcel on which the proposed facility site is to be located, the location(s) of the wind energy conversion devices on the site, and the area within at

least two miles from the facility. Zoning district designation for the subject parcel should be noted on the map, or a copy of the Zoning Map with the parcel identified may be submitted.

[ii] Existing areas of tree cover, including average height of trees, on the site parcel and adjacent parcels within 300 feet.

[iii] The latitude and longitude of the proposed wind energy conversion facility shall be shown on the plan. Any one of these three formats may be used when indicating the facility's latitude and longitude:

[A] Degrees, minutes, seconds;

[B] Degrees, minutes, decimal; or

[C] Decimal degrees.

The latitude and longitude measurements should be taken from the approximate center of the wind energy conversion facility.

[iv]Location of viewpoints referenced below in this section.

[b] Visualizations. Before the public hearing has been opened, the Planning Board shall select between three and six sight lines, including from the nearest building with a view of the wind facility, for pre- and post-construction view representations. Sites for the view representations shall be selected from populated areas or public ways within a 2-mile radius of thewind facility. View representations shall be submitted by the applicant during the public hearing and shall have the following characteristics:

[i] View representations shall be in color and shall include actual preconstruction photographs and accurate post-construction simulations of the height and breadth of the wind facility (e.g. superimpositions of the wind facility onto photographs of existing views).

[ii] View representations shall include existing, or proposed, buildings or tree coverage.

[iii] View representations shall be accompanied by a description of the technical procedures followed in producing the visualization (distances, angles, lens, etc.).

[3] Monitoring and maintenance.

[a] After the wind energy conversion facility is operational, the applicant shall submit to the Town at annual intervals from the date of issuance of the special permit, a report detailing operating data for the facility (including but not limited to days of operation, energy production, etc.).

[b] The applicant shall maintain the wind energy conversion facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of any buffer areas and landscaping.

[c] The applicant or facility owner shall maintain a phone number and identify a responsible person for the public to contact with inquiries and complaints throughout the life of the project.

[4] Emergency services. The applicant shall provide a copy of the project summary and site plan to the Emergency Management Director, Police Chief, and Fire Chief prior to issuance of a building permit. Upon request, the applicant shall cooperate with local emergency services in developing an emergency response plan.

C. Conflict with other laws. The provisions of this section shall be considered supplemental to other existing provisions in this By-law to the extent that a conflict exists between this section and the provisions in other sections of this chapter, the more restrictive provisions shall apply.

D. Definitions. See Section 20.22 of this bylaw.

SECTION 25. SOLAR ENERGY SYSTEMS [Amended ATM 5/8/17 Article 32]

25.1 Purpose. The purpose of this section is to encourage small roof-mounted solar systems; regulate small ground-mounted and medium and large-scale solar energy systems located in a residential zone and to regulate small, medium and large scale solar energy systems located in all other zones by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public health and safety, minimize impacts on scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning and removal of such installations.

25.2 Applicability. This section applies to the construction, operation, maintenance repair and removal of solar energy systems 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. **[Amended ATM 5/8/17 Article 32]**

25.3 General requirements for all solar energy systems regulated by this section. The following requirements are common to all solar energy systems to be sited in specific designated locations. **[Amended ATM 5/8/17 Article 32]**

25.3.1 Compliance with laws, ordinances and regulations. The construction and operation of all solar energy systems shall be consistent with, and insofar as pertinent, compliant 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 energy system shall be constructed in accordance with the State Building Code in force and applicable at any relevant time. **[Amended ATM 5/8/17 Article 32]**

25.3.2 Building permit and building inspection. No solar energy system shall be constructed, installed or modified as provided in this section, nor shall construction or installation be commenced without first obtaining the necessary or appropriate permits. **[Amended ATM 5/8/17 Article 32]**

25.4 Site Plan. The following regulations shall apply to all systems that require Site Plan Approval from the Planning Board **[Amended ATM 5/8/17 Article 32]**:

25.4.1Submittal Requirements. In addition to the submittal requirements included in the Planning Board's Rules and Regulations Governing Site Plans in Dunstable, Massachusetts, the following shall also apply:

a) Drawings of the solar energy system showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing

on-site buildings and structures, and the tallest finished height of the solar collector;

b) Documentation of the major system components to be used, including the panels, mounting system, and inverter;

c) Name, address, and contact information for proposed system installer;

d) Zoning district designation for the parcel(s) of land comprising the project site;

e) Locations of active farmland and prime farmland soils, wetlands, permanently protected open space, Priority Habitat Areas and BioMap 2 Critical Natural Landscape Core Habitat mapped by the Natural Heritage & Endangered Species Program (NHESP) and "Important Wildlife Habitat" mapped by the DEP;

f) For roof-mounted systems.The shortest distance between the solar collector and all edges of the roof. The distance between the solar collector and any other existing rooftop features such as chimneys, spires, access points, etc.. The height of the solar collector both from finished grade and where applicable, from the finished surface of the roof.

The Planning Board may waive any of these submittal requirements at its discretion **[Amended ATM 5/8/17 Article 32]:**

25.4.2 Design Criteria

a) No solar energy system shall be installed until evidence has been given to the Planning Board that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

b) Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar energy system underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider. This provision shall not apply in the B-3 zone. **[Added STM 10/15/19].**

c) The solar energy system owner or operator shall provide a copy of the Site Plan application to the local fire chief. All means of shutting down the solar installation shall be clearly marked.

d) Reasonable efforts, as determined by the Planning Board, shall be made to minimize visual impacts by preserving natural vegetation, screening abutting properties, or other appropriate measures. Glare from the system shall not impact abutting properties or passing motorists. The plan shall show how the abutting properties and local traffic will be protected from glare or reflected light from the installation. This provision shall not apply in the B-3 zone. **[Added STM 10/15/19].**

e) Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of ground-mounted solar energy system.

f) Roof-mounted solar energy systems shall be located in such a manner as to ensure emergency access to the roof, provide pathways to specific areas of the roof, provide for smoke ventilation opportunities, and provide emergency egress from the roof.

g) For buildings with pitched roofs, solar collectors shall be located in a manner that provides a minimum of one three-foot wide clear access pathway from the eave to the ridge on each roof slope where solar energy systems are located as well as one three-foot smoke ventilation buffer along the ridge.

h) Residential rooftops that are flat shall have a minimum three-foot wide clear perimeter and commercial buildings that are flat shall have a minimum four-foot wide clear perimeter between a solar energy system and the roofline, as well as a three-foot wide clear perimeter around roof-mounted equipment such as HVAC units.

i) To the extent practicable, the access pathway shall be located at a structurally strong location on the building (such as a bearing wall).

j) Every effort shall be made by the applicant to place the system in the side and/or rear yard. If in the opinion of the Planning Board, the system can only be placed in the front yard, suitable screening shall be provided to minimize the visual impact on abutters and motorists. This provision shall not apply in the B-3 zone. **[Added STM 10/15/19].**

25.5 Special Permit. In addition to the information required for a Special Permit application, the following additional information shall be submitted for each solar energy system requiring a Special Permit from the Planning Board **[Amended ATM 5/8/17 Article 32]**:

25.5.1 Drawings of the solar energy system installation showing the proposed layout of the system and any potential shading from nearby structures.

25.5.2 One or three line electrical diagram detailing the solar energy system installation, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and overcurrent devices.

25.5.3 Documentation of the major system components to be used, including the PV panels, mounting system, and inverter.

25.5.4 Name, address, and contact information for proposed system installer.

25.5.5 The name, contact information and signature of any agents representing the applicant in connection with the Special Permit application process, or general project oversight following the issuance of any special permit.

25.5.6 Documentation of actual or prospective access and control of the project site (see also Subsection 25.6.

25.5.7 An operation and maintenance plan (see also Subsection 25.7).

25.5.8 Description of financial surety that satisfies Subsection 25.16.

25.5.9 Vegetated buffer plan showing size, type and amount of trees/shrubs to be installed to protect street(s) and residential homes from view of site, which buffer as approved within the reasonable discretion of the Special Permit granting authority, is hereby required for any installation pursuant to this section except those in the B-3 zone **[Amended STM 10/15/19].**

25.6 Site Control **[Amended ATM 5/8/17 Article 32]**. The applicant 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 energy system installation. Fencing, if installed, shall be compatible with the scenic character of the Town and satisfactory to the Planning Board, and shall not consist of barbed wire or razor wire. Planning Board review of fencing is not required in the B-3 zone **[Amended STM 10/15/19].**

25.7 Operation and Maintenance Plan. The applicant shall submit a plan for the operation and maintenance of the solar energy system installation, which shall include measures for maintaining safe access to the installation as well as general procedures for operational maintenance of the installation and emergency shut down of the site if needed. **[Amended ATM 5/8/17 Article 32]**

25.8 Utility Notification. No solar energy system installation shall be approved by the Planning Board until satisfactory evidence has been submitted to the Planning Board that the local electric utility has been informed of the applicant's intent to install an interconnected customer-owned generator. [Amended ATM 5/8/17 Article 32]. For installations in the B-3 zone, such evidence shall be submitted to the Building Inspector prior to his approval of a building permit **[Amended STM 10/15/2019].**

25.9 Dimension and Density Requirements. For solar energy system installations, the following dimensional requirements shall apply **[Amended ATM 5/8/17 Article 32]**;

25.9.1.

25.9.2 The front, side and rear yard setbacks for small and medium ground mounted systems in the B-1 Retail Business, B-2 Service Business and for systems of any size in the B-3 Expanded Commercial Zoning Districts, shall be 30 feet. The setbacks for large ground mounted systems in the B-1 Retail Business and B-2 Service Business Districts shall be 50 feet except when abutting any Residential Zone or residential, conservation or recreational use, in which case the setbacks shall be 100 feet. **[Amended ATM 5/8/17 Article 32] [Amended STM 10/15/19].**

25.9.3 The front, side and rear yard setbacks for small and medium ground mounted systems in the R-1 Single Family Residence, R-1a Commercial Recreational and R-1 General Residence Zoning Districts shall be 30 feet. The setbacks for large ground mounted systems shall be 100 feet. **[Amended ATM 5/8/17 Article 32]**

25.9.4. Height. The height of any or all structures comprising the solar energy system facility shall not exceed 20 feet above the pre-existing natural grade underlying each particular structure. **[Amended ATM 5/8/17 Article 32]**

25.10 Appurtenant Structures. All structures appurtenant to-solar energy system installations shall be subject to the dimensional requirements of the zoning district in which they are located. All such appurtenant structures, including, but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible and harmonious with each other. Whenever feasible, in the reasonable opinion of the Planning Board, structures should be sheltered from view by vegetation and/or joined or clustered to avoid adverse visual impacts. **[Amended ATM 5/8/17 Article 32]**

25.11 Design Standards **[Amended ATM 5/8/17 Article 32]**. The following standards shall apply to all solar energy system installations in addition to those contained in the Rules and Regulations Governing Site Plans.

25.11.1 Signage. Signs on solar energy system installations shall comply with all provisions of this Zoning Bylaw relative to signs. A sign consistent with said provisions shall be required to identify the owner of the premises, as well as the operator of the solar energy system installation, if different from the owner, and provide a twenty-four-hour emergency contact phone number. Solar energy system installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system installation.

25.11.2 Utility connections. Reasonable efforts, as determined by the Planning Board, shall be made to place all utility connections from the solar energy system 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 concerned with the project.

25.11.3 Glare. The plan shall show how the abutting properties and local traffic will be protected from glare or reflected light from the installation.

25.12 Safety and Environmental Standards **[Amended ATM 5/8/17 Article 32]**.

25.12.1 Emergency services. The solar energy system installation applicant shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief and concerned electric utility. Upon request, the applicant shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system installation shall be clearly marked. The applicant shall identify a

responsible person for public inquiries throughout the life of the installation.

25.12.2 Solar energy system installation conditions. The solar energy system installation applicant 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 applicant shall be responsible for the cost of maintaining the solar energy system installation and any access road(s), unless accepted as a public way.

25.13 Abandonment or Decommissioning **[Amended ATM 5/8/17 Article 32].** Any solar energy system installation that has reached the end of its useful life or has been abandoned consistent with Subsection 25.15 of this section shall be removed. The applicant shall physically remove the installation no more than 150 days after the date of discontinued operations. The applicant shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

25.13.1 Physical removal of all solar energy system installations, structures, equipment, security barriers and transmission lines from the site **[Amended ATm 5/8/17 Article 32]**

25.13.2 Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.

25.13.3 Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to existing vegetation. All disturbed areas shall be covered with a minimum of six inches of good quality top soil before seeding.

25.14 Abandonment **[Amended ATM 5/8/17 Article 32]**. Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances deemed reasonable by the written acknowledgment of the Planning Board, which shall not be unreasonably refused, the solar energy system installation shall be considered abandoned when it fails to operate for more than one year without the written consent of the Planning Board. The failure to operate shall be conclusively determined based on the records showing the power supplied by the installation to the grid. If the applicant of the solar energy system installation fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date

of decommissioning, the Town may enter the property and physically remove the installation.

25.15 Financial Surety. As a condition of the Site Plan approval, the Planning Board shall require the applicant to provide surety in an amount approved by the Planning Board to be necessary to ensure the proper removal of the installation. The form of the surety shall be through an escrow account, surety bond, or other means of like character acceptable to the Planning Board. The amount of the surety shall be based on a fully inclusive estimate of the costs associated with removal and site restoration, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation or the increased market rate cost of the equipment and services necessary to achieve the removal and site restoration. In no case shall the amount of the surety exceed 125% of the cost of removal and compliance with the additional requirements set forth herein. Such surety will not be required for municipally or state-owned facilities.

SECTION 26. TEMPORARY MORATORIUM TREATMENT CENTERS.

26.1 Notwithstanding any other provision of this Zoning Bylaw to the contrary, there shall be in the Town of Dunstable a temporary moratorium on the use of land or structures for a Medical Marijuana Treatment Center in any Zoning District in the Town. The moratorium shall be in effect through June 30, 2015. During the moratorium period, the Town shall undertake a planning process to address the potential impacts of medical marijuana and medical marijuana treatment centers, as well as related uses, and shall consider the adoption of amendments to the Zoning Bylaw or additional general bylaws to address the impact and operation of Medical Marijuana Treatment Centers and related uses.

26.2 Purpose. In light of the approval at the State election on November 6, 2012, by the voters of the Commonwealth of Massachusetts, of a law regulating the cultivation, distribution possession and use of marijuana for medical purposes, it is the intention of the Town to investigate the feasibility and potential impact of facilities in the Town for such purposes. Currently under the Zoning Bylaw, a Medical Marijuana Treatment Center is not specifically addressed as a use in the Town of Dunstable. Any regulations promulgated by the State Department of Public Health are expected to provide guidance to the Town in regulating medical marijuana, including Medical Marijuana Treatment Centers. The regulation of medical marijuana raises novel and complex legal, planning, and public safety issues and the Town needs time to study and consider the regulation of Medical Marijuana Treatment Centers and address such novel and complex issues, as well as to address the potential impact of the State regulations on local zoning and to undertake a planning process to consider amending the Zoning Bylaw regarding regulation of Medical Marijuana Treatment Centers and other uses related to the regulation of medical marijuana, and to consider in addition other necessary bylaw initiatives. The Town intends to adopt a temporary moratorium on the use of land and structures in the Town for Medical Marijuana Treatment Centers so as to allow the Town sufficient time to engage in the planning process to address the effects of such structures and uses in the Town and to enact bylaws in a manner consistent with sound land use planning goals and objectives. It is the purpose of the moratorium to preclude such use pending such a study."

And,

[B] Add the following definition to Section 20 of said Bylaw, observing the alphabetical character of the Section and adjusting the numbered subsections accordingly:

Medical Marijuana Treatment Center. Any enterprise or facility operating or intending to operate in a manner involving or implementing the various functions related to medical marijuana, as described and discussed in Chapter 369 of the Acts of 2012 of the Commonwealth of Massachusetts, wherein such an enterprise is defined as a not-for-profit entity, as defined by Massachusetts law only, registered by the Massachusetts Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana (as defined in said Chapter 369 of the Acts of 2012), products containing marijuana related supplies, or educational materials to qualifying patients or their personal caregivers." or take any action in relation thereto.

SECTION 27. REGISTERED MARIJUANA DISPENSARIES

1. Purpose. The purpose of this section is to provide for the limited establishment of Registered Marijuana Dispensaries (RMD) within the town as they are authorized pursuant to state regulations set forth in 105 CMR 725.000, as they may from time to time be amended. The intent of this section is to permit RMD's in harmony with policies set by law and the Department of Public Health where there is appropriate accessibility, where they may be readily monitored by law enforcement for health and public safety purposes, and where they will not adversely impact the character of the town in general and adjoining properties in particular.

2. Applicability. RMD's are not allowed as-of-right in any district within the town, whether as a primary or accessory use, or as a home occupation. The Planning Board may grant a Special Permit allowing an RMD in the B-1, B-2 or B-3 Districts.

3. Definitions. In addition to any applicable definitions contained in this Zoning Bylaw, definitions included in 105 CMR 725.000 shall govern any matters or proceedings under this section. "Marijuana" shall be construed to include "Marihuana" as defined in Chapter 94C of the Massachusetts General Laws.

4. Minimum Criteria and Limitations on Approval.

(1) An RMD shall not be located within a radius of five hundred (500) feet from a school, daycare center, preschool or afterschool facility, or any facility in which minors commonly congregate; or within two hundred (200) feet of a residence. Such distance shall be measured in a straight line from the nearest point of building or structure containing the proposed RMD to the nearest point of any building or structure serving the facility or residence in which persons ordinarily congregate.

(2) An RMD shall be properly registered with the Massachusetts Department of Public Health pursuant to 105 CMR 725.100 as in force at the time of application and shall comply with all applicable state and local laws, ordinances, rules and regulations. No building permit or certificate of occupancy shall be issued for an RMD that is not properly registered with the Massachusetts Department of Public Health. The RMD shall file copies of its initial certificate of registration and each annual renewal certificate with the Planning Board with a copy to the Town Clerk's office within one week of issuance, and shall immediately notify said Planning Board and Town Clerk's office if its registration is not renewed or is revoked. The RMD shall provide the Dunstable Police Department with the names and contact information for all management staff and shall immediately notify the police department of any changes.

(3) A special permit granted by the Planning Board authorizing the establishment of an RMD shall be valid only for the registered

person or legal entity to which the special permit was issued, and only for the location for which the RMD has been authorized by the special permit. If the registration for the RMD is revoked, transferred to another controlling person or entity, or relocated to a different site, a new special permit shall be required prior to the issuance of a certificate of occupancy.

(4) An RMD shall be located only in a permanent building and not within any mobile facility. All sales shall be conducted either within the building or by home delivery to qualified clients pursuant to applicable state regulations.

(5) An RMD shall conform to all dimensional requirements applicable to the zoning district in which it is located.

(6) An RMD shall be subject to the number of parking stalls required by Section 12 of this bylaw unless a lesser or greater number of stalls is required by the Planning Board.

(7) All signage shall conform to the requirements of 105 CMR 725.105(L) and to the requirements of Section 13 of this bylaw. No graphics, symbols or images of marijuana or related paraphernalia shall be displayed or clearly visible from the exterior of an RMD. The Planning Board may impose additional restrictions on signage to mitigate impact on the immediate neighborhood.

(8) The Planning Board may, as a special permit condition, reasonably limit the hours of operation of an RMD.

5. Special Permit Application and Procedure.

The procedural and application requirements of the Rules and Regulations Governing Special Permits shall apply. In addition, an application for special permit shall include, at a minimum, the following information:

(1) General Information:

(a) A statement from the Applicant under oath, setting forth the following information:

(i) the name and address of each owner, officer, manager, member, partner and employee of the RMD and (if applicable) the legal entity;

(ii) the source of all marijuana that will be sold or distributed at the RMD, if applicable;

(iii) the source of all marijuana that will be cultivated, processed, and/or packaged at the RMD, if applicable;

(iv) the quantity of marijuana that will be cultivated, processed, packaged, sold and/or distributed at the RMD;

(b) If the Applicant is a non-profit organization, a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a for-profit corporate entity, a copy of its Articles of Incorporation or equivalent documents, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a public agency, evidence of the agency's authority to engage in the development of the RMD as proposed by the application;

(c) Copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the RMD;

(d) Evidence of the Applicant's right to use the site of the RMD, such as a deed, lease, purchase and sale agreement or other legally-binding document;

(e) If the Applicant is business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

(f) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the town and certified by the Town Assessor;

(g) A market study demonstrating sufficient demand for the Marijuana for Medical Use proposed to be sold or distributed by the RMD;

(h) Proposed security measures for the RMD, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft.

(i) The resume(s) of the Applicant and all members of the RMD's management, including company history, references, and relevant experience;

(2) Description of Activities: A narrative providing information about the type and scale of all activities that will take place on the proposed site, including but not limited to cultivating and processing of marijuana or marijuana infused products (MIP's as defined in 105 CMR 725.004), on-site sales, off site deliveries, distribution of educational materials, and other programs or activities.

(3) Service Area: A map and narrative describing the area proposed to be served by the RMD and the anticipated number of clients that will be served within that area. This description shall indicate where any other RMD's exist or have been proposed within the expected service area.

(4) Transportation Analysis: As per the Rules and Regulations Governing Site Plans Section 3.04 Traffic Impact, a traffic report may be required by the Planning Board depending on the size and complexity of the project. The extent and depth of the study will be set by the Planning Board based on the anticipated impact of the project.

(5) Context Map: A map depicting all properties and land uses within a minimum five hundred (500) foot radius of the proposed site, whether such uses are located in Dunstable or within surrounding communities, including but not limited to all educational uses, daycare, preschool and afterschool programs. The context map shall include the measured distance to all uses described in Section 26.4.(1), above.

(6) Registration Materials: A copy of the Certificate of Registration that was issued by the Massachusetts Department of Public Health.

6. Special Permit Criteria.

In granting a special permit for a Registered Marijuana Dispensary, in addition to finding that the general criteria for issuance of a special permit as set forth in the Rules and Regulations Governing Special Permits of this bylaw are met, and any provisions of this section, the Planning Board shall find at a minimum that the following criteria are met:

(1) The RMD is located to serve an area that currently does not have reasonable access to medical marijuana, or if it is proposed to serve an area that is already served by another RMD, it has been established by the Massachusetts Department of Public Health that supplemental service is needed.

(2) The site is located at least five hundred (500) feet from a school, daycare center, preschool or afterschool facility or any facility in which minors commonly congregate and two hundred (200) feet from the nearest residence, this distance to be measured from the nearest point of the facility or residence to the nearest point of the RMD.

(3) The site is designed such that it provides convenient, safe and secure access and egress for clients and employees arriving to and leaving from the site, whether driving, bicycling, walking or using public transportation.

(4) Traffic generated by client trips, employee trips, and deliveries to and from the RMD shall not create a significant adverse impact on nearby uses.

(5) Loading, refuse and service areas are designed to be secure and shielded from abutting uses.

(6) The building and site have been designed to be compatible with other buildings in the area and to mitigate any negative aesthetic impacts that might result from required security measures and restrictions on visibility into the building's interior.

(7) The building and site are accessible to persons with disabilities.

(8) The site is accessible to regional roadways and public transportation.

(9) The site is located where it may be readily monitored by law enforcement and other code enforcement personnel.

(10) The RMD's hours of operation will have no significant adverse impact on nearby uses.

7. Severability. If any portion of this section is ruled invalid, such ruling will not affect the validity of the remainder of the section.

SECTION 28. TEMPORARY MORATORIUM ON MARIJUANA ESTABLISHMENTS [Adopted ATM 5/8/17 Article 34]

28.1. Purpose

By vote at the State election on November 8, 2016, the voters of the Commonwealth approved a law entitled the "Regulation and Taxation of Marijuana Act" (the "Act"), regulating the sale, cultivation, distribution, possession and use of marijuana for recreational purposes. The Act provides that it is effective on December 15, 2016, and the Cannabis Control Commission is required to issue regulations regarding the implementation of the Act by March 15, 2018.

Currently under the Zoning Bylaws, a "marijuana establishment", as defined in the Act, and other types of marijuana related businesses and operations allowed under the Act, are not permitted uses in the Town. Any regulations promulgated by the Cannabis Control Commission are expected to provide guidance to the Town in regulating marijuana establishments and the sale and distribution of marijuana and marijuana products for recreational purposes.

The regulation of marijuana establishments and other types of marijuana related businesses or operations allowed under the Act raises novel and complex legal, planning, and public safety issues. The Town needs time to study and to consider the regulation of marijuana establishments and other types of marijuana related businesses or operations allowed under the Act and address such novel and complex issues. The Town needs time to address the potential impact of the Act and the Cannabis Control Commission's regulations on local zoning, and to undertake a planning process to consider amending the Zoning Bylaws regarding the regulation of marijuana establishments and other types of marijuana related businesses or operations allowed under the Act. The Town intends to adopt a temporary moratorium (the "Temporary Moratorium") on the use of land and structures in the Town for marijuana establishments and other types of marijuana related businesses or operations allowed under the Act to allow the Town sufficient time to engage in a planning process to address the effects of such structures and uses in the Town and to enact a new Zoning Bylaw in a manner consistent with sound land use planning goals and objectives.

28.2. Definitions.

As used in this Section 28, the terms "Marijuana", "Marijuana Establishment", "Marijuana Products", "Marijuana Retailer", "Marijuana Cultivator", "Marijuana Testing Facility" and "Marijuana Product Manufacturer" shall have the same meanings as set forth in the Act.

28.3. Temporary moratorium.

For the reasons set forth above and notwithstanding any other provision of the Zoning Bylaws to the contrary, the Town hereby adopts a Temporary Moratorium on the use of land or structures as a primary or accessory use, as a marijuana retailer or any other

type of marijuana related business or operation allowed under the Act, other state laws, or the Cannabis Control Commission's regulations, other than a marijuana cultivator, independent testing laboratory, or marijuana product manufacturer, which shall be governed by Section 30 of these zoning bylaws. The Temporary Moratorium shall be in effect through December 31, 2018. During the time that the Temporary Moratorium is in effect, the Town shall undertake a planning process to address the potential impacts of recreational marijuana in the Town, consider the Cannabis Control Commission's regulations, and shall consider adopting a new Zoning Bylaw to address the impact of marijuana establishments and other types of marijuana-related businesses or operations allowed under the Act. **[Amended May 14, 2018 Article 13]**
Provided however, that these amendments to Section 28 shall not take effect unless a new Section 30 of the Zoning Bylaws, governing recreational marijuana establishments, takes effect. **[Amended May 14, 2018 Article 13]**

28.4. Effect on Registered Marijuana Dispensaries

This Section 28 shall have no effect on the dispensing of marijuana and marijuana products to registered qualifying patients by a Registered Marijuana Dispensary or Medical Marijuana Treatment Center, as defined in Section 20 of the Zoning Bylaws and governed by Section 27 of the Zoning Bylaws.

SECTION 29. COMMUNITY HOUSING [Adopted as a Zoning Bylaw, deleting the General Bylaw in its entirety ATM 5/8/17 Article 33]

29.1 Purpose

The purpose of this Section is to promote the public health, safety and welfare by encouraging the creation of housing that more people can afford, especially people who live and work in the Town of Dunstable, in order to meet the Town's goal of providing diversity and to mitigate the impacts of market-rate residential development on housing costs.

29.2 Definitions

As used in this By-law:

29.2.1 "Area Median Income (AMI)" shall mean the median income of the Lowell Metropolitan Statistical Area, or other applicable area as may be determined or defined by the U.S. Department of Housing and Urban Development regulations, at 24 C.F.R. 5.609, adjusted for household size, as amended from time to time.

29.2.2 "Community Housing" shall mean housing for an eligible household for which, in perpetuity, the maximum sale/resale price or the maximum rent shall be as set forth in the LIP Guidelines.

29.2.3 "Eligible Household" shall mean a household whose total combined annual income does not exceed 80% of AMI.

29.2.4 "Local Initiative Program (LIP)" shall be as set forth in 760 CMR 56.00 and the guidelines enacted thereunder, as may be amended from time to time (the LIP Guidelines).

29.2.5 "Phased or Segmented Project" shall mean a Project on one or more adjoining lots, which lot or lots is/are in common ownership or common control at the time of application for a building permit or within four years prior to such application, for which one or more building permits is/are sought within a period of four years from the date of application for any building permit for the Project.

29.2.6 "Project" shall mean developments subject to the Community Housing requirements of this Section.

29.2.7 "Residential" shall mean housing that is single-family, duplex, multiple family, apartment, townhouse, garden apartment, boarding and lodging, and conversion of a single-family home into more than one Residential unit.

29.3 Applicability

This Section shall apply to the issuance of certificates of occupancy for (a) the creation of a residential subdivision, including Phased or Segmented Projects, whether by new construction, expansion of floor space of existing buildings, reconfiguration of floor space resulting in a reduction in the number of Residential units, or change of use in one

or more existing buildings and (b) to any subdivision of land, in accordance with M.G.L. c. 41, Sec. 81U, for the development of Residential units, including Phased or Segmented Projects. **[Amended ATM 5/15/21]**

29.4 Community Housing Requirements

29.4.1 One of the first six units in a Project with Residential Units shall be Community Housing. In a Project with more than six total units, one of each of the next six units shall be Community Housing. Section 29.6 shall apply to any fractional number-of units. **[Amended ATM 5/15/21]**

29.4.2 Community Housing units shall meet all LIP requirements. To the extent, this Section (or rules promulgated thereto) is inconsistent with LIP requirements; the more stringent requirement shall prevail. To the extent that it is not clear whether the requirements of LIP or this Section are more stringent, the LIP requirements shall prevail.

29.4.3 There shall be a local preference for Community Housing units as may be consistent with the LIP Guidelines and federal and state law.

29.5 Community Housing Administration

29.5.1 The Board of Selectmen or a designee shall be charged with the administration of this program, including the monitoring of the long-term affordability of all Community Housing units.

29.5.2 Prior to issuance of the certificate of occupancy for the first market rate dwelling unit within a Residential Subdivision Project with any affordable units the applicant shall submit to the Board of Selectmen or the designee, for review and approval, the following documents **[Amended ATM 5/15/21]**:

1. A housing plan showing the location, square footage, unit types, number and types of rooms, and location of all units (designating the Community Housing units) and number of Community Housing Units. Also to be included are elevations, floor plans, outline specifications for the market-rate and the Community Housing units (demonstrating comparability between Community Housing and market-rate units);

2. A proposed deed rider or rental restrictions, monitoring services agreement, regulatory agreement (if required by LIP), condominium documents (or outline of the affordability requirements), and marketing plan (including the tenant selection plan) and any other materials requested by the Board of Selectmen or the designee.

3. If a condominium is proposed, the condominium documents shall meet the following requirements:

a. Percentage (beneficial) interests shall be based on the sales price of the Community Housing units at the time of the recording of the master deed;

b. All votes shall be one unit – one vote except where the condominium statute requires percentage/beneficial interest votes. See G.L. c.183, S. 10;

c. There shall be no amendments to the Community Housing provisions;

d. In the event of condemnation or casualty or purchase by other than an Eligible Household (i.e. such a household cannot be located) – excess proceeds above maximum sale or resale price shall to be donated to the Town's Affordable Housing Trust Fund established pursuant to G.L. c. 44, s. 55C.

4. Any costs associated with technical review required by the Board of Selectmen or the designee to review the housing plan, the documents subject to legal review or to otherwise administer this program, shall be paid by the applicant.

29.5.3 The Building Commissioner shall not issue any certificate of occupancy for a dwelling unit within a Residential Project that has not complied with the requirements of this Section.

29.6 Subdivision developments where the number of units is not evenly divisible by six (6). **[Amended ATM 5/15/21]**

Prior to the issuance of a certificate of occupancy for each market rate dwelling unit, the developer shall be required to make a payment to the Town's Affordable Housing Trust Fund. This payment will be based on the remaining number of units after the total number of units in the subdivision is divided by six (6) times 3% of the average price of the market rate units.
Mathematically expressed as:

(Number of Units *mod* 6) X (3% of average price of market rate units)

The 3% rate is based on the fact that the affordable unit must sell for 20% less than the market rate units. Spreading this 20% reduction in total gross revenue across six (6) units would be 3.33% per unit.

Examples:

Each of these examples reflects the one (1) of every six (6) units must be an affordable unit.

Example 1: The Trust Payment due in a 5-unit subdivision Project where the average asking price is $500,000:

5 mod 6 = 5 remaining units.
5 remaining units X (0.03 X $500,000) = $75,000

Instead of making this Trust Payment the developer has the option to make one of the remaining 5 units an affordable unit.

Example 2: The Trust Payment due in a 6 unit subdivision Project where the average asking price is $500,000, 1 of the units must be affordable:

6 mod 6 = 0 remaining units.
0 remaining units X (0.03 X $500,000) = $0

Example 3: The Trust Payment due in a 18 unit subdivision Project where the average asking price is $500,000, 3 of the units must be affordable:

18 mod 6 == 0 remaining units
0 remaining units X (0.03 X $500,000) = $0

Example 4: The Trust Payment due in a 22-unit subdivision Project, where 3 of the units must be affordable:

22 mod 6 == 4 remaining units
4 remaining units X (0.03 X $500,000) = $60,000

Instead of making this Trust Payment the developer could decide to make one of the remaining 4 units an affordable unit.

29.6.1 The Planning Board may authorize a payment to the Affordable Housing Trust Fund, determined in accordance with 29.6, in lieu of providing some or all of the affordable units otherwise required for the Project.

29.7 Community Housing Rules

The Board of Selectmen may promulgate rules for the implementation of this program.

Section 30. RECREATIONAL MARIJUANA ESTABLISHMENTS [Adopted ATM 5/14/18 Article 16]

A. Purpose:

The purpose of this Section is to regulate Marijuana Establishments in Dunstable for public health and safety purposes, and to minimize adverse impacts on the character of the Town in general and adjoining properties in particular.

B. Applicability:

(1) The commercial cultivation, production, processing, assembly, packaging, retail sale, distribution, and dispensing of marijuana for recreational purposed shall only be allowed in the Town of Dunstable as a Marijuana Establishment governed by this Section.

(2) Marijuana Establishments are not a form of agriculture, horticulture, or floriculture for purposes of the Zoning Bylaws.

C. Definitions:

In addition to any applicable definitions contained in the Zoning Bylaws, the following definitions shall be applicable to this Section:

Canopy: an area to be calculated in square feet and measured using clearly identifiable boundaries of all areas(s) that will contain mature marijuana plants at any point in time, including all of the space(s) within the boundaries, canopy may be noncontiguous, but each unique area included in the total canopy calculations shall be separated by an identifiable boundary which include, but are not limited to: interior walls, shelves, greenhouse walls, hoop house walls, garden benches, hedge rows, fencing, garden beds, or garden plots. If mature plants are being cultivated using a shelving system, the surface area of each level shall be included in the total canopy calculation.

Independent Testing Laboratory: A laboratory that is licensed by the Cannabis Control Commission and is: 1) accredited to the most current version of the International Organization for Standardization 17025 by a third-party accrediting body that is a signatory of the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement, or that is otherwise approved by the Cannabis Control Commission; 2) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test; and 3) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Marijuana Cultivator: an entity licensed to cultivate, process, and package marijuana, to deliver marijuana to marijuana establishments, and to transfer marijuana to other marijuana establishments, but not to consumers.

Marijuana Establishment: a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, marijuana retailer, or any other type of licensed marijuana-related business.

Marijuana Product Manufacturer: an entity licensed to obtain, manufacture, process, and package marijuana/marijuana products, to deliver marijuana and marijuana products to marijuana establishments, and to transfer marijuana and marijuana products to the other marijuana establishments, but not to consumers.

Marijuana Products: products that have been manufactured and contain marijuana or an extract of marijuana, including concentrated forms of marijuana and products

composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils, and tinctures.
Marijuana Retailer: an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.
Other Type of Licensed Marijuana-Related Business: a licensed marijuana establishment other than a marijuana cultivator, independent testing laboratory, marijuana product manufacturer, or marijuana retailer.
Tier 1 Marijuana Cultivator: a marijuana cultivator with up to 5,000 square feet of canopy.

Tier 2 Marijuana Cultivator: a marijuana cultivator with between 5,001 to 10,000 square feet of canopy.

D. Eligible Types of Marijuana Establishments and Applicable Zoning Districts:

(1) Independent Testing Laboratories and Marijuana Product Manufacturers shall be allowed by special permit in B1, B2, and B3 Zoning Districts.

(2) Tier I Marijuana Cultivators shall be allowed by special permit in all Zoning Districts.

(3) Tier II Marijuana Cultivators and larger types of Marijuana Cultivators shall be allowed by special permit in B3 Zoning Districts.

(4) Marijuana Retailers and Other Type of Licensed Marijuana-Related Businesses shall be prohibited in all Zoning Districts; provided however, that this subsection D(4) shall not take effect until approved by the voters of Dunstable through a ballot question.

E. Minimum Criteria and Limitations on Approval for Marijuana Establishments:

(1) Marijuana Establishments shall comply with all aspects of M.G.L. c. 94G (Regulation of the Use and Distribution of Marijuana Not Medically Prescribed) and 935 CMR 500.000 (Adult Use of Marijuana).

(2) All aspects of the Marijuana Establishment 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 and shall not be visible from the exterior of the business. Marijuana Establishments shall be located only in a permanent building or fully enclosed structure and not within any mobile facility, unless outdoor cultivation is expressly allowed by special permit.

(3) No outside storage of marijuana or marijuana products is permitted. This prohibition applies to all aspects of the product and waste associated with the Marijuana Establishment.

(4) A special permit granted under this Section shall run with the applicant and shall be non-transferrable to another owner or operator without an amendment to the special permit with all application information required in accordance with this Section and a noticed public hearing.

(5) All Marijuana Establishments shall be ventilated in such a manner that no:

a. Pesticides, insecticides, or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere or ground, unless outdoor cultivation is expressly allowed by special permit.

b. Odor from marijuana cannot be detected by a person with a normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.

(6) Signage shall conform to Section 13 of the Zoning Bylaws and the requirements of State laws and regulations governing such facilities, including 935 CMR 500.105 (D).

(7) All Marijuana Establishments shall be subject to the number of parking stalls required by Section 12 of the Zoning Bylaws unless a lesser or greater number of stalls is required by special permit.

(8) No smoking, burning, or consumption of any product containing marijuana or marijuana-related products shall be permitted on the premises of a Marijuana Establishment.

(9) No Marijuana Establishment shall be located:

a. within 200 feet of a residential dwelling;

b. within 500 feet of a public or private school, playground (indoor or outdoor), day-care center, or youth center;

c. within 500 feet of a library;

d. within 500 feet of a church or place of worship; or

e. within 500 feet of a park, athletic playing field, scout camp, golf course, or any facility where children commonly congregate.

Distance shall be established at the time the proposed Marijuana Establishment's application is received by the Planning Board. Distance shall be measured for items a. through d. above in a straight line from the nearest corner of the principal building of the proposed Marijuana Establishment to the nearest corner of the principal building of the protected use. Distance shall be measured for item e. above in a straight line from the nearest corner of the principal building of the proposed Marijuana Establishment to the nearest property boundary line of the protected use.

(10) No Marijuana Establishment shall be located inside a building containing residential units, including without limitation, transient

housing such as motels, hotels, lodging houses and dormitories, or inside a movable or mobile structure such as a van or truck.

(11) The building(s) in which a Marijuana Establishment is permitted shall not be located within three hundred (300) feet of any building containing another Marijuana Establishment, except for Marijuana Establishments that are owned or leased by the same operator.

(12) Marijuana Establishments shall provide the Dunstable Police Department, Fire Department, Building Inspector, and the Planning Board with the names, phone numbers, and email addresses of all management, staff, and key holders who can be contacted if there are operating problems associated with the Marijuana Establishment.

F. Special Permit Application and Procedure

(1) The Dunstable Planning Board shall be the special permit granting authority for special permits governed by this Section.

(2) Special permit applications for Marijuana Establishments shall be governed by Section 14, Site Plans, of these Zoning Bylaws, and the Rules and Regulations of the Planning Board governing Site Plans and Special Permits. In addition, an application for special permit for a Marijuana Establishment shall include, at a minimum, the following information:

(a) General Information:

(i) The name and address of each owner, officer, manager, member, partner and employee of the Marijuana Establishment and (if applicable) the legal entity;

(ii) If the Applicant is a non-profit organization, a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a for-profit corporate entity, a copy of its Articles of Incorporation or equivalent documents, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a public agency, evidence of the agency's authority to engage in the development of the Marijuana Establishment as proposed by the application;

(iii) Evidence of the Applicant's right to use the site of the Marijuana Establishment, such as a deed, lease, purchase and sale agreement or other legally-binding document;

(iv) If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities. If any of the above are entities rather than persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

(v) A certified list of all parties in interest entitled to notice of the hearing for the special permit application, taken from the most recent tax list of the Town and certified by the Town Assessor;

(vi) Proposed security measures for the Marijuana Establishment, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft; and

(vii) The resume(s) of the Applicant and all members of the Marijuana Establishment's management, including company history, references, and relevant experience.

(b) Description of Activities: A narrative providing information about the type and scale of all activities that will take place on the proposed site.

(c) Context Map: A map depicting all properties and land uses within a minimum five hundred (500) foot radius of the proposed site. The context map shall include the measured distance to all uses described in Section 30.E(9), of this Section.

(d) Copies of all required licenses and permits issued to the applicant by the Commonwealth of Massachusetts and any of its agencies for the Marijuana Establishment, including the Cannabis Control Commission.

(e) Upon written request from the applicant, the Planning Board may waive the submission of such information, or parts thereof, as may not be necessary for the consideration of the application. The Planning Board's waiver decision shall be set forth in the written special permit decision.

G. Lapse and Discontinuance of Use

(1) A special permit granted under this Section shall lapse if not exercised within twenty-four (24) months of issuance.

(2) A Marijuana Establishment shall be required to remove all material, plants, equipment, and other paraphernalia prior to surrendering its state issued licenses or permits or within six (6) months of ceasing operations, whichever comes first.

SECTION 31. ADULT ENTERTAINMENT FACILITIES BYLAW
[Added May 13, 2019 Article 24]

A. Authority to Regulate/Purpose

The purpose of this Section is to promote the health, safety and general welfare of the residents of Dunstable by providing for a permitting process for the location of Adult Entertainment Facilities within the Town. This Section is enacted pursuant to M.G.L. c. 40A and pursuant to the Town of Dunstable's authority under the Home Rule Amendment to the Massachusetts Constitution.
It has been documented in numerous other towns and cities throughout the Commonwealth of Massachusetts and elsewhere in the United States that Adult Entertainment Facilities are distinguishable from other business uses and that the location of Adult Entertainment Facility may have deleterious impacts in the areas of a community where they are located. Studies have shown secondary impacts such as increased levels of crime, adverse impacts on the business climate, adverse impacts on the property values of residential and commercial properties, and adverse impacts on quality of life. These adverse secondary effects have also been referenced and documented in numerous court decisions regarding the zoning of adult entertainment uses.

The purpose of this Section is to regulate and limit the location of Adult Entertainment Facilities so as to minimize the secondary effects associated with these establishments, and to protect the health, safety and general welfare of the inhabitants of the Town. It is not the purpose or intent of this Section to restrict or deny access by adults to Adult Entertainment Facilities or to materials that are protected by the Constitution of the United States or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors or exhibitors of such matter or materials may have to sell, rent, distribute or exhibit such matter or materials. Neither is it the intent of this Section to legalize the sale, rental, distribution or exhibition of obscene or other illegal materials. Finally, it is not the intent of this Section to afford Adult Entertainment Facilities nonconforming use protections any greater than are provided under M.G.L. c. 40A § 6 and §9A.

B. Consistency with State and Federal Law
It is not the purpose nor the intent of this Section to deny access to adult entertainment facilities or to sexually oriented matter or materials that are protected by the Constitutions of the United States or the Commonwealth of Massachusetts.

C. Applicability

This Section applies to any facility offering any adult entertainment ("Adult Entertainment Facility"), including but not limited to adult bookstores, adult motion picture or mini motion-picture theatres, adult video stores, adult paraphernalia stores and establishments that feature live entertainment which consists of entertainers engaging in "Sexual Conduct" or "Nudity" as defined in M.G.L. c. 272, § 31. For purposes of this Section, the Planning Board shall be the Permit Granting Authority.

D. Definitions

The following establishments and uses shall be considered an Adult Entertainment Facility under this Section:
Adult Bookstore: an establishment or use having as a substantial or significant portion of its stock in trade, books, magazines, and other matter that are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31.
Adult Paraphernalia Stores: an establishment or use having as a substantial or significant portion of its stock devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31.
Adult Motion Picture or Mini Motion-Picture Theatres: an enclosed building used for presenting entertainment, whether live or through electronic or other media, distinguished by an emphasis on matter depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31.
Adult Video Store: an establishment or use having as a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as defined in M.G.L. c. 272 § 31.
Establishment Featuring Live Entertainment: any establishment or use which provides live entertainment for its patrons, which includes the display of nudity, that term as defined in M.G.L. c. 272 § 31.

E. Permitting Requirements; Eligibility

1. Adult Entertainment Facilities shall be allowed by Site Plan Review, in accordance with Section 14 of the Zoning Bylaw, within the B-3 Expanded Commercial District.

2. Adult Entertainment Facilities shall not disseminate or offer to disseminate adult matter or paraphernalia to minors or allow minors to view displays or linger on the premises.

3. Through Site Plan Review, the Planning Board may impose reasonable conditions to ensure that the location and operation of the proposed Adult Entertainment Facility are consistent with the purpose of the Zoning Bylaws of the Town of Dunstable.

4. There shall be no deviations from the approved Site Plans without written approval from the Planning Board, which may require a public hearing.

5. A Site Plan Approval for an Adult Entertainment Facility shall remain exclusively with the petitioner and shall not run with the land. Any new owner or operator of an Adult Entertainment Facility must obtain Site Plan Approval before commencing or continuing operations. The Building Inspector shall enforce any Site Plan Approval.

F. Lapsing of Site Plan Approval

A Site Plan Approval issued under this section shall lapse upon any one of the following occurrences:

1. There is a change in the location of the Adult Entertainment Facility.
2. There is a sale, transfer, or assignment of the business or license.
3. If there is a change in the operator of the Adult Entertainment Facility.
4. If there has been no operation of the Adult Entertainment Facility for six months.
5. If substantial use or construction has not commenced without good cause within six months after the issuance of a Site Plan Approval.

G. Expiration of a Site Plan Approval

A Site Plan Approval for an Adult Entertainment Facility shall expire after a period of two calendar years from its date of issuance and shall be renewable for successive two-year periods thereafter as a matter of right.

H. Application Requirements

In addition to all application requirements of the Planning Board for Public Hearings, the application for a Site Plan Approval for an Adult Entertainment Facility shall include the following information:

1. The name and address of the legal owner of the Adult Entertainment Facility, together with the names and addresses of all persons having any direct or indirect ownership or security interest in the facility. In the event the petitioner is a corporation, partnership, trust, or other corporate entity, the name and address of any person who has a direct or indirect ownership or beneficial interest in the entity shall be included;
2. The name, address and telephone number of the operator of the Adult Entertainment Facility;
3. The number of employees;
4. A sworn statement that neither the applicant, owner, nor any person having a lawful ownership, equity or security interest in the proposed facility or the manager of the facility has been convicted of violating the provisions of M.G.L. c. 119, § 63 or M.G.L. c. 272 §§2,3,4,4A,6,7,8,12,13 and 28 and M.G.L. c. 265 §§13B, 13F, 13H, 22, 22A, 23, 24 and 24B, including but not limited to crimes of indecency, assault and battery, crimes against women and/or children, crimes of sexual exploitation, and felony possession of narcotics;
5. Proposed security precautions;
6. A full description of the intended nature of the Business;
7. In the case of live adult entertainment, submission and approval of the nature of the live entertainment and proximity of entertainers to patrons.
8. Adult Entertainment Facilities shall comply with all other provisions of the Zoning Bylaws of the Town of Dunstable. To the extent that the provisions of this Section may conflict with other provisions of the Zoning Bylaws of the Town of

Dunstable, the provisions of this Section shall apply. In addition to the provisions of the Zoning Bylaw, the Site Plan Approval shall comply with any requirements in the Town of Dunstable bylaws, building regulations or licensing requirements.

Upon written request from the applicant, the Planning Board may waive the submission of such information, or parts thereof, as may not be necessary for the consideration of the application. The Planning Board's waiver decision shall be set forth in the written Site Plan Approval decision.

I. Severability

The provisions of this Section are severable and, in the event that any provision of this Section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

And further, to authorize the Town Clerk to make non-substantive changes to the numbering of the Zoning Bylaws as necessary.

SECTION 32. Solar Overlay Districts

Purpose: The purpose of this District is to allow and regulate large scale ground mounted solar energy systems in areas of Town that the Town determines are compatible for this type of development through a special permit process.

Definitions:

Photovoltaic System (also referred to as Photovoltaic Installation): An active solar energy system that converts solar energy directly into electricity.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in watts of Direct Current (DC).

Solar Access: The access of a solar energy system to direct sunlight.

Solar Collector: A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal, mechanical, chemical, or electrical energy.

Solar Energy: Radiant energy received from the sun that can be collected in the form of heat or light by a solar collector.

Solar Energy System: A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or provide for the collection, storage and distribution of solar energy for space heating or cooling, electricity generation, or water heating.

Solar Energy System, Active: A solar energy system whose primary purpose is to harvest energy by transforming solar energy into another form of energy or transferring heat from a collector to another medium using mechanical, electrical, or chemical means.

Solar Energy System, Grid-Intertie: A photovoltaic system that is connected to an electric circuit served by an electric utility.

Solar Energy System, Ground-Mounted: An Active Solar Energy System that is structurally mounted to the ground and is not roof-mounted; may be of any size (small-, medium- or large-scale).

Solar Energy System, Large-Scale: An Active Solar Energy System that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250kW DC or greater).

Uses Permitted:

1.0 Uses Allowed via Special Permit
1.1 Large-Scale Ground-Mounted Solar Energy Systems

Setbacks:

2.0 The setbacks of the underlying zoning district shall apply to any area where a Solar Overlay District has been approved.

Lot Coverage:

3.0 Solar energy systems shall not be included in calculations for lot coverage or impervious cover when the surface under them is grass or another pervious cover.

Site Plan Review Requirements and Performance Standards:

4.0 Site Plan Review

4.1 Applicability

4.1.1 Large-scale ground-mounted solar energy systems shall undergo Site Plan Review prior to construction, installation or modification as provided in this section.

4.2 Site Plan Document Requirements

Pursuant to the Site Plan Review process, the project proponent shall provide the following documents, as deemed applicable by the Site Plan Review Authority:

4.2.1 A site plan showing:
(a) Property lines and physical features, including roads, for the project site

(b) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;

(c) Blueprints or drawings of the solar energy system signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system, any potential shading from nearby structures, the distance between the proposed solar collector and all property lines and existing on-site

buildings and structures, and the tallest finished height of the solar collector;

(d) One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all Massachusetts Electric Code (527 CMR 12.00) compliant disconnects and overcurrent devices;

(e) Documentation of the major system components to be used, including panels, mounting system, and inverter;

(f) Name, address, and contact information for proposed system installer, as well as all co-proponents or property owners, if any

(g) The name, contact information and signature of any agents representing the project proponent; and

(h) Zoning district designation for the parcels of land comprising the project site

4.2.2 Documentation of actual or prospective access and control of the project site (see also Section 2.3.1.1);

4.2.3 An operation and maintenance plan (see also Section 1.3.1.2);

4.2.4 Proof of liability insurance; and

4.2.5 A public outreach plan including a project development timeline which indicates how the project proponent will meet the required Site Plan Review notification process

4.3 Site Plan Review Design and Operation Standards

4.3.1 Standards for large-scale ground-mounted solar energy systems

4.3.1.1 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 energy system.

4.3.1.2 Operation & Maintenance Plan - The project proponent shall submit a plan for the operation and maintenance of the large-scale ground-mounted solar energy system, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.

4.3.1.3 Utility Notification - No grid-intertie photovoltaic system shall be installed until evidence has been given to the Site

Plan Review Authority that the owner has submitted notification to the utility company of the customer's intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

4.3.1.4 Lighting - Lighting of large-scale ground-mounted solar energy systems 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 and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar energy system shall be directed downward and shall incorporate full cutoff fixtures to reduce light pollution.

4.3.1.5 Signage - Signs on large-scale ground-mounted solar energy systems shall comply with a municipality's sign bylaw/ordinance. A sign consistent with a municipality's sign bylaw/ordinance shall be required to identify the owner and provide a 24-hour emergency contact phone number. Solar energy systems shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar energy system.

4.3.1.6 Utility Connections - Reasonable efforts, as determined by the Site Plan Review Authority, 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 utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4.3.1.7 Emergency Services – The large-scale ground-mounted solar energy system owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the local fire chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar energy system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

4.3.1.8 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 solar energy system or otherwise prescribed by applicable laws, regulations, and bylaws/ordinances.

4.3.1.9 Fencing shall be installed around the perimeter of the large

solar energy system. The purpose of the fencing shall be to deter trespassers and vandalism. The fencing should be installed at such a height as to allow the travel of small wild life through the site. The fencing material shall be approved by the Planning Board.

4.3.2 Monitoring and Maintenance

4.3.2.1 Solar Energy System Installation Conditions - The large-scale ground-mounted solar energy system 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, Emergency Management Director, and Emergency Medical Services. The owner or operator shall be responsible for the cost of maintaining the solar energy system and any access road(s), unless accepted as a public way.

4.3.2.2 Modifications - All material modifications to a large-scale groundmounted solar energy system made after issuance of the required building permit shall require approval by the Site Plan Review Authority.

4.3.3 Abandonment or Decommissioning

4.3.3.1 Removal Requirements

Any large-scale ground-mounted solar energy system which has reached the end of its useful life or has been abandoned consistent with Section 1.3.3.2 of this bylaw/ordinance shall be removed. The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

(a) Physical removal of all solar energy systems, structures, equipment, security barriers and transmission lines from the site.
(b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
(c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Authority may allow the owner or operator to leave landscaping or designated

below-grade foundations in order to minimize erosion and disruption to vegetation.

4.3.3.2 Abandonment

Absent notice of a proposed date of decommissioning or written notice of extenuating circumstances, the large-scale groundmounted solar energy system shall be considered abandoned when it fails to operate for more than one year without the written consent of the Site Plan Review Authority. If the owner or operator of the solar energy system fails to remove the installation in accordance with the requirements of this section within 150 days of abandonment or the proposed date of decommissioning, the town retains the right, after the receipt of an appropriate court order, to enter and remove an abandoned, hazardous, or decommissioned large-scale ground-mounted solar energy system. As a condition of Site Plan approval, the applicant and landowner shall agree to allow entry to remove an abandoned or decommissioned installation.

4.3.3.3 Removal Bond

The applicant shall provide the Town with a bond sufficient to decommission and remove the system at the end of its useful life or in the event that the system is abandoned.