

Chapter 179

ZONING¹

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¹Editor's Note: The numbering of this chapter conforms to the numbering as originally adopted rather than to the style found in the rest of the Code. This was done at the specific request of the Town.

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[HISTORY: Adopted 4-28-1998 ATM, Arts. 42, 43, 44 and 45.² Amendments noted where applicable.]

GENERAL REFERENCES

Planning Board - See Ch. 37.

Building construction - See Ch. 69.

Conservation Plan - See Ch. 81.

Excavations - See Ch. 91.

Sewers - See Chs. 150 and 236.

Streets and sidewalks - See Chs. 156 and 200.

Public roads - See Ch. 197.

Swimming pool fences - See Ch. 202, Art. I.

Subdivision of land - See Ch. 264.

²Editor's Note: These articles also provided for the repeal of former Ch. 179, Zoning, adopted as follows: Art. I, 3-8-1966 ATM, Art. 32, as amended; Art. II, 3-25-1985 ATM, Art. 23; Art. III, 6-30-1986 STM, Art. 16, as amended.

ARTICLE I. PURPOSE.

These regulations are enacted to promote the general welfare of the Town of Deerfield, to protect the health and safety of its inhabitants, to encourage the most appropriate use of land throughout the town, to preserve the cultural, historical and agricultural heritage of the community, to increase the amenities of the town, and to reduce the hazard from fire by regulating the location and use of buildings and the area of open space around them, all as authorized by the provisions of the Zoning Act, G.L. c. 40A, as amended, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

ARTICLE II. USE AND DIMENSIONAL REGULATIONS.

2100. DISTRICTS.

2110. Establishment. For the purposes of this By-Law, the Town of Deerfield is hereby divided into the following districts: [Amended 4-26-2010 ATM, Art. 1; 10-28-2013 STM, Art. 21; 4-30-2018 ATM, Art. 27]

RESIDENTIAL-AGRICULTURAL	RA
CENTER VILLAGE RESIDENTIAL	CVRD
SMALL BUSINESS	C-I
COMMERCIAL	C-II
INDUSTRIAL	I
PLANNED INDUSTRIAL	PI
EXPEDITED PERMITTING DISTRICT	EPD

"Overlay" districts are also hereby created: (1) the Watershed Protection District (see Section 4200); (2) the Flood Plain District (see Section 4300); (3) the Wireless Communications District (see Section 4400); (4) the Adult Use District (see Section 4600); and (5) the Marijuana Overlay District (See Section 4650³).

The boundaries of these districts are defined and set forth on the map entitled, "Official Zoning Map, Town of Deerfield, Massachusetts," dated April 6, 2010. This map is on file with the Town Clerk. This map and all explanatory matter therein are hereby made a part of this Zoning By-Law.

2120. Boundary Definition. Except when labeled to the contrary, boundary or dimension lines shown approximately following or terminating at street, railroad, or utility easement center or layout lines, boundary or lot lines at water body shoreline or the channel of a stream, shall be construed to be actually at those lines; when shown approximately parallel, perpendicular, or at an angle to such lines shall be construed to be actually parallel, perpendicular, or at an angle thereto. When not located in any other way, boundaries shall be determined by scale from the map.

³ Editor's Note: Section 4650 was repealed 10-22-2020 STM by Art. 7.

2200. USE REGULATIONS.

2210. General. No structure shall be erected or used or land used except as set forth in Section 2230, "Use Regulation Schedule", or in Section 2240, "Accessory Buildings and Uses", unless exempted by Section 2250, "Nonconforming Uses and Structures", or by statute. Uses not expressly provided for herein are prohibited. **[Amended 4-26-2010 ATM, Art. 1]**

Symbols employed below shall mean the following:

- Y – A permitted use.
- Y* – A permitted use except that new building footprint, as measured along external walls, in excess of (a) 2,500 gross sq. ft. in the C-I District, or (b) 10,000 gross sq. ft. in the C-II District, as the case may be shall require a special permit from the Board of Appeals.
- Y** – Site Plan Review required by the Planning Board as provided under Section 5400.
- N – An excluded or prohibited use.
- SP – A use authorized under special permit as provided under Section 5300.

2220. Applicability. When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

2230. Use Regulation Schedule. **[Amended 4-26-2004 ATM, Art. 30; 4-28-2008 ATM, Art. 3; 4-26-2010 ATM, Art. 1; 4-25-2011 ATM, Art. 7; 4-27-2015 ATM, Art. 29; 4-25-2016 STM, Art. 7; 4-30-2018 ATM, Art. 27; 10-22-2020 STM by Art. 7]**

Principal Use	RA	CVRD	C-I	C-II	I	PI	EPD ³
A. RESIDENTIAL							
Detached single-family dwelling	Y	Y	N	N	N	N	N
Detached two-family dwelling	N	Y	N	N	N	N	N
Multi-family dwelling	N	SP	SP	N	N	N	SP
Dwelling unit incidental to commercial or industrial use	N	N	Y	Y	N	N	N
Flexible development	Y	Y	N	N	N	N	N
Conservation subdivision	Y	Y	N	N	N	N	N
Accessory apartments for the purpose of providing assistance with the activities of daily living	SP	SP	SP	N	N	N	N
B. EXTENSIVE USES AND COMMUNITY FACILITIES							
Religious or educational use exempted by G.L. c. 40A, s. 3	Y	Y	Y	Y	Y	Y	Y
Educational use not exempted by G.L. c. 40A, s. 3	SP	SP	Y	SP	SP	N	Y
Agricultural use exempted by G.L. c. 40A, s. 3	Y	Y	Y	Y	Y	Y	Y

Principal Use	RA	CVRD	C-I	C-II	I	PI	EPD³
Fur farm, piggery, raising of animals on a parcel of land not exempt by G.L. c. 40A, s. 3	SP	SP	SP	SP	SP	N	N
Other Agricultural use not exempted by G.L. c. 40A, s. 3	SP	SP	SP	SP	SP	N	N
Child care facility or day care facility exempted by G.L. c. 40A, s. 3	Y	Y	Y	Y	Y	Y	Y
Municipal facilities	Y**	Y**	Y	Y	Y	Y	Y
Essential services	SP	SP	SP	SP	SP	SP	SP
Earth Removal	N	N	N	SP	SP	N	N
Nonprofit event ¹	Y	Y	Y	Y	Y	Y	Y
Small-Scale Ground-Mounted Solar Electric Installation ⁸	Y	Y	Y	Y	Y	Y	Y
C. COMMERCIAL							
Office	N	N	Y*	Y*	Y	SP	Y
Bank, including ATM or Teller Line in or outside premises	N	N	Y*	Y*	SP	SP	Y
ATM not within or upon banking premises	N	N	Y	SP	SP	SP	Y
Retail sales or rental with or without display outdoors – Building 4,000 sq. ft. or less of enclosed floor area ^{4,5}	N	N	Y	Y	SP	SP	Y
Retail sales or rental with or without display outdoors – Building greater than 4,000 sq. ft. up to 30,000 sq. ft. of enclosed floor area ^{4,5,6}	N	N	SP	SP	N	SP	Y
Retail sales or rental with or without display outdoors – Building greater than 30,000 sq. ft. up to 60,000 sq. ft. of enclosed floor area ^{4,5}	N	N	N	SP	N	SP	Y
Retail sales or rental with or without display outdoors – Building greater than 60,000 sq. ft. of enclosed floor area ^{4,5}	N	N	N	N	N	SP	SP
Retail sales or rental with display, sales or storage outdoors without a building ⁵	N	N	SP	SP	SP	SP	Y
Artisan Studio – Building up to 5,000 sq. ft.	N	N	Y	Y	SP	SP	Y
Motor vehicle service station	N	N	SP	SP	N	SP	N
Motor vehicle repair shop	N	N	SP	SP	N	SP	N
Private Clubs, Bars or Nightclubs including the sale or consumption of alcoholic beverages, with or without entertainment, whether for profit or not for profit	N	N	SP	SP	N	N	SP
Junkyard or automobile graveyard	N	N	N	N	N	N	N

Principal Use	RA	CVRD	C-I	C-II	I	PI	EPD³
Hospital or sanitarium	N	N	N	SP	N	N	N
Convalescent or nursing home; assisted living residence	SP	SP	SP	SP	N	N	N
Bed and Breakfast	SP	SP	SP	SP	N	N	N
Boarding House	N	SP	Y*	Y*	N	N	N
Print or publishing establishment	N	N	SP	Y	Y	Y	Y
Service shop	N	N	Y	Y	N	SP	N
Repair shop	N	N	SP	SP	N	SP	N
Medical/dental center	N	N	SP	SP	N	SP	Y
Auction gallery for exhibition and sale by auction	N	N	SP	SP	N	N	N
Restaurant, not including fast-food or drive-in restaurant	N	N	Y*	SP	SP	N	Y
Fast-Food or drive-in restaurant	N	N	N	N	N	N	N
Place of assembly	N	N	SP	SP	SP	N	N
Drive-in service, including restaurants, but not including ATMs or Teller Lines	N	N	N	N	N	N	N
Landscaping business ²	SP	N	SP	SP	SP	SP	N
Car wash	N	N	SP	SP	N	N	N
Commercial recreation, outdoors ²	SP	N	SP	SP	SP	N	N
Kennel or animal hospital	N	N	N	SP	SP	N	N
Major Commercial Project	N	N	N	SP	SP	SP	SP
Arcade, Amusement Park	N	N	N	N	N	N	N
Bakery, coffee shop, deli	N	N	Y	Y	Y	SP	Y
Planned Unit Development (See Section 4800)	N	N	SP	SP	SP	N	N
Self-storage warehouse	N	N	SP	SP	SP	SP	N
D. INDUSTRIAL							
Manufacturing, processing, assembly, or fabrication that <u>can</u> meet the Performance Standards of Section 4900	N	N	N	Y	Y	Y	Y
Manufacturing, processing, assembly, or fabrication that <u>cannot</u> meet the Performance Standards of Section 4900	N	N	N	SP	SP	SP	SP
Retail sales incidental to manufacturing facility	N	N	N	SP	SP	SP	Y
Research laboratory or facility but excluding laboratories categorized as Level 4 by the National Institutes for Health	N	N	N	SP	SP	SP	Y
Wholesale, warehouse, or distribution facility	N	N	N	SP	SP	SP	Y
Self storage warehouse	N	N	N	N	N	SP	N

Principal Use	RA	CVRD	C-I	C-II	I	PI	EPD³
Employee services incidental to permitted use	N	N	SP	SP	SP	SP	Y
Contractor's yard	N	N	N	SP	SP	SP	N
Sawmill ²	N	N	N	SP	SP	SP	N
Radioactive waste disposal	N	N	N	N	N	N	N
Truck, bus or freight terminal	N	N	N	SP	SP	SP	N
Planned Unit Development (See Section 4800)	N	N	SP	SP	SP	N	N
Large-Scale Ground-Mounted Solar Electric Installation ^{7,8}	SP	SP	SP	SP	Y**	SP	SP
Extra-Large-Scale Ground-Mounted Solar Electric Installation ^{7,8}	N	N	N	N	SP	N	N
Independent Testing Laboratory	N	N	N	N	N	N	SP ⁹

E. MARIJUANA										
	RA	CVRD	C-I	C-II	I	PI	EPD	MO-1	MO-2	MO-3
Marijuana Cultivator	N	N	N	N	N	N	N	N	SP ¹⁰	SP ¹⁰
Marijuana Product Manufacturer	N	N	N	N	N	N	N	N	SP ¹⁰	SP ¹⁰
Marijuana Retailer	N	N	N	N	N	N	N	SP ¹⁰	SP ¹⁰	N
Marijuana Independent Testing Laboratory	N	N	N	N	N	N	N	Y ¹¹	Y ¹¹	Y ¹¹
Marijuana Microbusiness	N	N	N	N	N	N	N	N	SP ¹⁰	SP ¹⁰
Marijuana Research Facility	N	N	N	N	N	N	N	N	SP ¹⁰	SP ¹⁰
Marijuana Transporter	N	N	N	N	N	N	N	N	SP ¹⁰	SP ¹⁰
Marijuana Social Consumption Operation	N	N	N	N	N	N	N	N	N	N
Medical Marijuana Treatment Center	N	N	N	N	N	N	N	N	SP ¹⁰	SP ¹⁰

NOTES:

- ¹ Subject to the issuance of a permit from the Board of Selectmen pursuant to Chapter 195 of the General By-Laws.
- ² Minimum site of 5 acres in RA District.
- ³ A proposed Expedited Permit Project (EPP) in the Expedited Permitting District (EPD) is subject to the standards of Section 4700, including Performance Standards in Section 4750, and to Site Plan Review by the Board of Selectmen.
- ⁴ Square footage amounts include new buildings and expansion of existing buildings. For expansions, the existing building plus the expansion will be combined to determine the square footage amount. For example, a Special Permit would be required in the C-I or C-II Districts where an applicant proposes to add 600 square feet to an existing building of 3,500 square feet.
- ⁵ Outdoor storage, sales or display associated with any retail use requires Site Plan Review (see Section 5400).
- ⁶ Provided that in the C-I District the building footprint shall not exceed 15,000 square feet.

- ⁷ Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations are subject to the provisions of Section 3800.
- ⁸ Acreage and generating capacity thresholds apply in the aggregate to new facilities and expansion of existing facilities. For expansions, the acreage and output generation of the existing facility would be added to those of the proposed expansion to determine the overall size and generating capacity. Required setback areas, as per Section 3851, shall not be counted toward a facility's total acreage.
- ⁹ The Planning Board shall act as the Special Permit Granting Authority for all Marijuana Establishments per Section 4663; but not for Medical Marijuana Treatment Centers, which shall be permitted in accordance with Section 4654.
- ¹⁰ Authorized by Special Permit with Site Plan Approval from the Planning Board.
- ¹¹ Authorized with Site Plan Approval from the Planning Board.

MO = Marijuana Overlay District

2240. Accessory Buildings and Uses. Any use permitted as a principal use is also allowed as an accessory use, as are others customarily accessory and incidental to permitted principal uses.

2241. Home Occupations As of Right. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an accessory use by a resident of that dwelling; provided, however, that all of the following conditions shall be satisfied:

- a. The occupation or profession shall be carried on wholly within the principal building; or within a building or other structure accessory thereto which has been in existence at least five (5) years, without extension thereof.
- b. Not more than thirty (30) percent of the combined floor area of the residence and any qualified accessory structures shall be used in the home occupation.
- c. No person not a member of the household shall be employed on the premises in the home occupation.
- d. The home occupation shall not serve clients, customers, pupils, salespersons, or the like on the premises.
- e. There shall be no sign, exterior display, no exterior storage of materials, and no other exterior indication of the home occupation, or other variation from the residential character of the premises.
- f. No disturbance, as defined in Section 3410, shall be caused, nor shall the home occupation use or store hazardous materials in quantities greater than associated with normal household use.
- g. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

2242. Home Occupations by Special Permit. Businesses or professions incidental to and customarily associated with the principal residential use of premises may be engaged in as an

accessory use by a resident of that dwelling upon the issuance of a special permit by the Board of Selectmen; provided, however, that all of the following conditions shall be satisfied:

- a. All of the requirements of Section 2241.a, 2241.b, and 2241.g.
- b. Not more than one (1) person not a member of the household shall be employed on the premises in the home occupation.
- c. An unlighted sign of not more than three (3) square feet in area may be permitted. The visibility of exterior storage of materials and other exterior indications of the home occupation, or other variation from the residential character of the premises, shall be minimized through screening and other appropriate devices.
- d. Off-street parking with adequate access shall be provided and maintained for all residential, employee, customer and business needs with the minimum space for three (3) standard-size passenger-type vehicles. Parking limits shall not be within the side and rear yard line limits for the Residential District within which it is located and shall include adequate screening or protection to neighboring residential uses.
- e. No disturbance, as defined in Section 3410, shall be caused. The use or storage of hazardous materials in quantities greater than associated with normal household use shall be subject to design requirements to protect against discharge to the environment.

2243. Boarders in Single-Family Dwelling. The renting of rooms and/or furnishing of board to not more than two persons in a single-family dwelling by the owner/occupant thereof shall be a permitted accessory use. The renting of rooms and/or furnishing of board to more than two persons, but not more than six (6) persons, in a single-family dwelling by the owner/occupant thereof shall be deemed a boarding house subject to the provisions of Section 2230, herein.

2244. Accessory apartments for the purpose of providing assistance with the activities of daily living. **[Added 4-26-2004 ATM, Art. 30]**

An accessory apartment is a second dwelling unit located within a structure constructed as a detached single family dwelling, subordinate in size to the principal dwelling unit and separated from it, in a manner that maintains the appearance of the structure as a single family dwelling, while maintaining the proper fire separation per 780 CMR 6th ed. MA Building Code, chapter 36 3603.4.1.

Purpose. In the Town of Deerfield there is a severe shortage of housing units suitable for use and occupancy by people who live with impairments that require them to receive assistance with the activities of daily living. The Town seeks to remedy this shortage through a variety of actions. One action is to facilitate and encourage the creation of living spaces within existing single family dwellings which are suitable for joint occupancy by the people needing assistance and those providing the assistance with activities of daily living.

- a. Conditions and Requirements. The Zoning Board of Appeals may issue a special permit for an accessory apartment in a detached, one family dwelling as provided in Section 2230, provided that the unit meets the standards of the state building code and state Environmental Code, 780 CMR 6th ed. MA Building Code, chapter 36, 310 CMR 15.00, the state Sanitary Code, and each of the following conditions and requirements is met:
- (i) General.
 - (a) The owner of life-tenant of the dwelling in which the accessory apartment is created, shall occupy either of the dwelling units in the located structure in question, except for temporary absences of up to six months. For the purposes of this section, the "owner" shall be one or more individuals residing in a dwelling, who hold title and for whom the dwelling is the primary residence for voting and tax purposes.
 - (b) There shall be no more than one accessory apartment within a single-family dwelling.
 - (c) The maximum gross floor area of the accessory apartment shall not exceed 30% of the gross floor area of the dwelling, or 1200 square feet maximum, whichever is the lesser size. In no event, however, will the apartment be required to be smaller than 800 square feet. (Note: Gross living floor area is defined as the conditioned living space within the first floor, second floor, and third floor, not storage area or basements.)
 - (d) The residential character of the dwelling and area must be retained.
 - (e) Any additional floor area created by the accessory apartment shall comply with the setback requirements of the zoning district within which the accessory apartment is being located.
 - (f) The accessory apartment is to be occupied by the property owner(s), life-tenant(s), or caregiver(s) only. Caregivers in this instance are defined as individuals who provide assistance to the resident(s) of the primary dwelling or the accessory apartment, with the activities of daily living. A caregiver may be a professional who is paid for the services rendered, or the caregiver may be an informal caregiver, i.e. (paid or unpaid) non-professional.
 - (g) The number of residents of the accessory apartment does not exceed two people at any one time unless the Zoning Board of Appeal specifically permits differently. An example of a need for more than two people would be when a caregiver has two children. In this case, the total number of residents in the accessory apartment would be three.
 - (h) The accessory apartment is the primary year-round residence of all its occupants.

- (i) The accessory apartment will not be sublet or subleased by either the owner or accessory resident(s) at any time.
 - (j) The Building Commissioner and/or a Board of Health Agent shall have the right to further inspect the premises of an accessory apartment that has been vacated. The Building Commissioner or Board of Health Agent may inspect the premises up to three (3) times per year for three (3) years consecutive from the time of vacancy.
 - (k) The Building Commissioner and/or a Board of Health Agent has the right to inspect the premises upon receipt of a written complaint.
 - (l) Care shall be taken to ensure that the person requiring assistance shall be accessible to Emergency personnel, whichever part of the home he or she occupies.
- (ii) Exterior Appearance of a Dwelling with an Accessory Apartment. The accessory apartment shall be designed so that the appearance of the structure remains that of a single family dwelling, subject further to the following conditions and requirements:
- (a) All stairways to second and third stories shall be enclosed within the walls of the dwelling.
 - (b) Any new entrance shall be located on the side or in the rear of the dwelling.
- (iii) Off Street Parking. There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking space for the accessory apartment. However, the total required shall not exceed the total number of bedrooms of both the primary dwelling and the accessory apartment combined.
- (iv) Conditions for Issuance and Renewal of Special Permits.
- (a) Conditions and procedure for Issuance.
 - (i) Accessory apartments may be allowed on special permit, which shall lapse every five (5) years, by the Board of Appeals, in accordance with the special permit process in this Zoning Bylaw, as set forth in Section 5300, and provided that each of the following additional criteria are met.
 - (ii) The property owner (or his or her agent) shall provide four sets of scaled plans of any proposed remodeling or addition to accommodate the accessory apartment. These plans shall be provided to the Building Commissioner (2 copies), the Fire Chief, and the Zoning Board of Appeals.

- (iii) Prior to occupancy of the accessory apartment, affidavits reciting the names and relationship among the parties seeking approval have been signed and shall be signed annually thereafter for the duration of such occupancy.
 - (iv) Prior to occupancy of the accessory apartment, an occupancy permit shall be obtained from the Building Commissioner.
 - (v) No such occupancy permit shall be issued until the Building Commissioner has made a final inspection of the proposed accessory apartment.
- (b) Conditions for Renewal of Special Permits.
- (i) The initial term and subsequent terms of a special permit for an accessory apartment shall expire after five (5) years.
 - (ii) Subsequent (five year) special permit issuances for existing accessory apartments shall be granted after certification by affidavit is made by the applicant to the Board of Appeals that the accessory apartment has not been extended, enlarged, or altered to increase its original dimensions, as defined in the initial special permit application.
 - (iii) Subsequent special permit issuances for existing accessory apartments shall be granted after affidavits reciting the names and relationship among the parties seeking approval have been signed.
- (c) The special permit use shall lapse upon transfer of the premises or when the owner/applicant no longer occupies the premises.

b. Enforcement:

- (i) Enforcement of this regulation shall be consistent with MGL Chapter 40A Section 7.
- (ii) Violations will be fined up to \$300.00 per violation. Each day such violation continues shall constitute a separate offense.

The ability to issue new permits under this by-law shall expire at the Annual Town Meeting, April 2009 unless extended by a vote of the Town Meeting. Accessory apartments allowed by special permit prior to this date shall continue as valid special permit uses, as long as they comply with the condition and requirements set forth in this Section 2244.

2250. Nonconforming Uses and Structures.

2251. Applicability. This zoning by-law shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing required by G.L. c. 40A, s. 5 at which this zoning

by-law, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

2252. Nonconforming Uses. The Board of Appeals may award a special permit to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

- a. Change or substantial extension of the use;
- b. Change from one nonconforming use to another, less detrimental, nonconforming use.

2253. Nonconforming Structures. The Board of Appeals may award a special permit to reconstruct, extend, alter, or change of use of a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change of use shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

- a. Reconstructed, extended or structurally changed;
- b. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;
- c. Reconstructed after a catastrophe, provided that the owner shall apply for a building permit and start operations for reconstruction on said premises within eighteen (18) months after such catastrophe, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure.
- d. The reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

2254. Nonconforming Single and Two Family Residential Structures. Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Inspector that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and the issuance of a building permit, where applicable. In the event that the Building Inspector determines that the nonconforming nature of such structure would be increased by the proposed reconstruction, extension, alteration, or change, the Board of Appeals may, by special permit, allow such reconstruction, extension, alteration, or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

2255. Abandonment or Non-Use. A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this zoning by-law.

2256. Reversion to Nonconformity. No nonconforming use shall, if changed to a conforming use, revert back to a nonconforming use.

2300. DIMENSIONAL REQUIREMENTS.

2310. General. No structure shall be erected or used, premises used, or lot changed in size or shape except in conformity with the requirements of this section, unless exempted by this By-Law or by statute (see G.L. c. 40A, s.6).

2320. Table of Dimensional Requirements. [Amended 4-26-2004 ATM, Art. 32; 4-26-2010 ATM, Art. 1; 10-28-2013 STM, Art. 21]

Principal Use	RA	CVRD	C-I	C-II	I	PI	EPD
MINIMUM LOT SIZE (x 1000 square feet) ^{1, 7}	60	12 ²	15	30	80	80	-
FRONTAGE (feet)	200	100 ²	125	200	200	200	-
FRONT SETBACK (feet) ^{3,8}	30	30	20	50	40	50 ⁴	-
REAR YARD (feet) ⁸	10	10	10	25	25	25 ⁵	-
SIDE YARD (feet) ⁸	10	10	10	25	25	25 ⁵	-
PERIMETER SETBACK							25
MINIMUM LOT WIDTH (feet) ⁶	100	50	62.5	100	100	100	-
MAX. BUILDING HEIGHT (feet)	35	35	35	35	35	35	48
MAXIMUM LOT COVERAGE BY IMPERVIOUS SURFACES (%) Buildings, Parking Areas, Walkways, and other impervious surfaces - Low Impact Development (LID) techniques such as pervious pavers do not count as an impervious surface	30	75	70	60	60	70	80

NOTES:

- ¹ A minimum of 80% of the area of the lot shall be uplands, and shall not be wetland resource areas as set forth 310 CMR 10.54, 10.55, 10.56, and 10.57. "Riverfront areas," defined in 310 CMR 10.58, which do not also include other wetland resource areas, may be calculated in their entirety (100%) toward the minimum lot size requirement.
- ² Increase by 25% for two-family dwellings; by 50% for multi-family dwellings.

- ³ Provided, however, that no building need be set back more than the average of the setbacks of the buildings on the next lots on either side if any such building is within one hundred feet of the proposed building.
- ⁴ 75 feet if the street providing frontage is a state highway.
- ⁵ 75 feet if the property abutting the rear yard is in the RA District.
- ⁶ Lot width shall be measured by a line drawn between all non-intersecting lot lines, and having a minimum distance as specified in this Table 2320 for the zoning district. All lines projected for purposes of measuring minimum lot width shall be drawn perpendicular to the property line of origin. In cases of all curved lot lines, minimum lot width shall be measured by a line drawn perpendicular to a chord drawn from the end points of each curved line segment (arc) which is tangent to the arc and parallel to the chord, having a minimum distance designated in this Table 2320 for the zoning district (see illustrations 3⁴).
The minimum angle between a front line and any adjoining lot line shall be 60 degrees.
In the case of lots located in more than one zoning district, the requirements of the more restrictive zoning districts shall apply to the entire lot.
- ⁷ Any part of a lot which does not meet the minimum criteria for LOT WIDTH, shall not be considered toward the calculation of MINIMUM LOT SIZE.
- ⁸ No Medical Marijuana Treatment Center or Marijuana Establishment shall be sited within a radius of five hundred feet of a public or private school, daycare center or any facility in which children commonly congregate, said distance to be measured in a straight line from the nearest point of the property line of said facility to the nearest point of the property line of the Medical Marijuana Treatment Center or Marijuana Establishment.

2400. RATE OF DEVELOPMENT. [Amended 5-14-2001 ATM, Art. 37; 4-26-2004 ATM, Art. 31]

2410. Purpose. The purpose of this section, "Rate of Development," is to promote orderly growth in the Town of Deerfield, consistent with the rate of residential growth over the last ten (10) calendar years, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time, and capacity to incorporate such growth for the community, and to preserve and enhance existing community character and the value of property.

2420. General. Beginning on May 1, 2004 building permits for not more than 24 dwelling units shall be issued in each of the three full calendar years following said date, for the construction of new residential dwellings. In addition, building permits for not more than twenty (20) dwelling units shall be issued in the remainder of calendar year 2004. For the purposes of this section, a two-family structure shall constitute two dwelling units, and so on. A principal residence with an accessory apartment therein shall constitute two dwelling units.

2430. Procedures. Any building permits issued shall be issued in accordance with the following procedures:

2431. The Building Inspector or Commissioner shall act on each permit in order of submittal. Any permit application that is incomplete or inaccurate shall be returned to the applicant and shall require a new submittal.

⁴ Editor's Note: Said illustrations follow the definition of "lot width" in Article VI of this chapter.

2432. The Building Inspector or Commissioner shall mark each application with the time and date of submittal, and shall act on each application in a timely manner.

2433. Any building permits not issued in any calendar year shall not be available for issuance in any subsequent year.

2434. At the end of the calendar year in which this bylaw is in effect, the Building Inspector or Commissioner shall retain all applications for which a building permit has not been issued. Upon being informed in writing by the applicant before the first Monday in January of the succeeding calendar year that the applicant desires the application to remain in effect, the Building Inspector or Commissioner shall treat said application in accordance with subsection 2431, above.

2440. Exemptions. The provisions of this section shall not apply to, nor limit in any way, the granting of building or occupancy permits for:

2441. The enlargement, restoration, or reconstruction of dwellings existing on lots as of the date of passage of this bylaw, but shall apply to the creation of an accessory apartment.

2442. A single permit issued to an individual for the construction of a dwelling unit on a property or a set of contiguous properties in common ownership as of May 1, 2004.

2443. Senior housing and/or affordable housing construction that have been approved by Town Meeting vote.

2450. Extension. This section may be extended without lapse of its provisions and limitations by vote of the Town Meeting prior to May 1, 2007.

ARTICLE III. GENERAL REGULATIONS.

3100. TOWNWIDE PARKING AND LOADING REQUIREMENTS.

3110. General. Adequate off-street parking must be provided to service all parking demand created by new construction, whether through new structures or additions to old ones, and by change of use of existing structures. Such parking shall be on the same premises as the activity it serves, or within 200 feet on a separate parcel, which may be jointly used with other premises for this purpose, provided that the continued joint use of such parcel be ensured through an agreement recorded in the Registry of Deeds.

3120. Reduction of Parking Requirement by Special Permit. Notwithstanding the provisions of Section 3130, the Planning Board may, by special permit, reduce the number of parking spaces upon its determination that the intended use of the premises can be adequately served by fewer spaces. The Planning Board may consider on-street parking available near the premises as a factor in making this determination.

3130. Table of Parking Requirements. Parking shall be provided in accordance with the following schedule. Any computation resulting in a fraction of a space shall be rounded to the highest whole number.

Principal Use	Minimum Number of Parking Spaces
General Retail	1 per 250 square feet of gross floor area
Retail sales accessory to industrial use	1 per 500 square feet of gross floor area
Printing and Publishing	1 per 500 square feet of gross floor area
Medical Office	1 per 150 square feet of gross floor area
General Office	1 per 250 square feet of gross floor area
Restaurants	1 per two seats plus 1 per two employees
Research and Development, Manufacturing, or Industrial	1 per 500 square feet of gross floor area or 1 per employee, whichever is greater.
Warehousing and storage	1 per two employees but not less than 1 space per 5,000 square feet of area devoted to in- door or outdoor storage.
Inns and Bed & Breakfasts	1 per sleeping room plus 1 per 2 employees
School or day care facility	1 per 4 occupants plus 1 per 2 employees
Church, Library, Museum or similar place of assembly	1 per 8 occupants plus 1 per 2 employees
Bank	1 per 175 square feet of gross floor area
Dwellings	2 spaces per dwelling unit for single family 2 spaces per dwelling unit for multifamily, plus 0.5 space per unit for visitors
Gasoline service station	2 per service bay plus 1 per employee

3140. Parking Lot Design.

3141. Required parking areas shall not be located within twenty-five feet of the pavement of the traveled way serving the premises. The area between the parking area and the pavement shall be appropriately landscaped.

3142. Parking spaces shall be at least 9' x 18".

3143. The Planning Board may require the paving of all parking areas, except those serving residential premises.

3144. In paved parking areas with eight or more spaces, individual spaces shall be delineated by painted lines, wheel stops, or other means.

3145. For parking areas of fifteen (15) or more spaces, the Planning Board may require bicycle racks facilitating locking, and may require that a landscaping plan be submitted as part of site plan review.

3146. Parking areas in the PI District shall be setback 75 feet from property located in the RA District, 10 feet from property located in the PI District, 25 feet from a street, and 50 feet from a state highway.

3147. All artificial lighting shall be arranged and shielded so as to prevent direct glare from the light source onto any public way or any other property.

3148. Parking lot aisles shall be designed in conformance with the following:

Parking Angle	Minimum Aisle Width (one-way traffic)	Minimum Aisle Width (two-way traffic)
0 degrees (parallel)	12 feet	20 feet
30 degrees	13 feet	20 feet
45 degrees	14 feet	21 feet
60 degrees	18 feet	23 feet
90 degrees	24 feet	24 feet

3150. Driveway Design. Access driveways to nonresidential parking areas shall be 10 feet wide for one-way traffic and 18 feet for two-way traffic. Driveways shall not exceed 22 feet in width; provided, however, that driveways serving two-way traffic may be reduced to 10 feet in width when the driveway does not exceed 50 feet in length, does not serve more than 5 parking spaces, and provides sufficient turnaround so as not to require backing onto a public way.

3151. To the extent feasible, parking areas shall be served by common private access ways, in order to minimize the number of curb cuts. Such common access ways shall be in conformance with the functional standards of the Subdivision Rules and Regulations of the Planning Board⁵ for road construction, sidewalks, and drainage. Proposed documentation (in the form of easements, covenants, or contracts) shall be submitted with the application, demonstrating that proper maintenance, repair, and apportionment of liability for the common access way and any shared parking areas has been agreed upon by all lot owners proposing to use the common access way, and that the common access way shall be permanently available to uses on adjacent or nearby lots. Common access ways may serve any number of parcels deemed appropriate by the Planning Board.

3160. Loading Requirements. Adequate off-street loading facilities and space shall be provided to service all needs created by construction whether through additions, change of use, or new structures. Facilities shall be so sized and arranged that no vehicle will back onto or off of a public way, or be parked on a public way while loading, unloading, or waiting to do so. Such areas shall be landscaped in accordance with Section 3300.

⁵Editor's Note: See Ch. 264, Subdivision of Land.

3161. Loading areas in the PI District shall be setback 75 feet from property located in the RA District, 10 feet from property located in the PI District, 25 feet from a street, and 50 feet from a state highway.

3200. SIGNS. [Amended 9-12-2005 STM, Art. 2]

3210. In the Center Village Residential District and Residential/Agricultural District the following signs are permitted.

3211. Signs on residential property for a home occupation shall be a maximum of (3) square feet in total area, when a sign is permitted by the Board of Selectmen pursuant to Section 2242.

3212. For permitted buildings, structures and uses of the premises, other than one or two family dwellings and their accessory uses, two signs not over six (6) square feet in total area are allowed, unless the Board of Appeals grants a special permit for a larger sign. Signs shall be located at least 15 feet from the front, side and rear property lines.

3220. In the Commercial I, II, & III and Planned Industrial Districts, signs advertising the name of the firm and the products and services produced or available on the premises are permitted only as follows:

3221. In the Small Business District (C-I).

Two, (2) signs or other advertising devices shall be allowed for each firm or establishment on the premises. The aggregate sign(s) or device(s) serving all firms on the premises shall not exceed thirty-two (32) square feet, per face, in area, and no single sign shall exceed sixteen (16) square feet, per face, in area. One additional sign serving all firms may be attached to a marquee which is an integral part of the building, provided that the total area of such sign does not exceed six (6) square feet per face.

- a. A sign attached to a building shall not exceed eight percent (8%) of the wall area to which it is attached and shall not project above the eave of building or more than thirty-six (36) inches from the vertical plane of the wall it is attached to, and be a minimum of eight (8) feet from the bottom edge to grade.
- b. A freestanding sign identifying a firm or establishment shall not exceed a maximum height of twenty (20) feet above average grade. All such signs shall be setback a minimum of twenty (20) feet from the street line and fifteen (15) feet from the nearest property line.
- c. Roof signs are prohibited.
- d. Additional signs identifying a firm, or other advertising devices, shall not be allowed, except by Special Permit from the Zoning Board of Appeals as provided for under Section 5300.

3222. In the Commercial District (C-II), Industrial District (C-III) and Planned Industrial District (PI).

Two (2) signs or other advertising devices shall be allowed for each firm or establishment on the lot, or premises, when the buildings housing the business span more than one lot. One additional sign serving all firms may be free standing in compliance with 3222.b. or attached to a marquee which is an integral part of the building provided the total area of such sign does not exceed thirty- two (32) square feet.

- a. Attached signs shall not exceed eight percent (8%) of the wall area to which it is attached and shall not project above the eave of the building or more than 36 inches from the vertical plane of the wall to which it is attached.
2. Freestanding signs and supports shall not exceed a height of-fifteen (15) feet above average grade.
3. Each face shall not exceed thirty-two (32) square feet per each face.

In the C-II District all signs shall be set back a minimum of twenty (20) feet from the street, and twenty (20) feet from side and rear lot lines. In the C-III district all setbacks are a minimum of twenty-five (25) feet from the street, and twenty-five (25) feet from side and rear lot lines. In the P-I District all signs shall be set back a minimum of thirty (30) feet from the street, and a minimum of thirty (30)_feet from side and rear lot lines.

- b. Roof signs are prohibited.
- c. Additional signs identifying a firm or other advertising devices shall not be allowed, except by special Permit from the Zoning Board of Appeals as provided for under Section 5300.
- d. Additional signs may be allowed which are solely directional provided that they do not exceed seven (7) square feet in area, nor eight (8) feet in height. Such directional signs shall not exceed a maximum length of five (5) feet, and maximum width of sixteen (16) inches. An establishment's name may appear on such signs with letters no more than four (4) inches high.

3230. General Sign Restrictions

3231. Signs, announcements, or bulletin boards not exceeding thirty-two (32) square feet in area are allowed in all zoning districts in connection with governmental, charitable, or religious use.

3232. No sign or advertising device shall project over any public pedestrian or vehicular right of way more than thirty six (36) inches and must be at least eight (8) feet above the sidewalk.

3233. Signs of any kind or style shall not impair pedestrian or vehicular flow.

3234. No sign or advertising device shall incorporate motion or be lighted by flashing or blinking lights or utilize a change in light intensity, or be internally lit.

- a. All illuminated signs or other advertising devices shall be shielded or indirect, and not internally lit. No exterior sign or interior sign visible from outside of the structure shall be illuminated during hours the business is not open. No sign in any Residential/Agricultural District shall be illuminated after nine (9:00) p.m.
- b. Off premises signs, other than directional signs, shall not be allowed. An off premises sign is any sign that advertises or indicates someone other than the person occupying the premises on which the sign is erected or maintained or some business or businesses other than the transacted thereon, or advertises another property or any part thereof as for sale or rent. Off premises directional signs are subject to the limitations contained in Section 3222 (e) of this Zoning Bylaw.

3235. a. Signs required by federal or state law are allowed in all districts.

- b. Signs posting land against trespassing, hunting, or fishing are allowed in all districts.

3238. Agricultural and farm stand signs are allowed but subject to all setback and size requirements.

3239. Any sign not properly fastened, secured or maintained will not be allowed.

3240. Signs allowed by Special Permit The Zoning Board of Appeals may grant special permits as follows, without application of Section 5330.

3241. For changes in existing signs and non-conforming signs providing such changes are within the limits established pursuant to Section 3220, and not substantially more detrimental to the neighborhood.

3242. For a directional or identification sign in any district where such sign is constructed and maintained for non-commercial purposes, and will not be substantially more detrimental to the neighborhood with respect to size, location, safety, or design. Maximum size is eight (8) square feet maximum per face and eight (8) feet in height above grade.

Only one (1) sign per parcel is allowed.

3250. Temporary Signs

- a. In the RA, CVRD and CI District, the following signs are allowed, provided that they meet all applicable lot line setback distances:
 1. Political signs, seven (7) square feet maximum; Real Estate signs, seven (7) square feet maximum.

2. Public, charitable or religious organization, thirty-two (32) square feet maximum.
 3. Construction or remodeling site signs, (9) square feet maximum.
 4. Special Events, 30 days prior, 1 week after the event being advertised.
 5. Sandwich board signs, moveable signs, portable signs, signs on wheels or carts, seven (7) square feet maximum are allowed only in the C-I zoning district and shall not remain in place after business hours, and prohibited in all other zoning districts.
 6. Signs advertising agricultural products, thirty-two (32) square feet maximum; and shall be removed at the end of the growing season.
- b. In the C-II, C-III and P-I Districts
1. Construction site signs, (18) square feet maximum.
 2. Real Estate signs, (9) square feet maximum.

3260. All sign changes, replacements and new signs require a building permit.

3270. Definitions.

3271. Directional Sign - A directional sign is an off-premises sign which indicates the direction or distance to a geographical area or establishment, but does not in any other way advertise the business or activity of the establishment.

3272. Moveable or Portable Sign -- A moveable or portable sign is one which is capable of being readily moved or relocated, including portable signs mounted on a chassis and wheels or supported by legs.

3273. Parcel is a plot of land having definite boundaries which are recorded in the Franklin Registry of Deeds, and the parcel size meets the minimum lot area requirements applicable for the use of the property in the zoning district, or the parcel size qualifies the property as a grandfathered non-conforming lot for an allowed primary (non-accessory) use of the property.

3274. Agricultural products are those which have been created by:

- Farming and the cultivation and tillage of the soil;
- Dairying;
- Production, cultivation, growing, and harvesting of any agricultural aquacultural, floricultural, viticultural, or horticultural commodities;
- Growing and harvesting of forest products upon forest land, and any other forestry or lumbering operations;

- Raising of livestock including horses;
- Keeping and raising of poultry, cattle, ratites (such as emus, ostriches, and rheas) and camelids (such as llamas and camels), and other domesticated animals for food and other agricultural purposes, including bees and fur-bearing animals.

3300. GENERAL LANDSCAPING REQUIREMENTS.

3310. Purpose. This Section 3300 is designed to accomplish the following objectives:

3311. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses;

3312. To define the street edge and provide visual connection between nonresidential uses of different architectural styles;

3313. To separate different and otherwise incompatible land uses from each other in order to partially or completely reduce potential nuisances such as dirt, dust, litter, noise, glare from motor vehicle headlights, intrusion from artificial light (including ambient glare), or view of signs, unsightly buildings or parking lots;

3314. To provide visual relief to parking lots and protection from wind in open areas;

3315. To preserve or improve the visual and environmental character of Deerfield, as generally viewed from residential or publicly accessible locations; and

3316. To offer property owners protection against diminution of property values due to adjacent nonresidential use.

3320. Applicability. The requirements of this section shall apply to any nonresidential use.

3330. Requirements.

3331. Property line(s) with residential uses or districts shall be screened from the uses specified above by means of plantings to be provided and maintained by the owner of the property used for nonresidential purposes.

3332. Planted buffer strips along property lines with residential uses or districts shall contain trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion. Deciduous trees shall be at least two (2") inches in caliper as measured six (6") inches above the root ball at time of planting. Deciduous trees shall be expected to reach a height of 20 feet within ten years after planting. Evergreens shall be a minimum of eight (8') feet in height at the time of planting. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees. Shrubs and hedges shall be at least 2.5 feet in height at the time of planting, and have a spread of at least 18 inches.

3333. Deciduous trees shall be planted between the street and the sidewalk, spaced 35 feet apart. Such trees shall be at least two (2") inches in diameter at breast height at time of planting, and shall be expected to reach a height of 20 feet within ten years after planting.

3340. Coordination with Site Plan Approval. The Planning Board may require a landscaping plan as part of the overall site plan for the premises. Such landscaping plan shall be at a scale sufficient to determine compliance with the specifications set forth in this Section 3300.

3350. Maintenance of Landscaped Areas. The owner of the property used for nonresidential purposes shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with this section. All plant materials required by this chapter shall be maintained in a healthful condition. Dead limbs, refuse and debris shall be promptly removed. Dead plantings shall be replaced with new live plantings at the earliest appropriate season. Bark mulch and nonplant ground surface materials shall be maintained so as to control weed growth.

3400. DRIVEWAY REGULATIONS.

3410. General. For the purpose of promoting the safety of the residents of the Town, an application for a building permit for a residential structure shall include a plan, at a scale of 1" = 100 ft., showing the driveway serving the premises, and showing existing and proposed topography at 10 ft. or 3 meter contour intervals. All driveways shall be constructed in a manner ensuring reasonable and safe access from the public way serving the premises to within a distance of 100 feet or less from the building site of the residential structure on the premises, for all vehicles, including, but not limited to, emergency, fire, and police vehicles. The Building Inspector shall not issue a building permit for the principal structure on the premises unless all of the following conditions have been met:

3420. Location. Except in access strips of less than fifty (50) feet width to rear lots, no driveway shall be located within ten (10) feet of any side or rear lot line without written approval by the appropriate abutter(s), or by special permit by the Planning Board after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.

3430. Length. The distance of any driveway measured from the street line to the point where the principal building is proposed shall not exceed a distance of five hundred (500) feet, unless the Planning Board shall grant a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.

3440. Grade. The grade of each driveway where it intersects with the public way shall not exceed eight percent (8%) for a distance of 20 feet from the travel surface of the public way unless the Planning Board shall grant a special permit after a determination that said driveway will provide safe and reasonable access for fire, police and emergency vehicles.

3450. Access. Driveways serving the premises shall provide access through the required frontage of the serviced lot, except in the case of a "common driveway" under Section 8.9.6, herein.

3460. Common Driveways. Common driveways serving not more than two (2) lots may be allowed on special permit by the Planning Board. A common driveway must satisfy all of the conditions in this Section 3400, as well as all of the following conditions:

- 3461. The centerline intersection with the street centerline shall not be less than 45 degrees;
- 3462. A minimum cleared width of 12 feet shall be maintained over its entire length;
- 3463. A roadway surface of a minimum of 4 inches of graded gravel, placed over a properly prepared base, graded and compacted to drain from the crown shall be installed;
- 3464. The driveway shall be located entirely within the boundaries of the lots being served by the driveway;
- 3465. Proposed documents shall be submitted to the Planning Board demonstrating that, through easements, restrictive covenants, or other appropriate legal devices, the maintenance, repair, snow removal, and liability for the common driveway shall remain perpetually the responsibility of the private parties, or their successors-in-interest.

3500. FLEXIBLE DEVELOPMENT.

3510. Purpose. The purpose of this Section 3500, Flexible Development, is to preserve open space, forested, and other scenic views along the public ways in the Town of Deerfield; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to preserve Deerfield's traditional New England landscape; and to allow landowners a reasonable return on their investment.

3520. Applicability. Any creation of five (5) or more lots in a residence district, whether a subdivision or not, from a parcel or set of contiguous parcels held in common ownership may proceed under this Section 3520, Flexible Development, subject to site plan review under Section 5400, hereunder.

3530. Procedures. Applicants for Flexible Development shall file with the Planning Board six (6) copies of a Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board.⁶ The Planning Board may also require as part of the Development Plan any additional information necessary to make the determinations and assessments cited herein.

3540. Modification of Lots - Requirements. The Planning Board may authorize modification of lot size, shape, and other bulk requirements for lots within a Flexible Development, subject to the following limitations:

- 3541. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.

⁶Editor's Note: See Ch. 264, Subdivision of Land.

3542. Lots may be reduced in area to a minimum of 1.0 acres, provided that all lots located within the Flexible Development shall average 50,000 sq. ft. in size.

3543. Lot frontage may be reduced to a minimum of 100 feet, provided that all lots located within the Flexible Development shall average in frontage 125 feet.

3544. Each lot shall have at least 75% of the required yards for the district.

3550. Visual Buffer Requirements. A buffer area, not less than 200 feet in width, shall be provided between any public way adjacent to the Flexible Development and any home constructed therein. The buffer may be constituted as a "no build" zone within the site, and may serve as area for individual lots contained therein. No indigenous vegetation shall be removed from this buffer zone before or after the development of the residential compound (except for removal necessary for the construction of subdivision roadways and services), nor shall any building or structure be placed therein.

3560. Relation to Other Requirements. The submittals and permits of this Section shall be in addition to any other requirements of the Subdivision Control Law⁷ or any other provisions of this Zoning By-Law.

3600. CONSERVATION SUBDIVISION DESIGN.

3610. Purpose. The purpose of this Section 3600, Conservation Subdivision Design, is to encourage the preservation of open land for its scenic beauty and to enhance agricultural, open space, forestry, and recreational use; to preserve historical and archeological resources; to protect the natural environment; to protect the value of real property; to promote more sensitive siting of buildings and better overall site planning; to perpetuate the appearance of Deerfield's traditional New England landscape; to allow landowners a reasonable return on their investment; to facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and to promote the development of housing affordable to low and moderate income families.

3620. Applicability. Any creation of five (5) or more lots, whether a subdivision or not, from a parcel or set of contiguous parcels held in common ownership and located entirely within the Residence Agricultural District, may proceed under this Section 3600, Conservation Subdivision Design, pursuant to the issuance of a special permit by the Planning Board, as indicated in Section 2230, the Use Regulation Schedule. Such special permits shall be acted upon in accordance with the following provisions.

3630. Procedures. Applicants for Conservation Subdivision Design shall file with the Planning Board six (6) copies of the following:

3631. A Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board.⁸ Such plan shall indicate proposed topography, wetlands, and, unless the development is to be sewered, the results of

⁷Editor's Note: See MGL c. 41, §§ 81K to 81GG.

⁸Editor's Note: See Ch. 264, Subdivision of Land.

deep soil test pits and percolation tests at the rate of one per acre, but in no case fewer than four (4) per Conservation Subdivision. Where wetland delineation is in doubt or dispute, the Planning Board shall require the applicant to submit to the Conservation Commission a request for determination of applicability pursuant to G.L. c. 131, s.40 and 310 CMR 10.05(3). The Planning Board shall refer data on proposed wastewater disposal to the Board of Health for their review and recommendation. The Planning Board may also require as part of the Development Plan any additional information necessary to make the determinations and assessments cited herein.

3632. Four-Step Design Process. Each Development Plan shall follow a four-step design process, as described below. When the Development Plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that these four design steps were followed by their site designers in determining the layout of their proposed streets, houselots, and open space.

- a. Designating the Open Space. First, the open space is identified. The open space shall include, to the extent feasible, the most sensitive and noteworthy natural, scenic, and cultural resources on the property.
- b. Location of House Sites. Second, potential house sites are tentatively located. House sites should be located not closer than 100 feet to wetlands areas, but may be situated within 50 feet of open space areas, in order to enjoy views of the latter without negatively impacting the former.
- c. Street and Lot Layout. Third, align the proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on open space. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged.
- d. Lot Lines. Fourth, draw in the lot lines. These are generally drawn midway between house locations.

3640. Modification of Lot Requirements. The Planning Board may authorize modification of lot size, shape, and other bulk requirements for lots within a Conservation Subdivision, subject to the following limitations:

3641. Lots having reduced area or frontage shall not have frontage on a street other than a street created by a subdivision involved.

3642. Each lot shall contain not less than one-half of the area otherwise required in the district, and have frontage of not less than 50 feet.

3643. Each lot shall have at least 50% of the required yards in the district.

3650. Number of Dwelling Units. The maximum number of dwelling units allowed shall be equal to the number of lots which could reasonably be expected to be developed upon that parcel under a conventional plan in full conformance with all zoning, subdivision regulations, health

regulations, wetlands regulations and other applicable requirements. The proponent shall have the burden of proof with regard to the design and engineering specifications for such conventional plan.

3660. Open Space Requirements. A minimum of 20% of the parcel shown on the Development Plan shall be contiguous open space, excluding required yards and buffer areas. Such open space may be separated by the road(s) constructed within the Conservation Subdivision. Not more than 25% of such open space shall be wetlands, as defined pursuant to G.L. c. 131, s. 40.

3661. The required open space shall be used for conservation, historic preservation and education, outdoor education, recreation, park purposes, agriculture, horticulture, forestry, or for a combination of these uses, and shall be served by suitable access for such purposes.

3662. The required open space shall remain unbuilt upon, provided that ten percent (10%) of such open space may be paved or built upon for structures accessory to the dedicated use or uses of such open space, pedestrian walks, and bikepaths, and agriculture.

3663. Underground utilities to serve the Conservation Subdivision site may be located within the required open space.

3664. The required open space may, at the owner's request, be conveyed to:

- a. the Town of Deerfield. or its Conservation Commission;
- b. a nonprofit organization, the principal purpose of which is the conservation of open space and any of the purposes for such open space set forth above;
- c. a corporation or trust owned jointly or in common by the owners of lots within the Conservation Subdivision. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of the open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each lot. Each such trust or corporation shall be deemed to have assented to allow the Town of Deerfield to perform maintenance of the open space and facilities, if the trust or corporation fails to provide adequate maintenance, and shall grant the town an easement for this purpose. In such event, the town shall first provide fourteen (14) days written notice to the trust or corporation as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the town may perform it. The owner of each lot shall be deemed to have assented to the town filing a lien against each lot in the development for the full cost of such maintenance, which liens shall be released upon payment to the town of same. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such trust or corporation shall be submitted to the Planning Board for approval, and shall thereafter be recorded in the Registry of Deeds.

3665. Any proposed open space, unless conveyed to the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable by the Town, providing

that such land shall be perpetually kept in an open state, that it shall be preserved for exclusively agricultural, horticultural, educational or recreational purposes, and that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

3670. Buffer Areas. All dwellings and structures shall be located a minimum of 50 feet from adjacent properties, and 100 feet from adjacent surface waters or wetlands. Buffer areas shall be retained in their natural vegetative state to the maximum extent feasible, in accordance with G.L. c. 131, s. 40, the Wetlands Protection Act, except where adjacent to agriculturally used property.

3680. Decision. The Planning Board may approve, approve with conditions, or deny an application for a Conservation Subdivision, after assessing whether the Conservation Subdivision better promotes the objectives of Section 3610, herein, than would orthodox development.

3690. Relation to Other Requirements;. The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law⁹ or any other provisions of this Zoning By-Law.

3700. ENVIRONMENTAL REGULATIONS.

3710. Disturbances. No use shall be allowed if it will cause sound, noise, vibration, odor or flashing (except for warning devices, temporary construction, or maintenance work, parades, recreational or agricultural activities, or other special circumstances) perceptible without instruments more than 200 feet from the boundaries of the originating premises if in a non-Residential district, or more than 40 feet from the boundaries of the originating premises if in a Residential District, unless otherwise specified herein. However, the Board of Appeals may grant a special permit for an exception for activities not meeting these standards, in cases where the Board determines that no objectionable conditions are thereby created for the use of other affected properties.

3720. Erosion Control. Site design, materials, and construction processes shall be designed to avoid erosion damage, sedimentation, or uncontrolled surface water runoff by conformance with the following:

3721. Grading or construction which will result in final slopes of 15% or greater on 50% or more of lot area, or on 30,000 square feet or more on a single lot, even if less than half the lot area, shall be allowed only under special permit from the Planning Board, which shall be granted only upon demonstration that adequate provisions have been made to protect against erosion, soil instability, uncontrolled surface water runoff, or other environmental degradation. Applications and plans for such special permits shall be referred to the Conservation Commission for its advisory review.

3722. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4 inches and planted with vegetative cover sufficient to prevent erosion or be retained by a wall constructed of masonry, reinforced concrete or treated pile or timber.

⁹Editor's Note: See MGL c. 41, §§ 81K to 81GG.

3723. No area or areas totaling 2 acres or more on any parcel or contiguous parcels in the same ownership shall have existing vegetation clear-stripped or be filled 6 inches or more so as to destroy existing vegetation unless in conjunction with agricultural activity, or unless necessarily incidental to construction on the premises under a currently valid building permit, or unless within streets which are either public or designated on an approved subdivision plan, or unless a special permit is approved by the Planning Board on condition that runoff will be controlled, erosion avoided, and either a constructed surface or cover vegetation will be provided not later than the first full spring season immediately following completion of the stripping operation. No stripped area or areas which are allowed by special permit shall remain through the winter without a temporary cover of winter rye or similar plant material being provided for soil control, except in the case of agricultural activity where such temporary cover would be infeasible.

3724. The Building Inspector may require the submission of all information from the building permit applicant or the landowner, in addition to that otherwise specified herein, necessary to ensure compliance with these requirements, including, if necessary, elevations of the subject property, description of vegetative cover, and the nature of impoundment basins proposed, if any.

3725. In granting a special permit under paragraphs 3431 or 3433, the Planning Board shall require a performance bond to ensure compliance with the requirements of this Section.

3726. Hillside areas, except naturally occurring ledge or bedrock outcroppings or ledge cuts, shall be retained with vegetative cover as follows:

Average percentage slope	Minimum percentage of land to remain in vegetation
10.0 - 14.9	25
15.0 - 19.9	40
20.0 - 24.9	55
25.0 - 29.9	70
30.0 and above	85

3800. SOLAR ELECTRIC INSTALLATIONS. [Added 4-25-2011 ATM, Art. 8]

3810. Purpose. The purpose of this bylaw is to facilitate the creation or expansion of Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on environmental, scenic, natural and historic resources and to provide adequate financial assurance for the eventual decommissioning of such installations.

3811. Applicability. This Section 3800 applies to the construction, operation, repair, and/or removal of Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-

Scale Ground-Mounted Solar Electric Installations, and to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. This Section 3800 shall not apply to Small-Scale Ground-Mounted Solar Electric Installations or to building-mounted Solar Electric Installations.

3812. Definitions.

As-of-Right Siting - As-of-right siting shall mean that development may proceed without the need for a special permit, variance, amendment, waiver, or other discretionary approval. As-of-right development may be subject to Site Plan Review to determine conformance with the provisions hereof and with the provisions of the Deerfield Zoning Bylaw, as may be applicable. As-of-right siting of Large-Scale Ground-Mounted Solar Electric Installations shall be permitted where specified by Section 2230.

Building Permit - A construction permit issued by the Building Commissioner which provides evidence that a project is consistent with the Massachusetts State Building Code¹⁰ as well as the Deerfield Zoning Bylaw.

Site Plan Review - Review by the Planning Board to determine conformance with the provisions of Section 5400, as well as those additional conditions specified in this Section 3800.

Site Plan Review Authority - For purposes of this Section 3800, the Planning Board is the Site Plan Review Authority.

Special Permit – Approval by the Planning Board upon determining conformance with the provisions of Section 5300, as well as those additional considerations specified in this Section 3800.

Special Permit Granting Authority – For purposes of this Section 3800, the Planning Board is the Special Permit Granting Authority.

Zoning Enforcement Authority - The Building Commissioner is charged with enforcing the Deerfield Zoning Bylaw.

3820. **General Requirements.** The following requirements are common to all Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations.

3821. **Compliance with Laws, Bylaws, and Regulations.** The construction and operation of all Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, electrical, and communications requirements. All buildings and fixtures forming part thereof shall be constructed in accordance with the Massachusetts State Building Code.¹¹

¹⁰ Editor's Note: See MGL c. 143, § 1 et seq.

¹¹ Editor's Note: See MGL c. 143, § 1 et seq.

3822. Building Permit and Building Inspection. No Large-Scale Ground-Mounted Solar Electric Installation or Extra-Large-Scale Ground-Mounted Solar Electric Installation shall be constructed, installed or modified as provided in this Section 3800 without first obtaining a building permit.

3823. Fees. Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall be permitted only upon payment of the fee(s) required for the issuance of a building permit and as required in connection with Site Plan Review or the issuance of a Special Permit hereunder.

3824. Independent Consultants. Upon submission of an application for Site Plan Review and/or a Special Permit, the Site Plan Review Authority and the Special Permit Granting Authority are authorized to engage outside consultants to peer review the application, pursuant to G.L. c. 44, § 53G, whose services shall be paid for by the applicant.

3830. Site Plan Review. Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall undergo Site Plan Review by the Site Plan Review Authority, in accordance with Section 5400, prior to construction, installation or modification thereof, and shall further meet the requirements of this Section 3800.

3831. General. All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts.

3832. Required Documents. The project applicant shall provide the following documents in addition to or in coordination with those required under Section 5400.

a. Site Plan. A Site Plan showing:

- (i) Property lines and physical features, including roads and topography, for the project site.
- (ii) Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, fencing, screening vegetation and structures, including their height.
- (iii) Locations of wetlands and Priority Habitat Areas as defined by the Natural Heritage & Endangered Species Program (NHESP).
- (iv) Locations of floodplains or inundation areas for moderate or high hazard dams.
- (v) Locations of local or National Historic Districts.
- (vi) Water provision, including fire protection measures.
- (vii) Stormwater drainage, including means of ultimate disposal and calculations, in compliance with the Town's Stormwater Bylaw, being Chapter 155 of the Deerfield General Bylaws, and any regulations adopted pursuant thereto.

- (viii) Existing trees 10” caliper or better and existing tree/shrub masses; proposed planting, landscaping, and screening.
 - (ix) Identification of the site of the proposed installation by street address, if any, and the name(s) of the street(s) and way(s) nearest thereto.
 - (x) Map and lot number(s) for the site, available from the Assessor’s office.
 - (xi) Zoning district designation(s) for the parcel(s) of land comprising the project site.
- b. Blueprints. Blueprints or drawings of the installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts, showing:
- (i) The proposed layout of the system and any potential shading from nearby structures.
 - (ii) One or three line electrical diagram detailing the Solar Electric Installation, associated components, and electrical interconnection methods, with all Massachusetts and National Electrical Code compliant disconnects and overcurrent devices.
- c. General Documentation. The following information shall also be provided:
- (i) A list of any hazardous materials proposed to be located on the site in excess of household quantities and a plan to prevent their release to the environment as appropriate.
 - (ii) Documentation of the major system components to be used, including the electric generating components, transmission systems, mounting system, inverter, etc.
 - (iii) Name, address, and contact information for proposed system installer.
 - (iv) Name, address, phone number and signature of the project applicant, as well as all co-applicants or property owners, if any.
 - (v) The name, contact information and signature of any agents representing the project applicant.
 - (vi) Certified list of abutters.
 - (vii) Any and all presentation board(s) and/or full-sized plan(s) utilized by the applicant at meeting(s) of the Site Plan Review Authority, provided in a format no larger than 24” x 36”.

- d. Site Control. The project 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 Electric Installation.
- e. Operation and Maintenance Plan. The project applicant shall submit a plan for the operation and maintenance of the Solar Electric Installation, which shall include measures for maintaining safe access to the installation, stormwater management (consistent with DEP's Stormwater Regulations and the Town of Deerfield's Stormwater Regulations¹²) and vegetation controls, as well as general procedures for operational maintenance of the installation.
- f. Insurance. The project applicant shall provide proof of liability insurance in an amount sufficient to cover loss or damage to person(s) and structure(s) occasioned by the use or failure of the Solar Electric Installation.
- g. Financial Surety. Applicants for Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall provide a form of surety, either through an escrow account, bond or otherwise, to cover the cost of removal in the event the Town must remove the installation and remediate the site to its natural preexisting condition, in an amount and form determined to be reasonable by the Site Plan Review Authority, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein. The project applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation.
- h. Utility Notification. No Large-Scale Ground-Mounted Solar Electric Installation or Extra-Large-Scale Ground-Mounted Solar Electric Installation shall be constructed until evidence has been given that the utility company that operates the electrical grid where the installation is to be located has been informed of the Solar Electric Installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

3833. Conditions. In addition to those considerations specified in Section 5460, Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall be designed so as to:

- a. minimize visual impacts through proper lighting, landscaping and screening of the Solar Electric Installation and appurtenant structure(s), if any;
- b. minimize environmental impacts by avoiding land clearing and fragmentation of open space, preserving natural habitat and limiting the use of and providing for the containment of hazardous materials, and by satisfying applicable noise standards;

¹² Editor's Note: See Ch. 155, Stormwater.

- c. minimize safety impacts through compliance with applicable dimensional requirements, design of the site so as to prevent unauthorized access and development of an emergency response plan; and
- d. ensure compliance with all applicable local, state and federal statutes, regulations, codes, bylaws, rules and standards.

3840. Special Permit. Where required by Section 2230, a special permit may be granted by the Special Permit Granting Authority for the construction, installation or modification of a Large-Scale Ground-Mounted Solar Electric Installation or an Extra-Large-Scale Ground-Mounted Solar Electric Installation, in accordance with Section 5300.

3841. Consolidation with Site Plan Review. Consistent with Section 5423, the Planning Board, as both the Site Plan Review Authority and the Special Permit Granting Authority, shall consolidate site plan review into the special permit procedures required hereunder, and the timetable for decision shall conform thereto.

3842. Criteria. A Special Permit may be granted upon written determination by the Special Permit Granting Authority that the benefits of the proposed use outweigh its detrimental impacts on the Town and the neighborhood, in view of the particular characteristics of the site and of the proposal in relation to that site. In addition to the criteria specified in Section 5320 or elsewhere in the Deerfield Zoning Bylaw, such determination shall include consideration of the following:

- a. the use is in harmony with the purpose and intent of this Section 3800;
- b. the use will be sited, designed and operated in a manner that appropriately addresses the impacts to the neighborhood and the community, including visual impacts, environmental impacts and impacts to public health, safety and welfare;
- c. no nuisance is expected to be created by the use; and
- d. adequate and appropriate facilities will be provided for the proper operation of the Solar Electric Installation.

3850. Dimensional Requirements.

3851. Setback Requirements. For all Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations, minimum setbacks shall be as follows. Acreage and generating capacity thresholds apply in the aggregate to new facilities and expansions of existing facilities. For expansions, the acreage and output generation of the existing facility would be added to those of the proposed expansion to determine the overall size and generating capacity. Required setback areas shall not be counted toward a facility’s total acreage.

Setback Area	RA	CVRD	C-I	C-II	I	PI	EPD
FRONT SETBACK (feet)	100	100	100	100	50	100	100

REAR YARD (feet)	100	100	100	100	50	100	100
SIDE YARD (feet)	100	100	100	100	50	100	100
PERIMETER SETBACK (feet)	–	–	–	–	100	–	–

3852. Dimensional Requirements for Appurtenant Structures. All appurtenant structures to Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall be subject to reasonable regulations concerning lot area, parking, and building coverage, as per the Deerfield Zoning Bylaw. Setbacks shall be determined by Section 3851. All such appurtenant structures, including but not limited to equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts.

3853. Height of Structures. The height of any structure associated with Large-Scale Ground-Mounted Solar Electric Installation or Extra-Large-Scale Ground-Mounted Solar Electric Installation shall not exceed 35 feet.

3860. Design and Performance Standards.

3861. Lighting. Lighting of Solar Electric Installations and appurtenant structures shall be consistent with the Deerfield Zoning Bylaw, and all other applicable local, state and federal laws. Lighting of the installation, including appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be shielded from abutting properties. All lighting shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

3862. Signage. Signs on all Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall comply with Section 3200 of the Deerfield Zoning Bylaw. Sufficient signage shall be provided, in accordance with said Section, to identify the owner of the facility and provide a 24-hour emergency contact phone number. Solar Electric Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the such installation.

3863. Utility Connections. Electrical transformers or other utility interconnections shall be constructed as required by the utility provider and may be above ground if necessary; provided, however, that reasonable efforts shall be made to place all utility connections underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider.

3864. Roads. Access roads shall be constructed to minimize grading, removal of stone walls or street trees and minimize impacts to environmental or historic resources.

3865. Control of Vegetation. Herbicides may not be used to control vegetation at the Solar Electric Installation. Mowing or the use of pervious pavers or geotextile materials underneath the solar array is a possible alternative.

3866. Hazardous Materials. If hazardous materials are to be used or generated on site, provision shall be made for the storage thereof in accordance with all requirements of the Department of Environmental Protection (DEP), including but not limited to the storage of hazardous materials in a building with an impervious floor that is not adjacent to any floor drains to prevent discharge to the outdoor environment and for full containment of such materials in the event of a release. An enclosed containment area, designed to contain at least 110% of the volume of the hazardous materials used, generated or stored on the site, may be required.

3867. Noise. Noise generated by Large-Scale Ground-Mounted Solar Electric Installations, Extra-Large-Scale Ground-Mounted Solar Electric Installations and associated equipment and machinery shall conform to applicable state and local noise regulations, including the DEP's Division of Air Quality noise regulations, 310 CMR 7.10. A source of sound will be considered in violation of said regulations if the source:

- a. increases the broadband sound level by more than 10 db(A) above ambient; or
- b. produces a "pure tone" condition, when an octave band center frequency sound pressure level exceeds the two (2) adjacent center frequency sound pressure levels by three (3) decibels or more.

Said criteria are measured both at the property line and at the nearest inhabited residence. "Ambient" is defined as the background A-weighted sound level that is exceeded 90% of the time measured during equipment hours, unless established by other means with the consent of the DEP. Noise shall further comply with Section 3700 of the Deerfield Zoning Bylaw.

3868. Landscaping and Screening. Any fencing or other structure(s) erected to prevent unauthorized access to the Solar Electric Installation, as well as any appurtenant structures, shall be screened using landscaping or other means so as to minimize their visual impact.

3870. Safety and Environmental Standards.

3871. Emergency Services. The Solar Electric Installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief, Highway Superintendent, and Emergency Management Director. 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 Electric Installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

3872. Access. All Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall be designed so as to prevent unauthorized access (e.g. by fencing, by locked access).

3873. Land Clearing, Soil Erosion and Habitat Impacts. All Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric

Installations shall be designed to minimize land clearing and fragmentation of open space areas, and shall be located so as to avoid significant negative impacts on rare or protected species in the vicinity. Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the Solar Electric Installation or as otherwise prescribed by applicable laws or regulations.

3874. Wetlands. All Large-Scale Ground-Mounted Solar Electric Installations and Extra-Large-Scale Ground-Mounted Solar Electric Installations shall be located in a manner consistent with applicable state and local wetlands regulations.

3880. Monitoring, Maintenance and Reporting.

3881. Solar Electric Installation Conditions. The Solar Electric Installation owner or operator shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Management Director. The owner or operator shall be responsible for the cost of maintaining the Solar Electric Installation and any access road(s).

3882. Modifications. All material modifications to a Solar Electric Installation made after issuance of the required building permit shall require approval by the Site Plan Review Authority and Special Permit Granting Authority, if applicable.

3883. Commissioning Report. Prior to placement of a Solar Electric Installation into operation, the owner or operator thereof shall submit a commissioning report demonstrating that said Installation has been adequately tested and that it functioned as designed prior to start-up. The report shall be submitted to the Select Board at least thirty (30) days prior to activation of the facility.

3884. Annual Reporting. The owner or operator of the Solar Electric Installation shall submit an annual report demonstrating and certifying compliance with the Operation and Maintenance Plan (see Section 3832.c), the requirements of this Section 3800 and the approved site plan, including but not limited to continued control of vegetation, compliance with noise standards, and adequacy of road access. The annual report shall also provide information on the maintenance completed during the course of the year and the amount of electricity generated by the facility. The report shall be submitted to the Select Board, Planning Board, Fire Chief, Emergency Management Director, Building Commissioner, Board of Health and Conservation Commission (if a wetlands permit was issued) no later than 45 days after the end of the calendar year.

3890. Abandonment or Decommissioning.

3891. Removal Requirements. Any Large-Scale Ground-Mounted Solar Electric Installation or Extra-Large-Scale Ground-Mounted Solar Electric Installations which has reached the end of its useful life or has been abandoned consistent with Section 3892 shall be removed. The owner or operator shall physically remove the installation no later than 150 days after the date of discontinued operations. The owner or operator shall notify the Site Plan Review Authority and Special Permit Granting Authority, if applicable, by

certified mail, of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:

- a. Physical removal of all components of the Solar Electric Installation, including but not limited to structures, equipment, security barriers, and on-site transmission lines. Associated off-site utility interconnections shall also be removed if no longer needed.
- b. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
- c. Restoration of the site to its natural preexisting condition, including stabilization or re-vegetation of the site as necessary to minimize erosion. The Site Plan Review Authority may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.

3892. Decommissioning by the Town. If the owner or operator of a Large-Scale Ground-Mounted Solar Electric Installation or Extra-Large-Scale Ground-Mounted Solar Electric Installation fails to remove such installation in accordance with the requirements of this Section 3890 within 150 days of discontinued operations or abandonment, the Town may enter the property and physically remove the installation at the owner's expense, drawing from the escrow account or upon the bond or other financial surety provided by the applicant pursuant to Section 3832.g.

ARTICLE IV. SPECIAL REGULATIONS.

4100. PLANNED INDUSTRIAL DISTRICT.

4110. Purpose. The purpose of the Planned Industrial District is to promote the economic development of the Town by providing a park-like setting for the development of industry; to provide a healthful and aesthetic operating environment for industry; to reduce to a minimum the impact of industry on the environment and on surrounding non-industrial land uses; and to promote the health, safety, comfort and welfare of the Town of Deerfield.

4120. Establishment of Districts. The Planned Industrial District is described on a map entitled "Proposed Planned Industrial District," dated August 5, 1977, appended to the official Deerfield Zoning Map. All maps are hereby made a part of this Zoning By-Law and are on file in the office of the Town Clerk.

4130. Special Rules within the Planned Industrial District. Within the Planned Industrial District, the following special rules will apply:

4131. All cinders, dust, fumes, gases and electromagnetic interference shall be effectively confined to the premises.

4132. No noise, vibration or flashing shall be perceptible above ambient levels without instruments at any point more than one hundred feet from the premises onto property in the RA District, or four hundred feet onto property in the Planned Industrial District.

4133. The Planning Board, upon the issuance of a special permit, may waive otherwise applicable setback, yard, and landscaping requirements for lots serviced by railroad sidings.

4140. Landscaping requirements. Fifty percent (50%) of the specified building setback distances abutting the property line shall be landscaped and maintained together with any abutting landscaping. Parking shall be landscaped or fenced so as to interrupt or screen said areas from streets and adjacent properties. Trucking, loading, refuse collection, and storage areas shall be screened from streets and adjacent properties. Buildings shall be screened to the extent possible, particularly where adjacent to residential uses.

4150. Signs.

4151. Signs identifying the use or establishment shall be limited to two (2) per establishment, with one freestanding and one attached.

4152. Signs with directional information shall not exceed five (5) square feet in area, nor five (5) feet in height.

4153. Attached signs shall not exceed ten percent (10%) of the wall area to which it is attached and shall not project more than twenty-four (24) inches from the vertical plane of the wall to which the sign is attached.

4154. Freestanding signs identifying a use or establishment shall not be higher than ten (10) feet nor more than sixty (60) square feet in area.

4155. Signs may be lighted, but no sign shall be of the traveling, animated, or flashing light type.

4156. Signs shall not impair pedestrian or vehicular traffic flow or sight.

4157. No sign shall be placed in the layout of a public way.

4200. WATER SHED PROTECTION DISTRICTS.

4210. Purpose. The purpose of the Water Shed Protection Districts is to promote the health, safety, and general welfare of the community by ensuring an adequate quality and quantity of drinking water for the residents, institutions, and businesses; to preserve and protect existing and potential sources of drinking water supplies; to conserve the natural resources of the Town; and to prevent temporary and permanent contamination of the environment.

4220. Definitions. For the purposes of this Article, the following words and phrases shall be defined as follows. References to statutes and regulations shall be deemed a reference to such law or regulation as of the effective date of this by-law, as may be amended:

Automobile graveyards and junkyards - An establishment or place of business which is used, maintained, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts, as defined in G.L. c. 140B, s. 1.

Commercial fertilizers - Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use, or claimed to have value in promoting plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, as defined in G.L. c. 128, s. 64.

De-icing chemicals - Sodium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.

Earth Removal - The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Hazardous Material - Any substance or mixture of physical, chemical, or infectious characteristics posing a significant, actual or potential hazard to water supplies or other hazards to human health if such substance or mixture were discharged to land or water. Hazardous materials include, without limitation, synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, and all substances defined as toxic or hazardous under G.L. c. 21C and 21E and 310 CMR 30.00, and also include such products as solvents and thinners in quantities greater than normal household use.

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

Landfills and open dumps - A facility or part of a facility for solid waste disposal (excluding transfer facilities) established in accordance with the provisions of 310 CMR 19.006.

Sanitary Wastewater - Any water-carried putrescible waste resulting from the discharge of water closets, laundry tubs, washing machines, sinks, showers, dishwashers, or any other source.

Soil conditioner - Any manipulated substance or mixture of substances whose primary function is to modify the physical structure of soils so as to favorably influence plant growth, except unmanipulated animal and vegetable manures, marl, lime, limestone, wood ashes, and gypsum, as defined in G.L. c. 128, s. 64.

Storage or landfilling of sludge and septage - Use of land to store sludge or septage as those terms are defined in 310 CMR 32.00.

Wastewater treatment works - Any and all devices, processes and properties, real or personal, used in the collection, pumping, transmission, storage, treatment, disposal, recycling, reclamation, or reuse of waterborne pollutants, but not including any works receiving a hazardous waste from off the site of the works for the purpose of treatment, storage or disposal, all as defined and regulated by 314 CMR 5.00.

Water Shed Protection District - The area necessary for the protection of groundwater constituting water supply for the Deerfield Fire District.

4230. Establishment of Districts. The Water Shed Protection Districts are described on a map entitled "Water Shed Districts," appended to the official Deerfield Zoning Map. All maps are hereby made a part of this Zoning By-Law and are on file in the office of the Town Clerk.

4240. Use Regulations. The Water Shed Protection Districts are overlay districts superimposed over the underlying districts set forth in this Zoning By-Law. Within a Water Shed Protection District, the requirements of the underlying district continue to apply, except where the requirements of the Water Shed Protection District are more stringent.

1. PRINCIPAL USES	
(a) Manufacture, use, storage, transport, or disposal of hazardous materials as a principal activity	N
(b) Landfills and open dumps	N
(c) Automobile graveyards and junkyards	N
(d) Wastewater treatment works for non-sanitary wastewaters that are subject to 314 CMR 5.00, including privately owned facilities, except the following: (1) replacement or repair of existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s)	N
(e) Wastewater treatment works for sanitary wastewaters that are subject to 314 CMR 5.00, including privately owned facilities	SP
(f) Landfilling of sludge and septage	N
(g) Storage of sludge and septage	SP
(h) Road salt stockpile or storage of other de-icing chemicals in the following manner: (1) outside a structure (2) within a structure designed to prevent the generation and escape of contaminated runoff or leachate	N SP
(i) Gasoline station, motor vehicle repair or body shop, marine repair shop, car wash	N
(j) Earth removal, in accordance with Section 4500 of this Zoning By-Law; provided, however, that no earth removal shall take place within 6 feet of historical high groundwater as determined from monitoring wells and historical table fluctuation data compiled by the USGS, except for excavations for building foundations, roads or utility works, unless the substances removed are redeposited within 45 days of removal to achieve a final grading greater than 6 feet above the historical high groundwater mark	SP
(k) Single-family dwelling on a lot with more than 80,000 square feet	Y
(k) Any building, structure, or use, other than single family dwelling with accessory structures and uses, to be served by on-site wastewater disposal system with a design capacity of greater than 1,500 gallons per day	SP
2. ACCESSORY USES	
(a) Underground storage of hazardous materials, including fuel oil and gasoline	N

(b) Aboveground storage of hazardous materials in quantities greater than associated with normal household use, other than fuel oil for residential heating purposes	SP
(c) Any use generating hazardous wastes in quantities greater than associated with normal household use, except the following: (1) very small quantity generators, as defined by 310 CMR 30.00; (2) household hazardous waste collection centers or events operated pursuant to 310 CMR 30.390; (3) waste oil retention facilities required by G.L. c. 21, s. 52A; (4) treatment works approved by the DEP for treatment of contaminated ground or surface waters	N
(d) Storage of animal manure.	SP
(e) Storage of commercial fertilizers and soil conditioners	SP
3. OTHER USES	
(a) Rendering impervious more than 15 percent of the lot, or 2500 sq. ft., whichever is greater, excluding operations associated with the construction or occupancy of a single-family dwelling	SP
(b) Stockpiling and disposal of snow and ice containing de-icing chemicals if brought in from outside the district	N
(c) Industrial and commercial uses which discharge process wastewater on-site	SP

4250. Special Permit Procedures.

4251. Special Permit Granting Authority. The Special Permit Granting Authority (SPGA) shall be the Planning Board. Such special permit may be granted if the SPGA determines, after consulting with the Deerfield Fire District, that the intent of this Section 4200 as well as the specific criteria herein are met. In making such determination, the SPGA shall give consideration to the simplicity, reliability, and feasibility of the control measures proposed and the degree of threat to groundwater quality which would result if the control measures failed. **[Amended 4-29-2002 ATM, Art. 33]**

4252. Review by Other Boards and Officials. Whenever an application for a special permit is filed with the Planning Board under this Section 4200, said board shall transmit within six (6) working days of the filing of the completed application, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Director of Public Works, Deerfield Fire District and Fire Chief for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. An application shall not be deemed complete until all copies of required information and documentation have been filed with the Planning Board. The Planning Board shall notify applicants by registered mail, within 14 days of submittal, of incomplete application status, and the applicant shall have 14 days from the mailing of such notice to complete an application. Failure to complete an application within such time shall result in a return of all materials to the applicant, without prejudice. Reports from other boards and officials shall be submitted to the Planning Board by the date of the Public Hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the Public Hearing by the Planning Board is held prior to

the expiration of the 35 day period, the Planning Board shall continue the Public Hearing to permit the formal submission of reports and recommendations within that 35 day period. The Decision/Findings of the Planning Board shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party. **[Amended 4-29-2002 ATM, Art. 34]**

4253. Applicability. Any special permit required under this Section 4200 shall be in addition to, and separate from, any other special permit required under this By-Law.

4254. Submittals. All applications for special permits shall contain the information listed below, unless waived or modified by the SPGA, with reasons therefor.

1. A site plan, submitted on 24-inch by 36-inch sheets, on a minimum scale of one inch (1") equals 40 feet, and prepared by a Registered Professional Engineer and a Registered Land Surveyor. Site plans submitted under this section shall also include the following:
 - (1) All property lines;
 - (2) All adjacent public streets;
 - (3) All existing and proposed buildings, structures, parking areas, and service areas;
 - (4) All facilities for sewage, refuse, and other waste disposal;
 - (5) Facilities for surface water drainage, both temporary and permanent;
 - (6) Future expansion area.
2. A narrative statement detailing all of the information set forth below, if applicable:
 - (1) A complete list of all chemicals, pesticides, fuels, or other potentially hazardous materials, including but not limited to road salt or de-icing chemicals, manure, and fertilizers or soil conditioners, to be used or stored on the premises in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all storage containers from vandalism, corrosion, and leakage, and to provide for control of spills.
 - (2) A description of all potentially hazardous wastes to be generated in quantities greater than associated with normal household use, accompanied by a description of the measures proposed to protect all waste storage containers from vandalism, corrosion, and leakage, and to provide for control of spills.
 - (3) For underground or aboveground storage of hazardous materials, certification by a Registered Professional Engineer that such storage facilities or containers are (i) in compliance with all applicable federal or state regulations, (ii) in compliance with design specifications, as prepared by a Registered Professional

Engineer, and (iii) are designed with secondary containment adequate to contain a spill the size of the container's total storage capacity.

- (4) For any proposed activity on a lot which will render more than 15 percent of the total lot area or more than 2,500 sq. ft. impervious, a system for groundwater recharge must be provided that does not degrade groundwater quality, by stormwater infiltration basins or similar system covered with natural vegetation. Dry wells shall be used only where other methods are infeasible. Such basins and wells shall be preceded by oil, grease and sediment traps to facilitate removal of contaminants.
- (5) For stockpiling or disposal of snow from outside the district, earth removal, storage of sludge or septage, manure storage, treatment works, and/or discharge or process wastewater, a narrative statement, prepared by a Registered Professional Engineer, assessing the impacts, if any, of the proposed activity on groundwater and surface water quality on the premises, adjacent to the premises, and on any wellfield(s) downgradient from the proposed activity or use, accompanied by a description of the measures proposed to protect such wellfields.

4260. Special Permit Criteria. Special permits shall be granted only if the SPGA determines, after reviewing the recommendations of the reviewing parties delineated in Section 4230, that groundwater quality resulting from on-site wastewater disposal or other operations on-site shall not fall below the more restrictive of federal or state standards for drinking water, or, if existing groundwater quality is already below those standards, on-site disposal or operations shall result in no further deterioration.

4270. Decision. The Planning Board may approve, approve with conditions, or deny an application for a special permit that is governed, in any manner, by the provisions of this Section 4200.

4300. FLOOD PLAIN DISTRICT. [Amended 10-22-2020 STM by Art. 6]

4301. Purpose. The purpose of the Flood Plain District is to promote the health, safety, and general welfare of the community by protecting life and property from the detrimental effects of floods; to ensure an adequate quality and quantity of water; to conserve the natural resources of the Town; to prevent temporary and permanent contamination of the environment, to preserve the natural flood control and flood storage characteristics of the floodplain; and to prevent any alterations to the natural flow of the river.

4302. Definitions. For the purposes of this bylaw, the following definitions apply:

Encroachment - fill, construction of new structures, substantial improvement to existing structures or other development.

Floodway - the channel of a river or other watercourse plus any adjacent areas that must be kept free of encroachment in order that the 100-year flood may be carried without any increase in flood heights, as shown on the Flood Boundary and Floodway Map.

Floodplain - areas which would be flooded during the occurrence of the 100-year flood, shown as Zones A, A1-30 on the Flood Insurance Rate Maps.

Riverine Material - stone, rock, gravel, soil or other materials which comprise the river's bed or riverbank.

Substantial Improvement - improvement to a structure or building which exceeds 25% of the original footprint of such structure or building.

4303. Establishment of Districts. The Flood Plain District includes all special flood hazard areas designated as Zone A, A1-30 on the Deerfield Flood Insurance Rate Map (FIRM) and the Flood Boundary - Floodway Maps, dated July 2, 1980, on file with the Town Clerk, Planning Board, and Building Inspector. All maps are hereby made a part of this Zoning By-Law and are on file in the office of the Town Clerk.

4304. Use Regulations. The Flood Plain District is an overlay district superimposed over the underlying districts set forth in this Zoning By-Law. Within the Flood Plain District, the requirements of the underlying district continue to apply, subject to the following additional provisions:

4305. Floodway Regulations. In the floodway designated on the Flood Boundary - Floodway Map, all encroachments, including fill, new construction, substantial improvements to existing structures and other developments, are prohibited.

4306. Floodplain Regulations. All development within the Floodplain District, including structural and non-structural activities, whether permitted as a right or by Special Permit must be in compliance with the Massachusetts River Protection Act and the Massachusetts Wetlands Protection Act, (MGL Ch131 s40), and with the requirements of the Massachusetts State Building Code pertaining to construction in the Flood Plain (currently Section 744).

4307. Permitted Uses. The following uses in the Floodplain District of low flood damage potential and causing no obstruction to flood flows shall be permitted provided they do not require structures, fill, or storage of material or equipment:

- a. Agricultural uses such as farming, grazing, and horticulture, including barns or farm-related structures, and irrigation and maintenance of farmlands.
- b. Forestry uses.
- c. Outdoor recreational uses, including fishing, boating, play areas and foot, bicycle or horse paths.
- d. Conservation of water, plants, and wildlife.

- e. Wildlife management areas.
- f. Buildings lawfully existing prior to the adoption of these provisions.
- g. Municipal or civic uses, including water or wastewater treatment facilities.

4308. Prohibited Uses.

- a. No dumping or filling in the river is permitted. Maintenance of the riverbank may be done under requirements of MGL Ch 131s 40, and any other applicable laws, by-laws, and regulations, and must be done using natural riverbank best management practices. Agricultural uses may restore flooded fields to pre-storm conditions.
- b. No impoundments, dams, or other water obstructions may be located within the District.
- c. Commercial or industrial uses are prohibited in the district.
- d. Dumping of trash, garbage or other materials on or near the riverbank is prohibited.
- e. Construction of any kind on slopes of greater than 25% within the district is prohibited.
- f. No discharge of pollutants directly to the any river or water body is permitted.
- g. All other uses not specifically permitted or allowed by site plan approval within the overlay zone are prohibited.

4309. Uses by Special Permit.

- a. No structure or building in the Floodplain District shall be erected, constructed, substantially improved, reconstructed, or otherwise created or moved; no earth or other materials dumped, filled, excavated, or transferred, unless a Special Permit is granted by the Planning Board.
- b. The following uses may be allowed by Special Permit in accordance with the Special Permit regulations of this Zoning By-Law, and additional restriction and criteria contained herein:
 - i. Single and two family residences.
 - ii. Residential accessory uses including garages, driveways, private roads, utility rights-of-way and on-site waste-water disposal systems.
 - iii. Enlargement or alteration of an existing structure, provided that the addition is no more than 25% larger than the footprint of the structure that existed at the time of the adoption of this bylaw.

- iv. Moving of riverine materials to protect municipal infrastructure.
- v. Parking or storage of vehicles, trailers or equipment within 200 feet of the riverbank.

4310. Special Permit Procedures.

- a. The Planning Board shall be the Special Permit Granting Authority for the Floodplain District.
- b. The following Special Permit requirements apply in the Floodplain District.
 - i. With Zone A 1-30, where base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data. These data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.
 - ii. No encroachments (including fill, new construction, substantial improvements to existing structures, or other development shall be allowed unless it is demonstrated by the applicant that the proposed development, as a result of compensating actions, will not result in any increase in flood levels during the occurrence of a 100-year flood in accordance with the Federal Emergency Management Agency's regulation for the National Flood Insurance Program.
 - iii. The proposed use shall comply in all respects to the provisions of the underlying District in which the land is located.
 - iv. 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 use.
 - v. Within 10 days of the receipt of the application the Board shall transmit one copy of the development plan to the Conservation Commission, Board of Health and Building Inspector. Final action shall not be taken until reports have been received from the above Boards or until thirty-five (35) days have elapsed.
 - vi. On-site wastewater disposal systems shall be located as far from rivers or water bodies as is feasible.
- c. In addition to the provisions of Section 4310-a, in order to issue a Special Permit, the Planning Board must find that the proposed use is compliant with the following provisions:
 - i. In the Floodplain District, proposed uses must:
 - 1. Not create increased flood hazards which are detrimental to the public health, safety and welfare;

2. Comply in all respects with the provisions of the underlying District or Districts within which the land is located;
3. Comply with all applicable State and Federal laws, including the Massachusetts Wetlands Protection Act (MGL Ch 131 s40) and the Massachusetts State Building Code, including:
 - a. All buildings or structures erected or substantially improvements erected, after the adoption of this bylaw, within a flood-hazard zone shall be elevated so that the lowest floor is located at or above the base flood elevation. All basement/cellar floor surfaces shall be located at or above the base flood elevations.
 - b. The structural systems of all buildings or structures shall be designed, connected and anchored to resist floatation, collapse or permanent lateral movement due to structural loads and stresses from flooding equal to the base flood elevation.
4. Be situated in a portion of the site that will conserve riverfront vegetation and maximize open space retention;
5. Be integrated into the existing landscape through features such as vegetative buffers and through retention of the natural shorelines;
6. Not result in water pollution, erosion or sedimentation;
7. Minimize obstruction of scenic views from publicly accessible locations;
8. Preserve unique natural and historical features;
9. Minimize tree, vegetation and soil removal and grade changes.

4311. Nonconforming Uses.

- a. Any lawful use, building, structures, premises, land or parts thereof existing at the effective date of this By-Law or amendments thereof and not in conformance with the provisions of this By-Law shall be considered to be a nonconforming use.
- b. Any existing use or structure may continue and may be maintained, repaired, and improved, but in no event made larger.
- c. Any nonconforming structure which is destroyed may be rebuilt on the same location but no larger than its overall original square footage.

4400. WIRELESS COMMUNICATIONS DISTRICT.

4410. Purpose. The purpose of this section is to establish areas in which wireless communications facilities may be located while protecting Deerfield's unique community character. The WCF Overlay District has been created (a) to provide for safe and appropriate siting of wireless communications facilities consistent with the Telecommunications Act of 1996, and (b) to minimize visual impacts from such facilities on residential districts and scenic areas within Deerfield.

4420. Definition. A "wireless communications facility" shall mean fixtures and/or equipment used by a public utility or a Federal Communications Commission (FCC) licensed commercial entity for the wireless transmission and reception of radio signals including (a) reception and transmission equipment and fixtures such as antennas, communications dishes, and similar devices, and (b) monopoles that are erected and used primarily to support such reception and transmission equipment. A wireless communications facility may include accessory mechanical, electronic, or telephonic equipment necessary to operate such facility; provided, however, that such facility shall be a transmission and reception substation, not a principal facility for conducting a communications business.

4430. Location. The WCF District shall include the following parcels and/or properties:
[Amended 4-26-1999 ATM, Art. 49]

4431. All land in the Planned Industrial District;

4432. Assessor's Map 16, Lot 13.

4440. Applicability. The WCF District shall be construed as an overlay district with regard to said locations. All requirements of the underlying zoning shall remain in full force and effect, except as may be specifically superseded herein.

4450. Special Permit. A wireless communications facility may be erected in the WCF District upon the issuance of a special permit by the Zoning Board of Appeals if the Board determines that the adverse effects of the proposed facility will not outweigh its beneficial impacts on the Town or neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. The determination shall include consideration of the following:

4451. communications needs served by the facility;

4452. traffic flow and safety, including parking and loading;

4453. adequacy of utilities and other public services;

4454. impact on neighborhood character, including aesthetics;

4455. impacts on the natural environment, including visual impacts;

4456. potential fiscal impact, including impact on town services, tax base, and employment;

4457. new monopoles shall be considered only upon a finding that existing or approved monopoles or facilities cannot accommodate the equipment planned for the proposed monopole.

4460. Conditions. All wireless communications facilities shall be subject to the following conditions:

4461. To the extent feasible, service providers shall co-locate on a single facility. Monopoles shall be designed structurally to accommodate foreseeable users (within a ten year period) where technically practicable with space to be offered to all other communications providers at market rates. The intent of these requirements is to minimize the number of facilities located within the Town. All facilities shall be designed at the minimum height necessary to accommodate anticipated current and future use. To the extent feasible, all network interconnections from the communications facility shall be via land lines.

4462. New free-standing facilities shall be limited to monopoles; no lattice towers or similar facilities requiring three or more legs and/or guy wires for support shall be permitted. Monopole height shall not exceed 120 feet above mean finished ground elevation at the base of the mounting structure.

4463. Wireless communications facilities may be placed upon or inside existing buildings or structures, including water tanks and towers, church spires, electrical transmission lines, and the like. In such cases, the facility height shall not exceed ten (10) feet above the height of the existing structure of building.

4464. All facilities shall be maintained in good order and repair. Any paint and finish must be maintained and repaired before blemishes are visible from the property line. All structures associated with wireless communications facilities which have not been used for their intended purpose for one year shall be dismantled and removed at the owner's expense. The Zoning Board of Appeals may require a financial performance guarantee to effect this result.

4465. The design of the facility shall minimize, to the extent feasible, adverse visual effects on the environment. The Zoning Board of Appeals may impose reasonable conditions to ensure this result, including painting, lighting standards, landscaping, and screening. Existing on-site vegetation shall be preserved to the maximum extent practicable.

4466. A facility shall not be erected nearer to any property line than a distance equal to the vertical height of the facility (inclusive of any appurtenant devices), measured at the mean finished ground elevation at the facility base. A facility shall not be erected nearer to a residential lot line than 500 feet. Siting shall be such that the view of the facility from adjacent abutters, residential neighbors, scenic view points, and other areas of the Town shall be as limited as possible. Facilities shall be suitably screened from abutters and residential neighborhoods.

4467. Traffic associated with the facility shall not adversely affect the public way.

4468. Fencing may be required to control unauthorized entry to wireless communications facilities and shall be compatible with the scenic character of the Town. There shall be no signs, except for announcement signs, no trespassing signs, and a required sign giving a telephone number where the owner can be reached on a 24 hour basis. No advertising signs are permitted. All signs shall conform to this zoning by-law.

4469. Monopoles shall be designed and sited to avoid, wherever possible, application of Federal Aviation Agency (FAA) lighting and painting requirements. Towers shall not be artificially lighted except as required by the FAA. Annual certification demonstrating continuing compliance with the standards of the FCC, FAA, and American National Standards Institute shall be filed with the Building Inspector by the special permit holder.

4470. Submittal Requirements.

4471. All applications for wireless communications facilities shall be made and filed in compliance with special permit application requirements set forth in section 5300. In addition, five copies of the following information must be submitted for an application to be considered. complete:

- a. A locus plan at a scale of 1" = 200' which shall show all property lines, the exact location of the proposed structure(s), streets, landscape features, residential dwellings and neighborhoods and all buildings within 500 feet of the facility.
- b. A color photograph or rendition of the facility. A rendition shall also be prepared illustrating a view of the facility from the nearest street or streets.

4472. The following information must be prepared by a professional engineer:

- a. a description of the facility (including technical specifications) and the technical, economic, and other reasons for the proposed location, height, and design;
- b. a statement of the capacity of the facility including the number and type of panels, antennas, and transmitters and/or receivers that it can accommodate and the basis for those calculations;
- c. a certification that the proposed facility complies with or is exempt from, all applicable Federal and state requirements, including regulations administered by the FAA, FCC, Massachusetts Aeronautics Commission, and the Massachusetts Department of Public Health.

4473. Before acting on an application, the Zoning Board of Appeals may require enhanced line of sight drawings and/or visual simulations (including the flying of tethered balloons) adequate to determine the visual impact of the structure.

4474. Fees. A filing fee of \$2,000. shall be submitted with the application to cover the costs of processing and initial engineering review. In the event that the Zoning Board of Appeals determines that circumstances necessitate expert technical review costing more than the amount of the filing fee, that either expense shall be paid by the applicant.

4480. Modification of Special Permit. Any proposed modification, expansion, or replacement of a facility shall be subject to a new application for an amendment to the special permit.

4500. EARTH REMOVAL.

4510. Applicability. The removal from any premises of more than 50 cubic yards of sand, gravel, stone, topsoil, loam, or similar materials within any twelve-month period shall be allowed only on special permit from the Board of Appeals, unless such removal is incidental to construction on the premises under a current building permit, or routine to farming operations and noncommercial. A special permit shall be granted subject to the following conditions, and subject to the special permit criteria of Section 5300, below.

4520. Plan. The application shall be accompanied by a plan or plans indicating existing topography, base grades below which no excavation will take place, existing and proposed cover vegetation, and proposed topography upon completion.

4530. Screening and Noise. Excavation areas and processing equipment shall be screened by buffer strips or other means, and noise shall be controlled to meet the requirements of Section 3700.

4540. Restoration. Following removal, all excavated areas shall be restored by grading to provide for drainage and for slopes not to exceed one foot vertical to two feet horizontal, and by covering with four inches of topsoil, and by planting with cover vegetation, all of which shall have been established prior to release of the bond.

4550. Bond. A performance bond shall be posted in an amount sufficient to assure satisfactory fulfillment of all of the above requirements.

4600. ADULT USE OVERLAY DISTRICT.

The following regulations shall apply to adult uses as defined in ARTICLE VI of this bylaw. **[Added 4-24-2006 ATM, Art. 23]**

4610. Purpose and Intent. It is the purpose of this adult use overlay district by-law to address and mitigate the secondary effects of adult uses and sexually oriented businesses. Secondary effects have been shown to include increased crime, adverse impacts on the business climate, adverse impact on property values of residential and commercial properties, and adverse impacts on the quality of life in the town. It is not the intent and purpose of this by-law to legalize or in any way encourage the sale, rental, distribution, or exhibition of obscene or other illegal activities or materials.

4620. Establishment of District. The Adult Use Overlay District shall consist of the following parcels located on the west side of Greenfield Road, and more specifically identified on the map shown in subsection 4642 of this Zoning Bylaw.

4630. Use Regulations. The Adult Use Overlay District is an overlay district superimposed over the underlying districts set forth in this Zoning By-law. Within the Adult Entertainment Overlay District, the requirements of the underlying district continue to apply, subject to the additional provisions set forth in subsections 4620 through 4641.

4631. Applicability. Adult Uses shall be allowed only within the Adult Use Overlay District, with a Special Permit issued by the Zoning Board of Appeals.

4632. Separation Distances: Adult Uses may be permitted only when located outside the area circumscribed by a circle which has a radius consisting of the following distances from specified uses or zoning district boundaries:

- a. Three hundred feet (300') from the district boundary line of any residence zone CVRD or RA.
- b. Five hundred feet (500') from any other adult use as defined herein;
- c. Three hundred feet (300') from any establishment licensed under MGL Ch. 138, Sec. 12.
- d. Seven hundred fifty feet (750') from the boundary of any school.

4633. The radius distance shall be measured by following a straight line from the nearest point of the property parcel upon which the proposed adult use is to be located, to the nearest point of the parcel of property or the zoning district boundary line from which the proposed adult use is to be separated. In the case of the distance between adult uses (section 1.b.) and between an adult use and an establishment licensed under MGL Ch. 138, Sec. 12 (section 1.c.) such distances shall be measured between the closest points of the buildings in which such uses are located.

4634. With the exception of an adult cabaret or an adult motion picture theater, adult uses may not exceed three thousand five hundred (3,500) square feet of useable floor area.

4635. Parking requirements: The following parking requirement shall apply:

- a. Parking for adult bookstores, adult paraphernalia stores, and adult video stores shall meet the requirements under the principal use 'General Retail' of Section 3130 of the Zoning bylaw.
- b. Parking for adult cabarets and adult motion picture theaters shall meet the requirements under the principal use 'General Retail' of Section 3130 of the Zoning bylaw.
- c. Parking shall be provided in the side or rear yard area only.
- d. All parking areas shall be illuminated, and all lighting shall be contained on the property.
- e. Parking areas shall be landscaped in conformance with the appropriate provisions of the Zoning bylaw.

4636. Screening and buffering. A five (5) foot wide landscaped buffer shall be provided along the side and rear property lines of an adult use establishment consisting of evergreen shrubs or trees not less than five (5) feet in height at the time of planting, or solid fence not less than six (6) feet in height.

4637. All building openings, entries and windows shall be screened in such a manner as to prevent visual access to the interior of the establishment by the public.

4638. Application information: the application for a special permit for an adult use establishment must include the following information:

- a. Name and address of the legal owner of the establishment;
- b. Name and address of all persons having lawful equity or security interest in the establishment;
- c. Name and address of the manager;
- d. Number of employees;
- e. Proposed provisions for security within and without the establishment;
- f. The physical layout of the interior of the establishment.

4639. No adult use special permit shall be issued to any person convicted of violating the provisions of MGL Ch. 119, Sec. 63, or MGL Ch. 272, Sec. 28.

4640. An adult use special permit shall only be issued following a public hearing held within sixty-five (65) days after the filing of an application with the special permit granting authority, a copy of which shall forthwith be given to the Town Clerk by the applicant.

4641. Any adult use special permit issued under this bylaw shall lapse within one (1) year, and including such time required to pursue or await the determination of an appeal from the grant thereof, if substantial use thereof 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.

4642. Location of Adult Use Overlay District.

4650. (RESERVED)¹³

4660. MARIJUANA ESTABLISHMENTS. [Added 10-22-2020 STM by Art. 7¹⁴]

¹³ Editor's Note: Former Section 4650, Medical Marijuana Treatment Centers, added 10-28-2013 STM, Art. 21, as amended, was repealed 10-22-2020 STM, Art. 7.

¹⁴ Editor's Note: This article superseded former Section 4660, Marijuana Establishments, added 4-30-2018 ATM, Art. 27.

4661. Purposes. It is recognized that the nature of the substance cultivated, processed, and/or sold by marijuana establishments should be located in such a way as to ensure the health, safety, and general well-being of the public as well as legally authorized adult customers seeking to legally purchase marijuana for their own use. The specific and separate regulation of “Marijuana Establishments” (hereafter also referred to as an ME) is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Deerfield.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G and Chapter 94I of the Massachusetts General Laws and 935 CMR 500.000 — 501.000, Marijuana Establishments will be permitted to provide the opportunity for the legal cultivation, product manufacturing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

4662. Definitions. The following definitions shall be applicable to this Section 4660 only.

Cannabis Cultivation: The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of soil and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity licensed by the Commission for cannabis cultivation. The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning. Note this term is not defined in 935 CMR 500.

Cannabis or Marijuana or Marihuana: All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana(a) through (c) and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; clones of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1; provided that cannabis shall not include: (a) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (b) hemp; or (c) the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administrations, food, drink or other products.

Cannabis or Marijuana Products: Cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain cannabis or marijuana or an extract from cannabis or 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.

Commission: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10, § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55, M.G.L. c. 94G, and 935 CMR 500.000.

Community Host Agreement: An agreement, pursuant to General Laws, Chapter 94G, Section 3(d), between a Cannabis Establishment and a municipality setting forth additional conditions for the operation of a Cannabis Establishment, including stipulations of responsibility between the parties and a up to 3% host agreement revenue sharing. Note this term is not defined in 935 CMR 500.

Craft Marijuana Cooperative: A Marijuana Cultivator comprised of residents of the Commonwealth and organized as a limited liability company, limited liability partnership, or cooperative corporation under the laws of the Commonwealth. A cooperative is licensed to cultivate, obtain, manufacture, process, package and brand cannabis or marijuana products to transport marijuana to Marijuana Establishments, but not to consumers.

Hemp: The plant of the genus Cannabis or any part of the plant, whether growing or not, with a delta-9-tetrahydrocannabinol concentration that does not exceed 0.3% on a dry weight basis of any part of the plant of the genus Cannabis, or per volume or weight of cannabis or marijuana product, or the combined percent of delta-9-tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant of the genus Cannabis regardless of moisture content.

Host Community: A municipality in which a Marijuana Establishment is located or in which an applicant has proposed locating an establishment.

Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission and is: (a) accredited to the International Organization for Standardization 17025 (ISO/IEC 17025: 2017) by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Commission; (b) independent financially from any Medical Marijuana Treatment Center (RMD), Marijuana Establishment or licensee for which it conducts a test; and (c) qualified to test cannabis or marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

Licensee: A person or entity licensed by the Commission to operate a Marijuana Establishment under 935 CMR 500.000.

Manufacture: To compound, blend, extract, infuse or otherwise make or prepare a cannabis or marijuana product.

Marijuana: All parts of any plant of the genus Cannabis, whether growing or not, the seeds thereof and resin extracted from any plant, and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in G.L. c. 94C sec. 1, subject to those exemptions stated in G.L. c. 94C sec. 1, and expressly including marijuana products except where the context clearly indicates otherwise.

Marijuana Cultivator: An entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers. A Craft Marijuana Cooperative is a type of Marijuana Cultivator.

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer, Marijuana Retailer, Marijuana Independent Testing Laboratory,

Marijuana Research Facility, Marijuana Transporter, Medical Marijuana Treatment Center or any other type of licensed marijuana-related business.

Marijuana Microbusiness: A co-located Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2,000 pounds of marijuana per year from other Marijuana Establishments.

Marijuana Process or Processing: To harvest, dry, cure, trim and separate parts of the cannabis or marijuana plant by manual or mechanical means, except it shall not include manufacture as defined in 935 CMR 500.002.

Marijuana Product Manufacturer: An entity licensed to obtain, manufacture, process and package cannabis or marijuana products and to transfer these products to other Marijuana Establishments, but not to consumers.

Marijuana Research Facility: An entity licensed to engage in research projects by the Commission.

Marijuana Retailer: An entity licensed to purchase and transport cannabis or marijuana product from Marijuana Establishments and to sell or otherwise transfer this product to Marijuana Establishments and to consumers. Retailers are prohibited from delivering cannabis or marijuana products to consumers; and from offering cannabis or marijuana products for the purposes of onsite social consumption on the premises of a Marijuana Establishment.

Marijuana Social Consumption Operation: An entity that purchases or otherwise acquires Marijuana from licensed Marijuana Establishments and sells single servings of Marijuana to consumers for consumption or use on the premises.

Marijuana Transporter: An entity, not otherwise licensed by the Commission, that is licensed to purchase, obtain, and possess cannabis or marijuana product solely for the purpose of transporting, temporary storage, sale and distribution to Marijuana Establishments, but not to consumers. Marijuana Transporters may be an Existing Licensee Transporter or Third-Party Transporter.

Medical Marijuana Treatment Center, also known as a Registered Marijuana Dispensary (RMD): A not-for-profit entity registered under 105 CMR 725.100: Registration of Registered Marijuana Dispensaries, that acquires, cultivates, possesses, processes (including development of related products such as edible cannabis or marijuana products, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing cannabis or marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers for medical use. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of cannabis or marijuana for medical use.

Propagation: The reproduction of cannabis or marijuana plants by seeds, cuttings, or grafting.

Provisional Marijuana Establishment License: A certificate issued by the Commission confirming that a Marijuana Establishment has completed the application process.

RMD Applicant: A previously Registered Marijuana Dispensary with a final or provisional certificate of registration in good standing with the DPH.

4663. Applicability. Nothing in this section shall be construed to supersede state laws governing the sale and distribution of marijuana. This section shall not be construed to prevent the conversion of a medical marijuana treatment center licensed or registered no later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a Marijuana Establishment, provided, however, any such medical marijuana treatment center obtains a special permit pursuant to this Section for any such conversion to a Marijuana Establishment.

This bylaw does not apply to the cultivation of industrial hemp as is regulated by the Massachusetts Department of Agricultural Resources pursuant to General Laws, Chapter 128, Sections 116-123.

No Marijuana Establishment that has applied for and/or received a special permit or building permit prior to the effective date of this bylaw shall be subject to any requirement hereunder that is more stringent or restrictive than that in effect on the date of such special permit or building permit application.

4664. Social Consumption. All Marijuana Social Consumption Operations are expressly prohibited anywhere within the Town of Deerfield; provided, however, that said prohibition shall apply only insofar as the same does not conflict with Massachusetts law, or has not been preempted thereby.

4665. Uses Permitted and Regulated.

- a. Land and buildings in Deerfield may be used hereunder only in accordance with Section 2200, Table of Use Regulations, and as otherwise provided herein.
- b. The Planning Board shall be the Special Permit Granting Authority under this section 4600.
- c. There shall be three (3) Marijuana Overlay districts, MO-1, MO-2 and MO-3. All Marijuana uses shall be prohibited elsewhere in the Town, except as noted in 4665(g) below.
- d. All uses requiring a Special Permit under this section shall also require concurrent Site Plan Review, and shall comply with the special permit and site plan review requirements, procedures and criteria in Sections 5300 and 5400 of this Bylaw.
- e. All Marijuana operations shall comply with the dimensional requirements of Section 2300 for the applicable district.
- f. For all Special Permits, in addition to those criteria set forth in section 5300, the Planning Board may impose such restrictions on the time, place and manner of

Marijuana operations as may be necessary to protect the public interest and/or to satisfy the purpose and intent of this Bylaw. In addition, the Planning Board may consider factors including but not limited to, odor control, security, hours of operation and consistency with nearby and abutting land uses, and may reasonably condition any Special Permit approval accordingly.

- g. The Planning Board may approve a Special Permit allowing co-location of a Marijuana Product Manufacturer at a location approved by Special Permit for a Marijuana Cultivator prior to the adoption of this amendment outside of the MO-1, MO-2 or MO-3 Districts; provided, however, that all other relevant requirements of this bylaw shall be satisfied (i) except for the restriction on location contained in Section 4666.a.iii, which shall not apply, and (ii) so long as product manufacturing at said location does not exceed the approved footprint of the building as of the date of adoption of this amendment.

4666. Additional Requirements/Conditions. The following additional requirements and conditions shall also apply to all Marijuana Establishments:

a. Location: The following are additional location requirements:

- i. Marijuana establishments are encouraged to utilize existing vacant buildings where possible.
- ii. No marijuana establishment shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located) of a parcel occupied by a preexisting public or private school or licensed daycare center (existing at the time the applicant's license application was received by the Cannabis Control Commission).
- iii. No Building utilized for any Marijuana Establishment use, except for a Marijuana Retailer or Marijuana Independent Testing Laboratory, shall be located within five hundred (500) feet of a Building occupied by a residential use (including commercial residential uses such as hotels, motels, lodging houses, etc.). The distance is to be measured in a straight line from the nearest point of the residential Building in question to the nearest point of the Building where the Marijuana Establishment is or will be located. The Planning Board may waive the foregoing requirement when the public interest so requires.
- iv. No Marijuana Establishment is permitted to utilize or provide a drive-through service

b. Use, Security and Hours of Operation:

- i. Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.
- ii. No Marijuana shall be smoked, eaten or otherwise consumed or ingested within, or on, the premises.

- iii. The hours of operation shall be set by the Planning Board, but in no event shall a Marijuana Retail Establishment be open to the public between the hours of 10:00 p.m. and 8:00 a.m. No sale or other distribution of Marijuana shall occur upon the premises, or via delivery from the premises, between the hours of 10:00 p.m. and 8:00 a.m.
- iv. Marijuana Establishments shall provide appropriate security measures, shall establish a protocol therefor and shall provide to the Deerfield Police Department and, subsequently, to the Planning Board, a copy of its emergency management plan and contact information for a facility representative available 24 hours a day.

c. Licensing:

- i. No Marijuana Establishment may commence operation or apply for a building permit prior to its receipt of all required permits and approvals including, but not limited, to its Final License from the Cannabis Control Commission.
- ii. The number of Marijuana Retail Establishments permitted to be located within the Town of Deerfield shall not exceed 20% of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.

d. Physical Requirements:

- i. All aspects of the any Marijuana Establishment, except for the transportation of product or materials, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the business. They may not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.
- ii. No outside storage is permitted.
- iii. No Marijuana Retailer shall have a gross floor area open to the public in excess of 2,500 square feet.
- iv. Ventilation - all marijuana establishments shall be ventilated in such a manner that no:
 1. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
 2. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the Marijuana Establishment or at any adjoining use or property.

- v. No Marijuana Establishment shall be operated so as to cause a nuisance to the community by noise, odor, dust, glare, fumes, vibration, heat, glare or other conditions. Marijuana Establishments shall address noise control, shall incorporate odor reduction measures and shall otherwise undertake appropriate action(s) to avoid any nuisance or impairment of the public comfort and convenience from facility operation(s).
- vi. Signage shall be displayed on the exterior of the Marijuana Establishment's entrance in plain sight of the public stating that "Access to this facility is limited to individuals 21 years or older." in text two inches in height. All other signage must comply with all other applicable signage regulations in the Zoning Bylaw and 935 CMR 500.
- vii. Cannabis plants, products, and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way shall also be subject to a vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.

e. Reporting Requirements.

- i. Prior to the commencement of the operation or services provided by a Marijuana Establishment, it shall provide the Police Department, Fire Department, Building Commissioner and the Planning Board with the names, phone numbers and email addresses of all management staff and keyholders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
- ii. The local Building Commissioner, Board of Health, Police Department, Fire Department and Planning Board shall be notified in writing by the Marijuana Establishment facility owner/operator/manager:
 - 1. A minimum of 30 days prior to any change in ownership or management of that establishment
 - 2. A minimum of 12 hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
- iii. Permitted Marijuana Establishments shall file an annual written report to, and ***the owner shall*** appear before, the Planning Board no later than January 31st of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.

- iv. The owner or manager of a Marijuana Establishment is required to respond by phone or email within twenty-four hours of contact by a Town official concerning their Marijuana Establishment at the phone number or email address provided to the Town as the contact for the business.

f. Issuance, Transfer or Discontinuance of Use.

- i. Any permits issued hereunder shall be issued to the Marijuana Establishment owner.
- ii. Any permits issued hereunder shall be issued for a specific type of Marijuana Establishment on a specific site/parcel.
- iii. Any permits issued hereunder shall be non-transferable to either another Marijuana Establishment owner or another site/parcel.
- iv. Any permits issued hereunder shall have a term limited to the duration of the applicant's ownership/control of the premises as a Marijuana Establishment, and shall lapse/expire if:
 - 1. The Marijuana Establishment ceases operation (not providing the operation or services for which it is permitted) for 365 days, and/or;
 - 2. The Marijuana Establishment's registration/license by the Cannabis Control Commission expires or is terminated;
 - 3. Substantial use has not commenced within one year of the Special Permit issuance, except for good cause.
 - 4. Any transfer or change of ownership of a Marijuana Establishment shall be treated as an amendment to any permit, including a Site Plan Approval, issued hereunder and shall require a public hearing before the Planning Board.
- v. The Marijuana Establishment shall notify the Zoning Enforcement Officer and Planning Board in writing within 48 hours of such lapse, cessation, discontinuance or expiration or revocation.
- vi. A Marijuana Cultivation or Product Manufacturing Establishment shall be required to remove all material, plants equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation.

4667. Application Requirements. Applications for Special Permits and Site Plan Approvals for Marijuana Establishments will be processed in the order that they are filed with the Town. In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for a Marijuana Establishment shall include the following: The name and address of each owner and operator of the Marijuana Establishment facility/operation.

- a. The name and address of each owner and operator of the Marijuana Establishment facility/operation.
- b. A copy of an approved Host Agreement.
- c. A copy of its Provisional License from the Cannabis Control Commission pursuant to 935 CMR 500.
- d. If it's in conjunction with an approved RMD, a copy of its registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.
- e. Proof of Liability Insurance Coverage or Maintenance of Escrow as required in 935 CMR 500.
- f. Evidence that the Applicant has site control and right to use the site for a Marijuana Establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
- g. A notarized statement signed by the Marijuana Establishment organization's Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
- h. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the marijuana establishment including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
- i. A detailed floor plan identifying the areas available and functional uses (including square footage).
- j. All signage being proposed for the facility.
- k. A pedestrian/vehicular traffic impact study to establish the Marijuana Establishment's impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to, along the public right of ways will not be unreasonably obstructed.
- l. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.

- m. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of Marijuana and related products to Marijuana Establishment or off-site direct delivery.
- n. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the Marijuana Establishments:
 - i. Operating procedures.
 - ii. Marketing and advertising.
 - iii. Waste disposal.
 - iv. Transportation and delivery of marijuana or marijuana products.
 - v. Energy efficiency and conservation.
 - vi. Security and alarms.
 - vii. Decommissioning of the Marijuana Establishment including a cost estimate taking into consideration the community's cost to undertake the decommissioning of the site.

4668. Findings. In addition to the standard Findings for a Special Permit the Planning Board must also find all the following:

- a. The Marijuana Establishment is consistent with and does not derogate from the purposes and intent of this Section and the Zoning Ordinance/Bylaw.
- b. That the Marijuana Establishment facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest.
- c. That the Marijuana Establishment facility demonstrates that it meets or exceeds all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
- d. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw;
- e. That the Marijuana Establishment facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured on-site or via delivery.
- f. That the Marijuana Establishment facility adequately addresses issues of traffic demand, circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

4700. EXPEDITED PERMITTING DISTRICT. [Added 4-28-2008 ATM, Art. 2]

4710. General. In the Expedited Permitting District (EPD), an Expedited Permit Project (EPP) may be developed in accordance with the following regulations.

4720. Definitions.

Expedited Permit Project (EPP): Any retail, office, industrial or commercial use, or combination thereof, which has one or more of the following characteristics:

1. More than 30,000 square feet of gross floor area in any building or combination of buildings;
2. More than 100 required parking spaces; or
3. Generation of more than 250 vehicle trips per day, as determined by the ITE's Trip Generation Manual.

4730. Permitted and Special Permit EPP. A proposed EPP containing uses allowed as of right as set forth in the Table of Principal Uses shall be subject only to the standards of this Section 4700 and to site plan review by the Board of Selectmen as otherwise set forth in this Zoning By-Law. Uses allowed by Special Permit in the Expedited Permitting District shall require a Special Permit from the Board of Selectmen in accordance with Section 5300, Special Permits. **[Amended 4-26-2010 ATM, Art. 1]**

4740. Contents of Application. The applicant for site plan approval shall submit to the Board of Selectmen for approval a development plan for the entire tract at a scale of one (1) inch equals forty (40) feet, prepared by a registered landscape architect, a registered architect, a registered land surveyor, or a registered professional engineer, showing at least the following:

1. Development name, boundaries, true North point, date and scale.
2. Names and addresses of record owner and applicant.
3. Names of all the abutters as they appear on the most recent tax list, including owners of land separated from the tract only by a street, and zoning district boundaries, if any.
4. Existing and proposed lines of streets, lots, rights of way, easements and public or common areas. The proposed names of proposed streets shall be shown in pencil until they have been approved by the Board of Selectmen. Purpose of easements shall be indicated.
5. Location, names and present widths of streets bounding, approaching and within reasonable proximity of the tract.
6. Location of natural waterways and water bodies within and adjacent to the tract.
7. Major site features, such as existing stone walls, fences, buildings, large trees, rock ridges and outcroppings, and wetlands.

8. Sufficient data, including length, bearings, radii and central angle, to determine the exact location, direction and length of every street and way line, lot line, and boundary line and to establish these lines on the ground.
9. Location of all permanent monuments and bench marks and each proposed lot marker, properly identified as to whether existing or proposed. All bench marks shall be tied into and employ the United States Geological Survey data system.
10. Name of the engineer, architect and/or surveyor who prepared the plan; certificates and seals of the engineer and surveyor that they actually prepared the plan; and an additional certificate by the surveyor that all surveying conforms to the technical standards for property surveys of the American Congress on Surveying and Mapping.
11. Suitable space to record the action of the Board of Selectmen and the signatures of each of the members of the Board of Selectmen on each page of the plan.
12. Existing and proposed topography at one-foot contour intervals, unless the Board of Selectmen agrees that the natural surface of the ground may be adequately represented by contours at larger intervals or by figures of elevation.
13. Profiles on the right of way lines of proposed streets at a horizontal scale of one (1) inch equals forty (40) feet and a vertical scale of one (1) inch equals four (4) feet or such other scale acceptable by the Board of Selectmen. All elevations shall refer to United States Geological Survey datum. Profiles shall also indicate the location of any intersecting public or private ways and the location of existing and proposed storm drains, water mains, sewers, and their appurtenances and any other underground utilities. There shall also be drawn cross sections of the proposed streets, properly located and identified by station number, at such intervals along the streets as will adequately indicate any variations in its section, supplemented, where necessary, by lines on the layout plan showing the width and location of proposed roadways, planting strips, gutters, sidewalks, and similar physical features.
14. Locations of existing and proposed storm drains, water mains, sewers, gas mains, electric and telephone lines and exterior lighting.
15. The results of borings or soil exploration sufficient to establish the character of the site's geology, water table and drainage features which would affect wastewater system design.
16. Proposed locations of all buildings, exits and entrances, parking areas, and screening and buffer strips.
17. Building size and location, including setback measurements, distance between buildings and plan view exterior measurements of individual buildings.
18. Internal roads, sidewalks and parking areas (with dimensions of paving and indication of number of parking spaces).

19. Total site area in square footage and acres, and area to be set aside as open space and common land.
20. Percentage of lot coverage, including the percentage of the lot covered by buildings, and percentage of open space and common land.
21. Representation of all proposed facade elevations, indicating height of building and construction.
22. Preliminary floor plans, including area in square feet of each floor.
23. Proposed schedule for completing the proposed EPP, including therein, as appropriate, designation of specific section or buildings proposed to be completed for occupancy prior to overall completion.

4750. Performance Standards. The following performance standards shall apply to applications for site plan approval:

A. Lighting.

1. Shielding. All outdoor light fixtures shall be shielded so as to meet the goals of this Section.
2. Light Trespass. Direct light from the light source is to be confined within the property boundaries.
3. Illuminated Surfaces. Preferred surfacing for lighted areas shall be of materials such as blacktop which reflect a relatively small fraction of incident light. Parking area lighting shall be reduced or eliminated outside business hours. The Board of Selectmen may require an electrical configuration for parking lots which supports shut off for specific unused areas to reduce the glare from lighting.
4. Searchlights. The operation of laser shows or searchlights for advertising purposes is prohibited.
5. Indoor Lighting. Indoor light sources will not be projected outside in a manner to defeat the intent of this bylaw.
6. Outdoor Signs. Outdoor light fixtures used to illuminate an outdoor sign shall be mounted on top of the sign structure or otherwise restricted to prevent up-light and light trespass.
7. Flickering and Flashing Lights. No flickering or flashing lights shall be permitted. Processes, such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.
8. Height of Fixtures.

- (A) *Wall Mounted Fixtures.* Luminaires attached to a building for area lighting shall be mounted no higher than thirty-five (35) feet above grade;
 - (B) *Pole Mounted Fixtures.* Pole mounted exterior lighting fixture types shall be mounted no higher than thirty (30) feet above grade.
9. Hours of Operation. Except as may be deemed appropriate for site safety or security, all external lighting, including lighting accessory to authorized signs, shall be extinguished one half hour after the facility is closed for the business day. Such lighting may be timed to resume one half hour prior to the arrival of the first employee on the premises.

B. Noise

1. Hours of Operation. As a condition of any site plan approval, the Board of Selectmen may establish hours of operation for any of the following activities:
- (A) The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or other objects or materials for sale or storage or use in a manner that causes a condition of noise pollution;
 - (B) Operating or permitting the operation of tools or equipment used in construction, drilling or demolition work;
 - (C) The operation of construction devices such items as compressors, jackhammers, bulldozers, cranes, etc., in a manner that causes a condition of noise pollution.
2. Ambient Noise Level. No person shall operate or cause to be operated any source of sound in a manner that creates a sound level which exceeds 80 dBA or 10 dBA above ambient, whichever is lower, when measured at the property boundary of the receiving land use.

C. Landscaping

1. District Buffer Strip. A continuous landscaped buffer strip of at least twenty (20) feet in width shall be provided and maintained in perpetuity between the Expedited Permit District and any residential districts and/or property lines. The landscape buffer strip shall be of a density to substantially screen the development in question from view, along the zoning district line in question. Plantings of various approved evergreen species is encouraged and shall be planted at a minimum height of six (6) feet.
2. Large Parking Areas. Parking areas containing over 20 spaces shall be subject to an approved parking plan, showing perimeter landscaping to screen such parking area from adjacent properties and locations accessible by the public. The Board of Selectmen may require traffic calming measures such as crosswalks, bikelanes, rumble-strips and landscape islands as necessary within such parking area.

3. Fencing; Retaining Walls; and Berms. The Board of Selectmen may require appropriate fencing, retaining walls, and berms in order to screen unattractive features of the EPP.
4. Unsightly Uses and Areas. Exposed storage areas, refuse disposal facilities, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings.
5. Maintenance. All landscaping features, structures and areas shall be properly maintained. Dead shrubs or trees shall be replaced within one growing season as a condition of approval.

D. Stormwater Management.

1. Consistency with the Massachusetts Stormwater Management Policy. All development shall comply with the DEP's Stormwater Regulations, as may be amended.
2. Conservation Commission. Where applicable, no building permit shall be issued unless a report shall have been received from the Conservation Commission or its agent that the storm drainage system is consistent with DEP Stormwater Regulations, as may be amended.
3. Temporary Measures. During the construction phase, temporary diversions, berms, grassed waterways, special culverts, shoulder dikes or such other mechanical measures as may be necessary may be required by the Board of Selectmen to intercept and divert surface water runoff, in accordance with applicable standards.
4. Erosion and Sedimentation Control. Erosion and sedimentation controls shall be constructed in accordance with the DEP Stormwater Regulations, as may be amended.

E. Site Development Standards.

1. Clearing for Utility Trenching. Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized wherever feasible to protect root systems of trees.
2. Site Design.
 - (A) Placement of buildings, structures, or parking facilities shall not detract from the site's scenic qualities and shall blend with the natural landscape.
 - (B) Sites shall be designed in such a way as to avoid impacts to rare and endangered species and wildlife habitat on a site, and to maintain contiguous forested areas.

3. Preservation of Existing Vegetation. Priority shall be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees.
 - (A) During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential root zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state.
4. Finished Grade. Finished grades should be limited to no greater than a 3:1 slope, without special treatment, while preserving, matching, or blending with the natural contours and undulations of the land to the greatest extent possible. Finished grade shall be no higher than the trunk flare(s) of trees to be retained. The design of grade changes at the base of existing large trees shall be subject to the approval of the Board of Selectmen or its agent.
5. Phasing of Development. The Board of Selectmen may limit the extent of a site exposed at any one time through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.
6. Revegetation. Proper revegetation techniques shall be employed during construction using native plant species, proper seed bed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within 7 (seven) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species.
7. Topsoil. A minimum of 6" of topsoil shall be placed on all disturbed surfaces which are proposed to be planted.
8. Irrigation. The Board of Selectmen may require that water for the purpose of irrigation shall be provided by an onsite well, after consultation with the Water Department.

F. Pedestrian and Vehicular Access; Traffic Management

1. Access. To the extent feasible, access to nonresidential uses and structures shall minimize impact:
 - (A) Access via roadways abutting residential districts shall be avoided where possible.
 - (B) Access and egress to an EPP with frontage on more than one street shall be in a manner that causes the least impact to the surrounding neighborhoods as determined by the Board of Selectmen.
2. Driveways. An EPP shall be served by an adequate driveway.

- (A) All driveways shall be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.
3. Curb Cuts. Curb cuts shall be limited to the minimum width for safe entering and exiting, and shall in no case exceed 24 feet in width unless waived by the Board of Selectmen for nonresidential traffic. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.
 4. Interior Circulation. The proposed EPP shall assure safe interior circulation within its site by separating pedestrian, bike ways, and vehicular traffic. Sidewalks are highly encouraged to provide safe pedestrian access from the roadway and within the EPP.
 5. Transportation Plan Approval. The proposed EPP shall be subject to Transportation Plan approval by the Board of Selectmen. The Transportation Plan shall consist of the following information:
 - A. A plan showing the proposed parking, loading, and traffic circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.
 - B. A traffic study, prepared by a qualified traffic engineer, detailing the excepted traffic impacts. For proposed EPP, or phase thereof, in excess of 30,000 gross square feet, the required traffic study shall substantially conform to the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition.¹⁵ The Board of Selectmen shall approve the geographic scope and content of the study. In addition, the applicant shall submit a Transportation Demand Management (TDM) Plan tailored to the specific uses and the geographic location of the site. Such TDM Plan may include carpools and vans, bicycle oriented transit, employee incentives to minimize vehicle traffic, and the like. The TDM Plan is subject to the approval of the Board of Selectmen.
 - C. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.
 6. Reduction in Parking. In consideration of the applicant providing one or more of the above measures to reduce vehicular traffic to and from the site, the Board of Selectmen may reduce the number of required parking spaces below what would ordinarily be required by this Zoning By-Law, which shall otherwise apply to an EPP. To be considered for such a reduction, the applicant's traffic engineer shall determine and

¹⁵ Current edition is dated 1991 and is available through the Institute of Transportation Engineers, 1099 14th Street, NW, Suite 300 West, Washington, DC 20005-3438 USA, Telephone: 202-289-0222

justify the parking demand for the project, as well as reduction in needed parking spaces attributable to each traffic management measure.

7. Level of Service Maintenance or Improvement. The Board of Selectmen may require as a condition of site plan approval off-site improvements to mitigate the impact of the proposed EPP. Such improvements include intersection widening and traffic signals or the components of the EPP. All road and intersection improvements proposed as part of development and redevelopment shall be consistent with local plans.
8. Dangerous Intersections. The Board of Selectmen may require mitigation for any net increase in traffic volumes of 10% or more at an intersection that has an accident history of more than 5 accidents in the last three years for which data is available.
9. Sight Distance. Acceptable sight distance shall be provided and maintained at all access locations, egress locations, and all intersections affected by the EPP. At a minimum, these site distances shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials standards for safe-stopping sight distances.
10. Pedestrian and Bicycle Safety. Pedestrian and bicycle circulation, and the amenities required thereof, on and off site, shall be in accordance with the following requirements:
 - (A) All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with adjoining properties, where deemed appropriate by the Board of Selectmen.
 - (B) Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries.
 - (C) All road and intersection widening and new traffic signals or modification of existing traffic signals required as part of a Development or Redevelopment shall include appropriate bicycle and pedestrian accommodation.
 - (D) The Board of Selectmen may require proposed development and redevelopment to provide sufficient rights-of-way on their properties to accommodate expected needs for bicycle and pedestrian use.
 - (E) Sidewalks, crosswalks, walkways, bike racks or other pedestrian access shall be provided to allow access to adjacent properties and between individual businesses within a development.
 - (F) If the property abuts a public bikeway/right-of-way, a paved access route to the bikeway may be required.
11. Traffic Calming Features. Traffic calming measures such as crosswalks, bike lanes, rumble strips and landscaped islands may be required.

G. Aesthetics.

1. Compatibility with Neighborhood. The location, size and design, building materials, and operating characteristics of the proposed EPP shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties, with natural and built environment in the area and the surrounding neighborhood, with consideration to be given to the following:
 - (A) Harmony in scale, bulk, massing, and density in accordance with other commercial structures located within South Deerfield;
 - (B) Consistency with the goals and objectives of the Town's Master Plan and with any other plan that has been adopted by the Town.

H Utilities; Security; Emergency Systems

1. Water and Sewer. The proposed EPP shall be connected to the Town sewer system and the South Deerfield Water District system.
 2. Site Security. There shall be a certification by the Police Chief that the petitioner has provided a written plan for site security, which plan has been approved by the Police Chief.
 3. Underground. All electrical, cable and telecommunications services shall be installed underground.
 4. Fire Alarm System. There shall be sufficient municipal fire alarm system capacity to meet the operating requirements of the proposed site development and use under applicable codes, regulations, and statutes enforced by the Fire Chief.
4760. Dimensional Requirements. A proposed EPP shall meet the following dimensional requirements:
1. Maximum Building Height: 48 feet
 2. Minimum perimeter setback: 25 feet
 3. Maximum EPD coverage by impervious surface (%): 80%

4770. Exemptions. The following uses or activities are exempt from these standards:

1. Emergency Response. Emergency responses performed by a private entity or a public agency and fire or burglar alarms.
2. Municipal Uses and Structures. All municipal uses and structures, including schools.

4780. Waiver of Standards. The Board of Selectmen may in the course of site plan approval waive any performance standard where such waiver is not inconsistent with the purposes of this Section 4700.

4790. Enforcement. The Board of Selectmen may ensure compliance with these performance standards at the application stage by requiring evidence of probable compliance, whether by example of similar facilities or by engineering analysis, verified by technical peer review. In addition, the Board of Selectmen may require a monitoring program post-permit issuance for compliance purposes for a time period as may be specified in the site plan approval.

4800. PLANNED UNIT DEVELOPMENT. [Added 4-26-2010 ATM, Art. 1]

4810. Purpose. The Planned Unit Development bylaw is designed to allow for unified developments in designated areas of Town. Through a comprehensive site plan a unified development containing a mixture of land uses and buildings is developed as a single entity. It is the intent of this provision to ensure sound planning and zoning practices while allowing certain desirable departures from the strict provisions of specific zone classifications.

1. Encourage flexibility in the design of development through a carefully controlled review process of particular plans within a particular zoning district.
2. Promote the use of multiple-story buildings and campus-like clustering of buildings to maximize the amount of available open space.
3. Encourage a less sprawling form of development which makes more efficient use of land, requires shorter networks of streets and utilities and which fosters more economical development and less consumption of developable land.
4. Provide an efficient procedure which will ensure appropriate high-quality design and site planning.
5. Promote high quality coordinated building and site design which buffers adjacent residential uses and protects both scenic and natural features.

4820. Definition. Planned Unit Development - A development of land as a single entity under the direction of a comprehensive site plan, in which a mixture of land uses, a variety of building types and designs, and open space are provided for in a coherent manner.

4830. Location. Planned Unit Developments may be located in the C-I (Small Business), C-II (Commercial), and I (Industrial) Districts.

4840. Dimensional Requirements. To be eligible for a planned unit development, the parcel must have at least 400 feet of frontage and have a minimum lot area of 80,000 square

feet. There are no specific setback requirements, except a Perimeter Setback of 25 feet is required from the exterior property line.

4850. Procedural Requirements. All Planned Unit Developments require a special permit through the Planning Board. The Planning Board shall be the Site Plan Approval Authority and Special Permit Granting Authority for all Planned Unit Developments. In addition to the Site Plan Submittal Requirements in Section 5400 and the Special Permit Requirements of Section 5300 of this Bylaw, site plans shall include:

1. Color renderings of facade elevations of all sides of all proposed new construction and renovations including proposed mature landscaping.
2. Color photographs showing the proposed building site and adjacent properties.
3. Drawings/cut sheets of all proposed lighting, signs, and pedestrian amenities as they are to be located on the property.
4. A landscaping plan that includes all existing and proposed vegetation with elevation views and a description of all plantings (include common names), size (upon planting and upon maturity), spacing, and numbers of plants.
5. Description of how the project will impact traffic conditions on streets and intersections likely to be affected by the project including the level of service, traffic flow, turning movements, sight distances, traffic controls, pedestrian movement and public transportation. Provide information on the average daily and peak hour traffic projections and directional distribution of site-generated traffic.

4860. Use Regulations.

1. Planned Unit Developments in the C-I or C-II Districts shall be a combination of non-residential uses allowed as of right or by special permit and may include multi-family dwellings and accessory apartments in the C-I District and dwelling units incidental to commercial or industrial uses in the C-I and C-II Districts. Planned Unit Developments in the Industrial District (I) shall be a combination of non-residential uses allowed as of right or by special permit.
2. Uses in a planned unit development shall comply with all other applicable sections of this Bylaw in addition to the required provisions of this section.
3. More than one principal building and use is permitted on a lot.
4. A building height of 48 feet is permitted.

5. One or more separate but contiguous parcels may be assembled to create a planned unit development. Proposed planned unit developments may include pre-existing uses and buildings provided they are integrated into the development plan. Planned unit developments may consist of land in more than single ownership and may be subdivided into separate lots provided all current and future owners and lots are bound by restrictive covenant(s) to the planned development permit approvals and to maintain the project as a single planned unit development. Subdivision of lots within a planned unit development after final approval of the site plan shall be considered an amendment to the special permit and will require approval by the Planning Board.

4870. Access Requirements.

1. Entrances to planned unit developments shall be limited to one access point onto a public way. The Planning Board may grant additional access points to improve traffic circulation if deemed necessary.
2. Common driveways and parallel service drives are encouraged in the planned unit development to consolidate driveway openings to a few widely spaced locations.

4880. Utilities.

1. Planned unit developments shall be connected to the public water and sewer systems in accordance with the standards and specifications of the Town.
2. All utility lines shall be placed underground where physically feasible.

4890. Design Requirements.

1. Developments shall have an integrated design with respect to building placement, proportion, color, rooflines, and other architectural details.
2. Developments must incorporate human scale features such as landscaping, pedestrian plazas and other public spaces, first floor windows, pedestrian level lighting, benches, awnings and architectural details.
3. New buildings shall relate harmoniously to existing buildings on the site and to the surrounding neighborhood.
4. Boxy buildings should be softened with architectural details and landscaping. Pitched roof lines are encouraged.
5. Long unbroken facades must be avoided. The use of facade offsets, recesses, angular forms, and landscaping rather than ornamentation is encouraged to break up the mass of large or continuous walls.
6. The use of exterior building materials such as masonry, stone, wood, and brick is preferred.
7. Facade details and building elements shall be proportionate to the scale of the building.
8. The building's main entrance shall be clearly defined with architectural details such as raised parapets, peaked roofs, arches, canopies, and overhangs.

9. Rear or side facades visible from other uses, parking areas, or streets must be of finished quality and should be landscaped.
 10. Parking areas shall be located to the side or rear of buildings to the maximum extent feasible. Large expanses of parking should be broken up with internal landscaping and dedicated pedestrian walkways. The Planning Board may waive any of the requirements of Section 3100, Townwide Parking and Loading Requirements, to facilitate the flexible design of a PUD pursuant to this section.
 11. All mechanical equipment including, but not limited to, dish antennae, outdoor storage, transformers, HVAC units, and waste disposal areas shall be screened from public view.
 12. Lighting fixtures should complement the architectural design of the planned unit development and should utilize full cut-off downlighting.
 13. The placement of wall signs on individual buildings should complement the architectural design of the planned unit development. Wall signs in multi-tenanted buildings must be placed within the same sign band.
4895. Phasing Requirements. All applications for planned unit developments shall include sufficient information to evaluate total build-out of the site. The Planning Board may permit a phased schedule in accordance with an approved master site plan.
1. The initial construction phase shall provide sufficient on-site and off-site improvements to adequately serve the constructed portion independent of future phases, encourage completion of the build-out design, and minimize disruptions during future construction phases. Improvements shall include but are not limited to driveways, parking, sewer, water, stormwater systems, lighting, and landscaping. The Planning Board may permit phased construction of improvements if deemed appropriate.
 2. The applicant shall provide the Town with a performance guarantee to cover the costs of construction of the on-site and off-site improvements, subject to approval from the Planning Board, in the form of a performance bond or cash escrow.
 3. Any changes in use or amendments to subsequent development phases shall require approval by the Planning Board. Modifications or extensions to an approved phasing timetable shall not be considered substantive amendments.

4900. PERFORMANCE STANDARDS FOR MANUFACTURING, PROCESSING, ASSEMBLY OR FABRICATION. [Added 4-26-2010 ATM, Art. 1]

Manufacturing, processing, assembly, or fabrication which may be allowed by right according to Section 2230, must meet all of the Performance Standards of this Section 4900. In order for the Building Inspector to make this determination in consultation with the Zoning Board of Appeals (ZBA) the following information is required.

4910. Review and Submission Procedures.**1. Plan Filing Requirements.**

The following plans and items shall be submitted to the Building Inspector with an application form and three (3) copies of the drawings. Plans shall be prepared by a registered architect, registered landscape architect or professional engineer licensed in Massachusetts. The ZBA may waive one or more of the requirements for Plan Filing under Section 4930.

- a.) A locus map at a scale of 1"=1,000' inset within the plans noted below to identify the location of the proposed development.
- b.) A plan view at a scale not to exceed 1"= 100' showing location and dimensions of all existing and proposed buildings, parking areas and access roads on the site subject to this application. Clearly show the relationship between proposed and existing structures and adjacent lots within a radius of five hundred (500) feet.
- c.) A plan view at a scale not to exceed 1"= 40' showing the location and dimensions of all existing and proposed buildings, access points, parking areas, bicycle racks, roads, sidewalks, open spaces and utilities, including underground utility lines, water, sewer, electric power, telephone, gas, outdoor illumination and cable television.
- d.) A narrative identifying the type of business proposed, the hours of operation, and information on the types and quantities of hazardous materials which shall be used or stored on site in excess of household quantities.
- e.) A letter from the Superintendent of Wastewater Treatment Plant certifying that sufficient wastewater treatment capacity exists to accommodate the new use if sewer is needed.
- f.) A letter from the Superintendent of the South Deerfield Water Supply District or the Deerfield Fire District, as appropriate, certifying that there is sufficient water supply to accommodate the new use if needed.

4920. Performance Standards.

1. Daily traffic generation shall not exceed the greater of:

- (i) an average of 150 new passenger vehicle trips per weekday as estimated using the number of employees expected or the average weekday trip rate for the proposed use, whichever is greater, from the Institute for Transportation Engineers Trip Generation Manual and an average of 16 truck trips per day [Note: do not include express delivery trucks (e.g. UPS or FedEx vehicles) in truck trip amount]; or
- (ii) five percent (5%) of the existing daily traffic volumes based on actual traffic counts on the road where vehicles enter and exit the site and no more than 16 truck trips per day [Note: do not include express delivery trucks (e.g. UPS or FedEx vehicles) in truck trip amount].

and provided that the forecasted Level of Service (LOS) at all intersections serving the proposed use and the road segment(s) providing access remain at a LOS C or better.

2. Sound or noise levels may not exceed 50 dBA, at the boundary of the property, between 6 p.m. and 6 a.m.
3. Sound or noise levels may not exceed 65 dBA, at the boundary of the property, between 6 a.m. and 6 p.m.
4. Vibration, odor, or flashing at night that is perceptible without instruments may not occur beyond the parcel boundaries of the originating premises, except for warning devices or construction work.
5. The hours of operation must be no earlier than 6 a.m. and no later than 9 p.m.
6. There is adequate wastewater treatment capacity and adequate water supply to accommodate the new or expanded use.
7. No increase in stormwater runoff to neighboring properties or roads.
8. On-site parking and loading areas sufficient to accommodate employees and truck deliveries must be provided.
9. Adequate screening of parking areas from abutting residential parcels and roadways shall be provided. A minimum five (5) foot wide buffer area shall provide adequate screening of the parking area from abutting residential uses. Such buffer area shall be planted with a combination of evergreen and deciduous shrubs that are at least five (5) feet in height. Solid wood fencing may also be used which may reduce the buffer area required.
10. Adequate provision for trash disposal and screening of refuse areas containing dumpsters or other containers shall be provided from abutting parcels and roadways. Solid wood fencing should be used unless an alternative acceptable to the ZBA is approved.

11. Lighting shall be pedestrian in scale with fixtures not exceeding sixteen (16) feet in height and cut-off fixtures that direct light downward should be used.
12. Lighting shall not produce direct illumination or glare beyond the property boundaries.
13. Stormwater Management and erosion and sedimentation control shall be consistent with the DEP's Stormwater Regulations and the Town of Deerfield's Stormwater Regulations as may be amended.
14. Hazardous materials stored or generated on site shall not exceed the amount for a Very Small Quantity Generator of Hazardous Waste as defined by the DEP pursuant to MassDEP regulations 310 CMR 30.000 and shall meet all requirements of the DEP including storage of hazardous materials in a building on an impervious surface that is not adjacent to any floor drains or which can discharge to the outdoor environment.

4930. Provision for Waivers.

The Zoning Board of Appeals may waive one or more of the requirements for Plan Filing under Section 4910 if the simplicity or scale of the project warrants such action. Request for waivers may be submitted at the time of the application or prior to the application by scheduling a meeting with the Zoning Board of Appeals. The applicant must provide sufficient information about the project to allow the Zoning Board of Appeals to make that determination.

4940. Enforcement.

The Building Inspector shall ensure compliance with these performance standards at the application stage by requiring evidence of probable compliance, whether by example of similar facilities or by engineering analysis, verified by technical peer review.

ARTICLE V. ADMINISTRATION.

5100. ADMINISTRATION.

5110. Permits. This By-Law shall be administered by the Building Commissioner. Pursuant to the State Building Code, the Building Commissioner may require such plans and specifications as may be necessary to determine compliance with all pertinent laws of the Commonwealth. Buildings, structures or signs may not be erected, substantially altered, moved, or changed in use and land may not be substantially altered or changed in principal use without written certification by the Building Inspector that such action is in compliance with then-applicable zoning, and that all necessary permits have been received under federal, state, or local law. Issuance of a Building Permit or Certificate of Use and Occupancy, where required under the Commonwealth's State Building Code, may serve as such certification.

5120. Enforcement. The Building Inspector shall institute and take any and all such action as may be necessary to enforce full compliance with any and all of the provisions of this By-Law and of permits and variances issued thereunder, including notification of noncompliance and request for legal action through the Selectmen to Town Counsel.

5130. Penalties. The penalty for violation of any provision of this By-Law, of any of the conditions under which a permit is issued, or of any decision rendered by the Board of Appeals shall be Three Hundred dollars (\$300.00) for each offense. Each day that each violation continues shall constitute a separate offense.

5200. BOARD OF APPEALS.

5210. Establishment. There is hereby established a Board of Appeals which shall consist of five members and two alternate members, who shall be appointed and act in all matters under this By-Law in the manner prescribed in G.L. c. 40A.

5220. Powers. The Board of Appeals shall have and exercise all the powers granted to it by Chapters 40A, 40B, and 41 of the General Laws and by this By-Law. The Board's powers are as follows:

5221. To hear and decide applications for special permits. Unless otherwise specified herein, the Board of Appeals shall serve as the special permit granting authority, to act in all matters in accordance with the provisions of Section 5300, or as otherwise specified.

5222. To hear and decide appeals or petitions for variances from the terms of this By-Law, with respect to particular land or structures, as set forth in G.L. c. 40A, s. 10. The Board of Appeals shall not grant use variances in any residential district of the Town.

5223. To hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of G.L. c. 40A, ss. 8 and 15.

5224. To hear and decide comprehensive permits for construction of low or moderate income housing by a public agency or limited dividend or nonprofit corporation, as set forth in G.L. c. 40B, ss. 20-23.

5300. SPECIAL PERMITS.

5310. Special Permit Granting Authority. Unless specifically designated otherwise, the Board of Appeals shall act as the Special Permit Granting Authority.

5320. Criteria. Special permits may be granted by the Special Permit Granting Authority upon its written determination that benefits of the proposed use outweigh its detrimental impacts on the town and the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any criteria set forth in specific provisions of this by-law, the determination shall include consideration of each of the following:

- 5321. Social economic, or community needs which are served by the proposal;
- 5322. Traffic flow and safety, including parking and loading;
- 5323. Adequacy of utilities and other public services;
- 5324. Neighborhood character and social structures;
- 5325. Impacts on the natural environment;
- 5326. Potential fiscal impact, including impact on town services, tax base, and employment.

5330. Procedures. Whenever an application for a special permit is filed with a special permit granting authority, the applicant shall also file, within three (3) working days of the filing of the completed application with said authority, copies of the application, accompanying site plan, and other documentation, to the Board of Health, Conservation Commission, Building Inspector, Director of Public Works, Police Chief, Fire Chief, for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority. Said authority shall notify applicants by registered mail, within 14 days of submittal, of incomplete application status, and the applicant shall have 14 days from the mailing of such notice to complete an application. Failure to complete an application within such time shall result in a return of all materials to the applicant, without prejudice. Reports from other boards and officials shall be submitted to the special permit granting authority by the date of the public hearing, but in any case within thirty-five (35) days of receipt of the reviewing party of all of the required materials; failure of these reviewing parties to make recommendations after having received copies of all such required materials shall be deemed a lack of opposition thereto. In the event that the public hearing by the special permit granting authority is held prior to the expiration of the 35 day period, said authority shall continue the Public Hearing to permit the formal submission of reports and recommendations within that 35 day period. The Decision/Findings of the special permit granting authority shall contain, in writing, an explanation for any departures from the recommendations of any reviewing party.

5340. Conditions. Special permits may be granted with such reasonable conditions, safeguards, or limitations on time or use, including performance guarantees, as the Special Permit Granting Authority may deem necessary to serve the purposes of this By-Law.

5350. Plans. An applicant for a special permit shall submit a plan in substantial conformance with the requirements of Section 5430, herein.

5360. Lapse. Special permits shall lapse if a substantial use thereof or construction thereunder has not begun, except for good cause, within 24 months following the filing of the special permit approval (plus such time required to pursue or await the determination of an appeal referred to in G.L. c. 40A, s. 17, from the grant thereof) with the Town Clerk.

5400. SITE PLAN REVIEW.

5410. Applicability. The following types of activities and uses require site plan review by the Planning Board: **[Amended 4-26-2010 ATM, Art. 1; 4-25-2011 ATM, Art. 7; 4-30-2012 ATM, Art 7; 4-30-2018 ATM, Art. 27]**

5411. For a municipal, institutional, commercial, industrial, or multi-family structure: 1) a change of use; or 2) construction, exterior alteration, or exterior expansion that will cumulatively add more than 600 square feet over a three-year period;

5412. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure which results in a cumulative total of 10 or more parking spaces or 2,000 square feet of parking area;

5413. Grading, clearing, or other land development activity EXCEPT for the following: landscaping on a lot with an existing dwelling, clearing necessary for percolation and other site tests, work incidental to agricultural activity, or work in conjunction with an approved subdivision plan or earth removal permit.

5414. Outdoor storage, sales or display associated with any retail use:

5415. Construction or expansion of a Large-Scale Ground-Mounted Solar Electric installation or an Extra-Large-Scale Ground Mounted Solar Electric Installation.

5416. Flexible Developments as authorized in Section 3500;

5417. Planned Unit Developments as authorized in Section 4800;

5418. Marijuana Establishments as authorized in Section 4660;

5419. Any use listed in Section 2230, Use Regulation Schedule, or in other sections of this bylaw as requiring Site Plan Review

5420. Procedures. **[Amended 4-25-2011 ATM, Art. 7; 4-30-2012 ATM, Art 7]**

5421. Prior to the commencement of any activity set forth in Section 5410, the project proponent shall obtain site plan approval from the Planning Board. Applicants for site plan approval shall submit an original and nine (9) hard copies of the site plan review application to the Town Clerk on behalf of the Planning Board for review at a regularly scheduled meeting along with a compact disk containing a Standard Digital File (SDF) as defined by Version 2.0 of the MassGIS Standard for Digital Plan Submittals to Municipalities (October 2007) and a copy of the original CADD file in PDF format plus accompanying documents in PDF format. Within three business (3) days thereafter, administrative staff shall distribute copies of the site plan to the Board of Health, Director of Public Works, Police Chief, Fire Chief, the Building Inspector, Conservation Commission, and Board of Selectmen for their advisory review and comments. Said boards and officials shall have fourteen (14) days from the receipt of the site plan to make a written recommendation to the Planning Board. Failure to respond or provide comments within fourteen (14) days shall be deemed to constitute no

objection to the application. The Planning Board shall review and act upon the site plan, with such conditions as may be deemed appropriate, within sixty (60) days of its receipt, and notify the applicant of its decision. The decision of the Planning Board shall be upon a majority of those present and shall be in writing. No building permit shall be issued by the Building Inspector and/or no special permit or variance shall be issued by the Board of Appeals without the written approval of the site plan by the Planning Board, or unless sixty (60) days lapse from the date of the submittal of the site plan without action by the Planning Board. Where a site plan accompanies a special permit or variance application to the Board of Appeals and the Planning Board approves a site plan "with conditions," the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance by the Board of Appeals.

5422. Where the Planning Board serves as the special permit granting authority, it shall consolidate site plan review into the special permit procedures and the timetable for decision shall conform thereto:

5423. An application for site plan approval shall be accompanied by a fee, as set forth in the Planning Board's Rules and Regulations.

5424. Public Hearings are required for all Site Plans filed. The applicant shall obtain a list of abutters, being all "parties in interest" as defined in G.L. c. 40A, s. 11, from the Deerfield Assessor's Office, and shall attach the list to the application when filed. At least fourteen (14) days prior to the day of the Public Hearing, written notices shall be sent by the administrative staff by certified mail at the applicant's expense to the parties in interest. Legal notice of the public hearing shall be published at the applicant's expense in a newspaper of general circulation in the town in each of two (2) successive weeks, the first publication to appear not less than fourteen (14) days prior to the day of the Public Hearing. Notice of the Public Hearing shall also be posted in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of such hearing.

5430. Submittals.

5431. Plans subject to this section shall show: **[Amended 4-30-2012 ATM, Art 7]**

- a. All boundary line information pertaining to the land sufficient to permit location of same on ground with existing and proposed topography at 2 foot contour intervals and the location of wetlands, streams, waterbodies, drainage swales, areas subject to flooding and unique natural features;
- b. Existing and proposed buildings and structures, including fences, loading areas, accessory buildings, signs, waste disposal areas, and storage areas, with proposed building elevations as renderings; utilities and snow disposal methods;
- c. Water provision, including fire protection measures;
- d. Sanitary sewerage;

- e. Storm drainage, including means of ultimate disposal and calculations to support maintenance of the requirements in the Planning Board's Subdivision Rules and Regulations.¹⁶
- f. Parking, walkways, driveways, and other access and egress provisions;
- g. Existing trees 10" caliper or better and existing tree/shrub masses; proposed planting, landscaping, and screening;
- h. Existing and proposed exterior lighting;
- i. Compliance with all applicable provisions of this Zoning By-Law;
- j. Certified list of abutters;
- k. Signage;
- l. Application fees and inspection fees, as set forth in the rules and regulations of the Planning Board.

5432. The Planning Board may require assessments of the on-site and off-site impacts of the proposed project, including traffic, drainage, noise, and other environmental factors. The Planning Board may require that such assessments be prepared by qualified experts at the applicant's expense. [**Amended 4-25-2011 ATM, Art. 9; 4-30-2012 ATM, Art 7**]

5433. Failure by the applicant to submit any of the required materials may constitute grounds for denial of the site plan application.

5440. Preparation of Plan. Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1" = 40'.

5450. Waiver of Technical Compliance. The Planning Board may, upon written request of the applicant, waive any of the technical requirements of Section 5430 or 5440 where the project involves relatively simple development plans.

5460. Approval. Site Plan approval shall be granted upon determination by the Planning Board that the following conditions have been satisfied. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to ensure that the following conditions have been satisfied. Any new building construction or other site alteration shall provide adequate access to each structure for fire and service equipment and adequate provision for utilities and stormwater drainage consistent with the functional requirements of the Planning Board's Subdivision Rules and Regulations.¹⁷ New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location,

¹⁶Editor's Note: See Ch. 264, Subdivision of Land.

¹⁷Editor's Note: See Ch. 264, Subdivision of Land.

the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

5461. Minimize the volume of cut and fill, the number of removed trees 6" caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;

5462. Maximize pedestrian and vehicular safety both on the site and egressing from it;

5463. Minimize obstruction of scenic views from publicly accessible locations;

5464. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;

5465. Minimize glare from headlights through plantings or other screening;

5466. Minimize lighting intrusion through use of such devices as cut-off luminaires confining direct rays to the site;

5467. Minimize unreasonable departure from the character and scale of building in the vicinity, as viewed from public ways.

5468. Minimize contamination of groundwater from on-site waste-water disposal systems or operations on the premises involving the use, storage, handling, or containment of hazardous substances;

5469. Compliance with the provisions of this Zoning By-Law, including parking and landscaping.

5470. Lapse. Site plan approval shall lapse after one year from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

5480. Regulations. The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines.

5490. Appeal. An appeal of a Site Plan Review Decision by the Planning Board shall be filed in a court of competent jurisdiction in accordance with M.G.L. Chapter 40A, Section 17. **[Added 4-30-2012 ATM, Art 7]**

5500. AMENDMENTS.

This By-Law may from time to time be changed by amendment, addition, or repeal by the Town Meeting in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

5600. APPLICABILITY.

5610. Other Laws. Where the application of this By-Law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-Law shall control.

5620. Conformance. Construction or operations under a Building or Special Permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within a period of six months after the issuance of the permit, and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

5700. SEPARABILITY.

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision herein.

ARTICLE VI. DEFINITIONS.

The intent of this section is to provide definitions for certain terms, words and/or series of words which are to be utilized in the interpretation of this ordinance, whether or not the definition stated herein is contrary to common usage or contrary to the definition as contained in a dictionary.

For the purpose of this ordinance and unless the context of usage clearly indicates another meaning, the following terms shall have the meanings indicated herein; words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the words "used" or "occupied" include the words "designed", "arranged", "intended" or "offered", to be used or occupied; the words "building", "structure", "lot", "land", or premises shall be construed as though followed by the words "or any portion thereof"; and the words "shall" is mandatory and directory, and "may" is permissive. Any word indicating gender, such as he or she, shall be construed to mean both genders.

Terms and words not defined herein but defined in the Commonwealth of Massachusetts Building Code shall have meanings given therein unless a contrary intention clearly appears. Words not defined in either this ordinance or the State Building Code shall have the meaning given in the most recent edition of Webster's Unabridged Dictionary. Uses listed in the Table of Use Regulations under the categories "Commercial" and "Industrial" shall be defined by the Standard Industrial Classification Manual published by the U.S. Bureau of the Census.

The defined words and phrases are as follows:

Accessory Building or Structure shall mean a building or structure subordinate to a principal building or structure and customarily used to serve the purposes of that principal building. A building is accessory only where a principal building exists on the same lot. No accessory building or structure may be higher than twenty feet, or ten feet less than the height of the principal building or structure on the lot, whichever is greater.

Accessory Use shall mean a use customarily incidental to and located on the same lot with the principal use. A use is accessory only where a principal use exists on the same lot.

Adult Bookstore shall mean an establishment having as a substantial or significant portion of its stock in trade, books, magazines, and other matter which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. **[Added 4-24-2006 ATM, Art. 23]**

Adult Cabaret shall mean a nightclub, bar, restaurant, tavern, dance hall, or similar commercial establishment which regularly features persons or entertainers who appear in a state of nudity, or live performances which are distinguished or characterized by nudity, sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. **[Added 4-24-2006 ATM, Art. 23]**

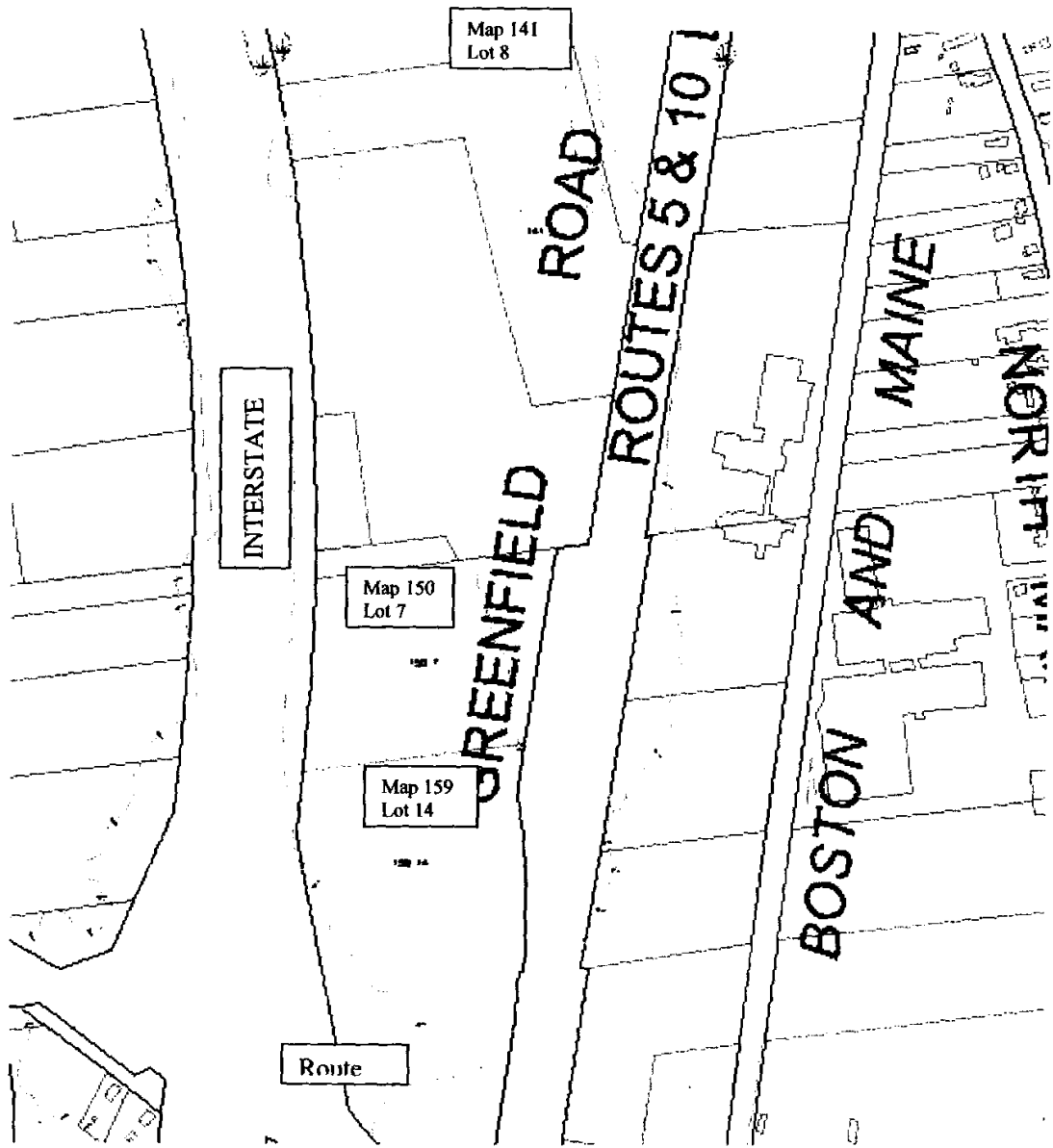
Adult Motion Picture Theater shall mean an enclosed building or any portion thereof used for presenting material (motion picture films, video cassettes, cable television, slides or any other such visual media) distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. **[Added 4-24-2006 ATM, Art. 23]**

Adult Paraphernalia Store shall mean an establishment having as a substantial or significant portion of its stock devices, object, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. **[Added 4-24-2006 ATM, Art. 23]**

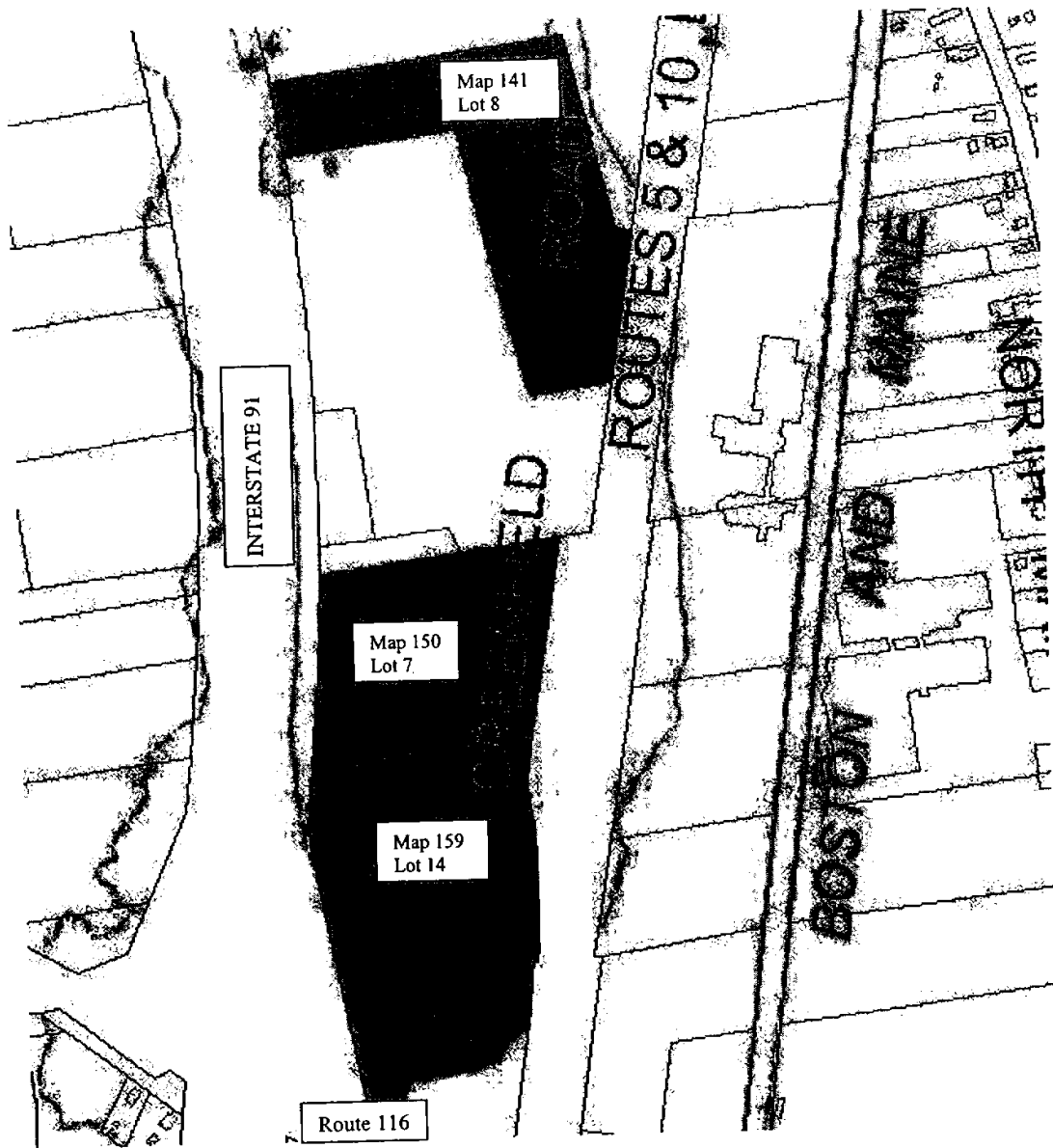
Adult Video Store shall mean an establishment having a substantial or significant portion of its stock in trade - for sale or rent - motion picture films, video cassettes, and similar audio/visual media, which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in MGL Ch. 272, Sec. 31. **[Added 4-24-2006 ATM, Art. 23]**

Adult Use shall mean Adult Bookstores, Adult Cabarets, Adult Motion Picture Theaters, Adult Paraphernalia Stores, and Adult Video Stores as defined in this bylaw.

Adult Use Overlay District



Adult Use Overlay District



Artisan Studio shall mean the working space of a practitioner of a handicraft or art requiring special skills, such as handweaving, pottery-making, glassblowing, leatherworking or sculpting. **[Added 4-26-2010 ATM, Art. 1]**

Assisted Elderly Housing shall mean a residential facility occupied by persons over the age of 55, their spouses or surviving spouses, including rooms occupied by resident staff personnel. Such a facility may include a full range of nursing care from total to partial assistance, and may provide food preparation services, limited residential food preparation areas, and common recreational, laundry, social, medical, religious, and service facilities for the exclusive use of the residents.

Bed and Breakfast shall mean a private owner-occupied residence in which lodging and breakfast are offered to transients for a fee. Such a facility shall not contain more than 6 (six) rooms for rent.

Boarding House shall mean not more than six (6) rooms within a building for lease to transients without cooking facilities.

Buffer strip or buffer zone shall mean an area of indigenous or planted vegetation which shall separate the structures and uses within a development from any adjacent properties and public ways. No vegetation shall be removed from this buffer zone after development, nor shall any building or structure be placed therein.

Building shall mean a structure adapted to permanent or continuous occupancy for assembly, business, professional, education, industrial, institutional, residential, or storage purposes, and the term "building" shall be construed as if followed by the words "or portion thereof".

Building Height shall mean the vertical distance from the mean finish grade of the ground adjoining the building at the street side to the highest point of the ridge.

Building, Principal shall mean the building in which is conducted the principal use of the lot on which said building is located.

Change or substantial extension of a nonconforming use shall mean change to a use that does not reflect the "nature and purpose" of the use prevailing when the zoning by-law took effect; or change so as to create a difference in the quality or character, as well as the degree, of use; or change "different in kind in its effect on the neighborhood". See *Town of Bridgewater v. Chuckran*, 351 Mass. 20, 23 (1966).

Commercial recreation, outdoors shall mean drive-in theatre, golf course/driving range, bathing beach, sports club, horseback riding stable, boathouse, game preserve, marina or other commercial recreation carried on in whole or in part outdoors, except those activities more specifically designated in this By-Law.

Contractor's yard shall mean premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled or portable equipment.

Dwelling shall mean any building containing one or more dwelling units, but excluding mobile homes.

Dwelling, Single-Family shall mean a dwelling containing not more than one (1) dwelling unit.

Dwelling, Two-Family shall mean a single building containing two (2) dwelling units.

Dwelling, Multi-Family shall mean a single building containing three (3) dwelling units.

Dwelling Unit shall mean a building or part of a building occupied or suitable for occupancy as a residence and arranged for the use of one or more individuals living as a single housekeeping unit with its own cooking, living, sanitary and sleeping facilities.

Earth removal shall mean the removal of clay, gravel, sand, loam, soil, stone or other earth materials; provided, however, that the moving of earth materials under the provisions of a duly approved subdivision plan, work necessary for the construction of streets and the installation of utilities; work in connection with the excavation and grading of land incidental to construction of a duly permitted structure; and work performed in improvement of contiguous or non-contiguous land for agricultural purposes shall not constitute earth removal.

Essential services shall mean services provided by a public service corporation or by governmental agencies through erection, construction, alteration, or maintenance of gas, electrical, steam, or water transmission or distribution systems and collection, communication, supply, or disposal systems whether underground or overhead. Facilities necessary for the provision of essential services include poles, wires, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants and other similar equipment in connection therewith.

Extra-Large-Scale Ground-Mounted Solar Electric Installation shall mean a ground-mounted solar system with a generating capacity of greater than 2 MW or occupying more than ten (10) acres of land. **[Added 4-25-2011 ATM, Art. 7]**

Family shall mean a number of individuals living and cooking together on the premises as a single unit.

Farm Stand shall mean a structure of semi-permanent or temporary type located in a district in which agricultural uses are allowed, from which raw products are offered for sale to the public.

Frontage shall mean the boundary of a lot coinciding with the street line, being an unbroken distance along a way currently maintained by the town, county, or state, or along ways shown on the Definitive Plans of approved subdivisions, through which actual access to the potential building site shall be required. A street may provide frontage only upon a determination by the Planning Board that it provides adequate access for fire, police, and emergency vehicles. Lot frontage shall be measured continuously along one street line between side lot lines, or, in the case of corner lots, between one side lot line and the mid-point of the corner. Lots with

interrupted or discontinuous frontage must demonstrate that the required length along the street may be obtained from one (1) continuous frontage section, without any totaling of discontinuous frontage sections.

Grocery store shall mean an establishment for the production and sale of food and beverage.

Hotel or Motel shall mean a building or group of buildings providing accommodations on a transient basis for compensation, not meeting the definition of "Non-family Accommodations". Accommodations having individual kitchen facilities (sink, range, and refrigerator) shall be considered dwelling units.

Junkyard or Automobile Graveyard shall mean the outdoor use of any area of any lot for the storage, salvage, keeping or abandonment of junk, scrap, or discarded materials, or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery or parts thereof.

kennel shall mean one pack or collection of dogs on a single premises, whether maintained for breeding, boarding, sale, training, hunting, or other purposes, and including any shop where dogs are on sale, and also including every pack or collection of more than three (3) dogs, three months old or older, owned or kept by a person on a single premises regardless of the purposes for which they are maintained or kept.

Landscaping business shall mean a business performing improvements to the grass, shrubs and/or trees of land, including pedestrian walkways, flowerbeds, ornamental objects, and other items.

Large-Scale Ground-Mounted Solar Electric Installation shall mean a ground-mounted solar system with a generating capacity greater than 10 kW but no more than 2 MW and does not occupy more than ten (10) acres of land. [Added 4-25-2011 ATM, Art. 7]

Light manufacturing shall mean assembly, processing, research laboratory, packaging, or other light industrial operations.

Loading Space shall mean an off-street space at least twelve (12) feet in width, fifty (50) feet in length and with a vertical clearance of at least fourteen (14) feet, having an area of not less than one thousand three hundred (1,300) square feet which includes access and maneuvering space used exclusively for loading and unloading of goods and materials from one vehicle. The dimensions of the loading space may be reduced by the Building Inspector to not less than three hundred (300) square feet which includes access and maneuvering space, when it is clearly evident that service vehicles utilizing said space will not require the area set forth above.

Lot shall mean a single area of land in one ownership defined by metes and bounds or boundary lines in a recorded deed or on a recorded plan.

Lot, Corner shall mean a lot at the junction of and fronting on two (2) or more intersecting streets.

Lot Line shall mean a line which separates one or more lots or a lot and a street.

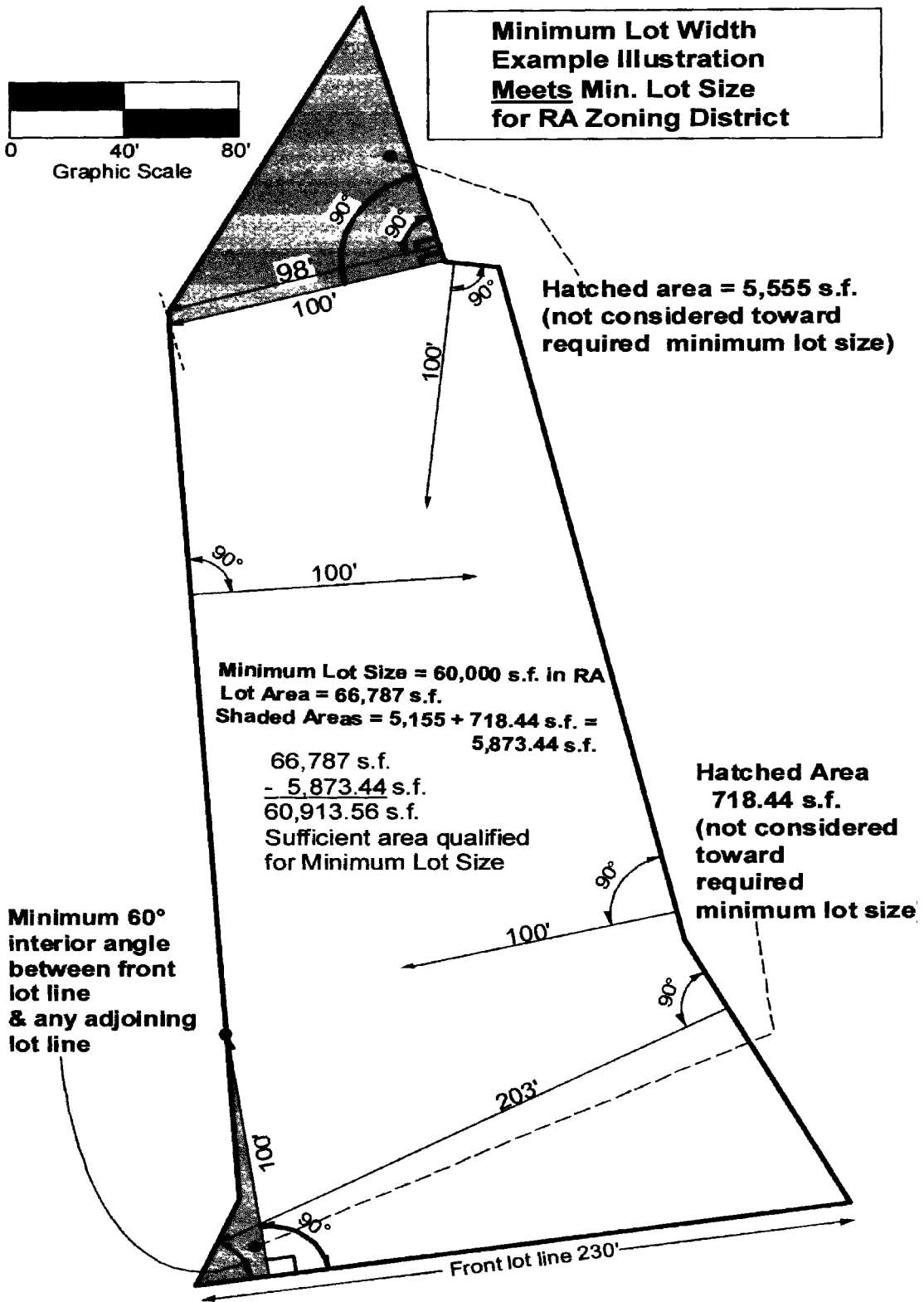
Lot Line, Front: The property line dividing a lot from a single street right-of-way. In the case of a corner lot or a through lot, at least one front lot line shall conform to the minimum lot frontage requirement. A minimum interior angle of 60° shall separate a front lot line from any other adjoining lot line. **[Added 4-26-2004 ATM, Art. 32]**

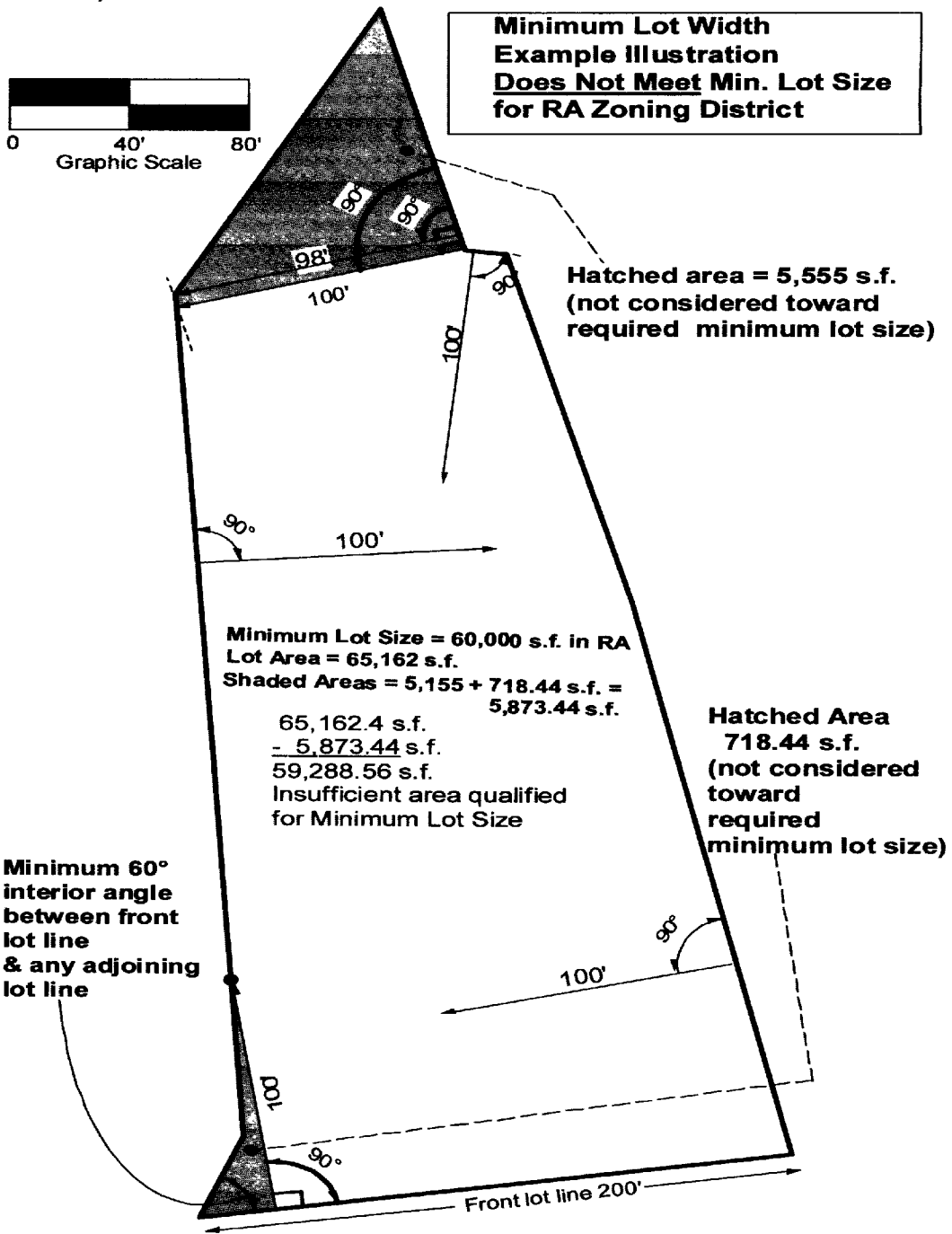
Lot Line, Rear: The lot line most nearly opposite from the front lot line. **[Added 4-26-2004 ATM, Art. 32¹⁸]**

Lot Line, Side: Any lot line not a front or rear lot line. **[Added 4-26-2004 ATM, Art. 32]**

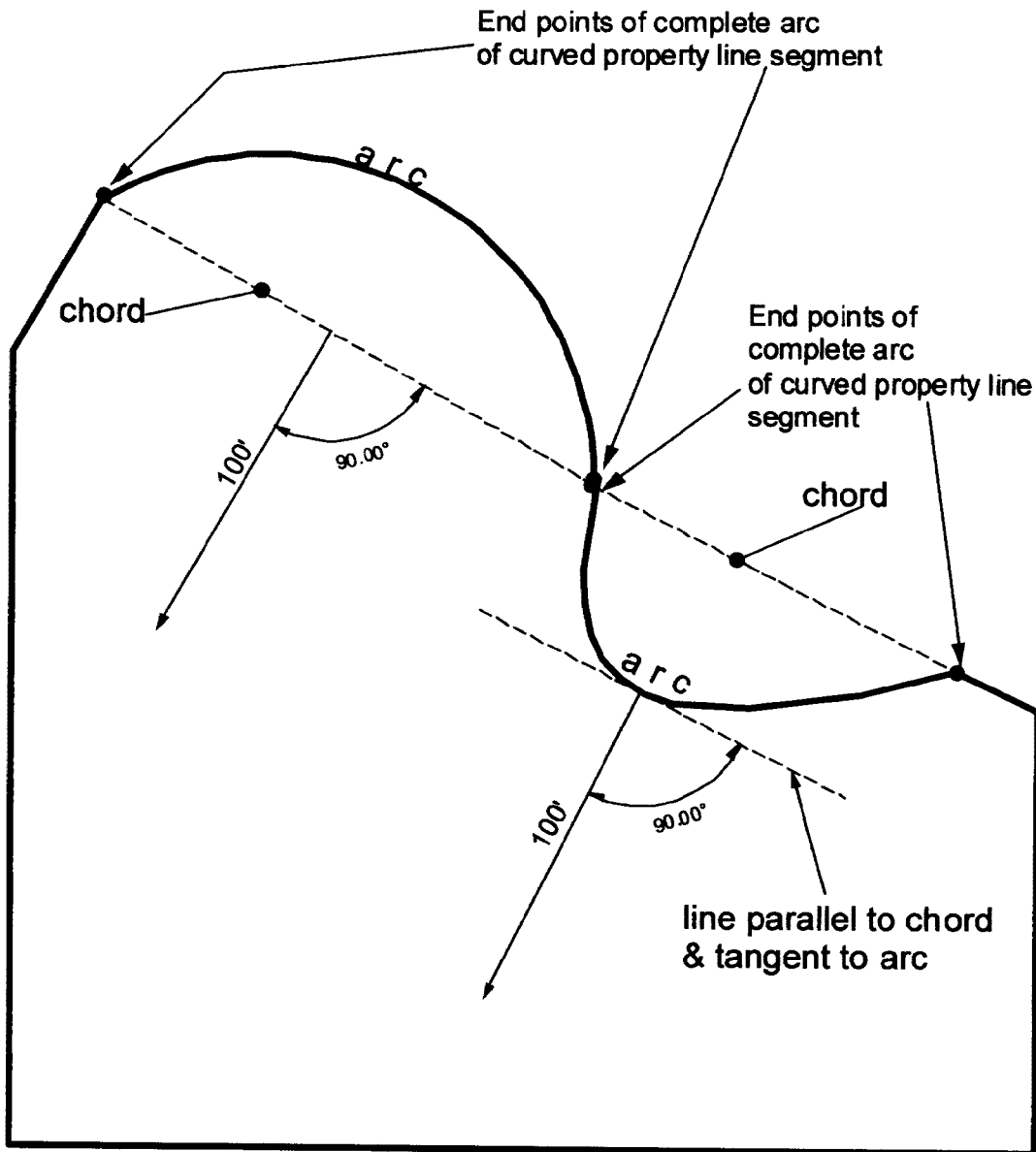
Lot Width: shall mean the distance between all non-intersecting lot lines as specified in Note 6 of Chapter 179, Section 2320, Table of Dimensional Requirements. **[Amended 4-26-2004 ATM, Art. 32]**

¹⁸Editor's Note: This bylaw also deleted the former definition of "lot, rear."





**Minimum Lot Width
Example Illustration
of requirement for
curved lot lines**



Major Commercial Project shall mean one or more buildings containing allowed or allowable nonresidential or nonagricultural uses with 50,000 or more square feet of building floor space.

Marijuana-Infused Product (MIP) means a product infused with marijuana that is intended for use or consumption, including but not limited to edible products, ointments, aerosols, oils, and tinctures. These products, when created or sold by a registered marijuana dispensary (RMD), as defined by Massachusetts law, shall not be considered a food or a drug as defined in G.L. c. 94, s. 1. **[Added 10-28-2013 STM, Art. 21]**

Medical Marijuana Treatment Center (MMTC) means a not-for-profit entity registered under 105 CMR 725.100, to be known as a registered marijuana dispensary (RMD), that acquires, cultivates, possesses, processes (including development of related products such as edible MIPs, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana. **[Added 10-28-2013 STM, Art. 21]**

Mobile Home shall mean a dwelling unit on a chassis and containing complete electrical, plumbing, and sanitary facilities and designed to be installed on a temporary or permanent foundation or permanent living quarters.

Motor Vehicle Repair or Body Shop shall mean any building used for the keeping of motor vehicles and in which a business or industry dealing with the repair or servicing of such vehicles is maintained, including body work or painting.

Motor Vehicle Service Station shall mean a building or part thereof with no more than two service bays whose chief activity is the selling of gasoline, oil and related products for motor vehicles or the provision of lubricating service, car washing services or auto repair limited to: tire servicing and repair, but not recapping or regrooving, replacement of miscellaneous parts and minor adjustments.

Municipal facilities shall mean facilities owned by, operated by, or operated for the Town of Deerfield. **[Added 4-25-2011 ATM, Art. 7]**

Nonconforming Uses or Structures shall mean any structure or use of land lawfully existing at the effective date of this by-law or subsequent amendment which does not conform to one or more provisions of the by-law.

Nonprofit event shall mean commercial filming, retail sales for fund-raising, educational or charitable purposes, and educational or charitable events (a) by a nonprofit corporation, educational or religious organization, and/or (b) on the property of a nonprofit corporation, educational or religious organization. No such event shall exceed 7 (seven) days in length, and shall require a permit from the Board of Selectmen pursuant to Article ____ of the General By-Laws.

Office shall mean a place for the transaction of a professional service or business, not including the sale of articles at retail.

Open Space shall mean ground space other than that occupied by structures, walkways, drives, parking or other surfaces. Required yard setbacks may be included as open space if in conformance with the above specifications.

Overlay District shall mean a zoning district superimposed over an underlying district, superseding, where applicable, the less stringent requirements of the underlying district.

Perimeter setback shall be measured from the Expedited Permitting District boundary line, the setback required (in feet) for all accessory and principal structures. **[Added 4-26-2010 ATM, Art. 1]**

Place of Assembly shall mean a structure accommodating ten (10) or more persons, for religious, recreational, educational, political, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Places of assembly shall include theatres, concert halls, dance halls, skating rinks, bowling alleys, health clubs, dance studios, or other commercial recreational centers or private clubs conducted for or not for profit.

Principal Building, Use, or Structure shall mean any building or structure containing any principal use as indicated in Section 2230, except where such use is a home occupation. Where more than one principal use is conducted on a lot and such uses are in more than one building or structure, each building or structure shall be considered a principal building or structure.

Private Club shall mean an organization catering to members and guests, for fraternal, recreational, social, or other purposes.

Repair shop shall mean a shop for repair of household appliances, radio and television sets, office equipment, or shop of a bicycle mechanic, blacksmith, electrician, or other member of a recognized trade not designated elsewhere in this By-Law.

Restaurant shall mean an establishment that serves food and beverages primarily to persons seated within the facility, including outdoor cafes.

Restaurant, Drive-in shall mean a restaurant where food or drinks are usually served to or consumed by persons while they are seated in their vehicles or off the premises.

Restaurant, Fast-food shall mean an establishment that offers quick food service, with a limited menu or items already prepared and held for service, or heated quickly by device, with orders generally not taken at table, and generally served in disposable wrapping or containers.

Retail shall mean the sale of commodities, primarily in small quantities, to the end consumer.

Service shops shall mean a facility providing service to the public for compensation, such as, but not limited to, dry cleaning, tailor, cobbler, laundromat, hair salon, beauty shop, and picture framing shops.

Setback shall mean the minimum horizontal distance between the street or front lot line and the building nearest the street or front lot line, such distance measured at a right angle to the street or front lot line.

Sign shall mean any device displaying, or any display of, any letter, word, picture, symbol, or object designed to inform or attract the attention of persons not on the premises on which such device or display is located, including billboards and any other internally or decoratively illuminated building surface other than unobstructed window glass.

Sign Area shall mean the surface area within a single continuous perimeter enclosing all of the display area, but not including structural members not bearing advertising matter unless internally or decoratively lighted. One side only of flat, back to back signs shall be counted.

Small-Scale Ground-Mounted Solar Electric Installation shall mean a ground-mounted solar system with a generating capacity of 10 kW or less. **[Added 4-25-2011 ATM, Art. 7]**

Solar Electric Installations shall mean groups of solar photovoltaic arrays for the generation of electricity. **[Added 4-25-2011 ATM, Art. 7]**

Special Permit shall mean a permit issued pursuant to G.L. c. 40A, s. 9 and this by-law. In accordance with case law, neither the Zoning Act nor the town zoning by-law gives an absolute right to a special permit. The special permit granting authority is not compelled to grant the permit; it has discretionary power in acting thereon. See, MacGibbon v. Board of Appeals of Duxbury, 356 Mass. 635, 638-639 (1970).

Story shall mean the portion of a building which is between one floor level and the next higher floor level or the roof. If a mezzanine floor area exceeds one-third of the area of the floor immediately below, it shall be deemed to be a story. A basement shall be deemed to be a story when its ceiling is four (4) feet six (6) inches or more above the finished grade. A cellar shall not be deemed to be a story. An attic shall not be deemed to be a story if unfinished and not used for human occupancy.

Structure shall mean anything constructed or erected, the use of which requires fixed location on the ground, including swimming pools, satellite dishes, tennis courts, and animal enclosures.

Truck Terminal shall mean land or buildings in which freight brought by truck is assembled and/or stored for routing or reshipment, or in which semitrailers, including tractor and/or trailer units and other trucks, are parked or stored.

Wholesale, warehouse, or distribution facility shall mean a structure used primarily for the storage of goods and materials, with or without wholesale sales.

Yard shall mean an open space on a lot unoccupied and unobstructed by any building or structure, except the following: fences, walls, poles, posts, paving, and other customary yard accessories, ornaments, and furniture; or, in front yards only, eaves, steps, and non-covered porches.

Yard, Front shall mean a yard extending between lot side lines across the lot adjacent to the front lot line.

Yard, Rear shall mean a yard extending between lot side lines adjacent to the rear of the lot.

Yard, Side shall mean a yard extending along each side line of a lot between front and rear yards.