



ZONING BY LAWS OF THE TOWN OF DIGHTON MASSACHUSETTS

**APPROVED
INCORPORATING SUBSEQUENT REVISIONS THROUGH TOWN MEETING
CONCLUDED OCTOBER 15, 2018**

The following by-laws, having been adopted by the Town on **OCTOBER 15, 2018**, and approved by the Attorney General of the Commonwealth of Massachusetts on **DECEMBER 21, 2018**, supersede the original Zoning Laws approved on **JUNE 13, 2018** and the amendments thereto.

DIGHTON PLANNING BOARD

Peter Benvie, Jr., Chairman
Thomas Pires, Vice-Chairman
Robert Boughner, Clerk
Robert Woods, Member
Joseph Figueiredo, Member

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SECTION I. PURPOSE.

These regulations are enacted to promote the general welfare of the Town of Dighton, 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.

SECTION II. USE, DIMENSIONAL AND TIMING REGULATIONS.

2100. DISTRICTS.

2110. Establishment.

For the purposes of this by-law, the Town is hereby divided into the following districts:

- Residence
- Business
- Open Recreation and Conservation
- Industrial

The following “overlay” districts are also hereby created:

- Flood Hazard Overlay District
- Water Resource Protection District
- Mixed Use Overlay District
- Center Street & Main Street Village Business Overlay District

The boundaries of these districts are defined and set forth on the map entitled, “Zoning Map, Town of Dighton”, dated 1978, as may be subsequently amended by vote of Town Meeting. This map is on file with the Town Clerk. The zoning map, with all explanatory matter thereon, is hereby made a part of this bylaw.

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.

2200. PRINCIPAL USE REGULATIONS.

2210. General.

No structure shall be erected or used or land used except as set forth in §2230 unless otherwise

provided in this by-law or by statute. Uses not expressly provided for herein are prohibited. Not more than one principal structure shall be placed on a lot, except in accordance with §2230. Symbols employed below shall mean the following:

- Y - A permitted use.
- N - An excluded or prohibited use.
- SP - A use authorized under special permit from the Board of Appeals as provided under §5300.
- PB - A use authorized under special permit from the Planning Board as provided under §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.

SEE APPENDIX A

2300. ACCESSORY USES.

2310. General.

Any use permitted as of right as a principal use is also permitted as of right as an accessory use provided such use is customarily accessory and incidental to the permitted principal use. Any use permitted by special permit as a principal use may also be permitted by special permit as an accessory use provided such use is customarily accessory and incidental to the principal use. Uses prohibited as principal uses shall be prohibited as accessory uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in §5400, such addition shall also require site plan review and approval.

2320. Miscellaneous Accessory Uses.

2321. Accessory Scientific Uses. Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.

2322. Unregistered Motor Vehicle Storage. Not more than one unregistered vehicle may be stored outside on a lot. The outside storage of two or more unregistered vehicles may be permitted upon the issuance of a special permit by the Board of Appeals; provided, however, that such vehicles shall be screened from public view.

2323. Mobile Homes and Trailers. A mobile home or trailer may be parked or stored on a lot occupied by the owners, provided that it be located at least ten feet from any property line, and not forward of the front line of the principal building. Use and occupancy for

living or business is prohibited, except as follows:

- a. Temporary occupancy of a trailer or mobile home by a non-paying guest of the owner or occupant of the land may be permitted for a period not to exceed seven (7) days.
- b. Temporary use and occupancy of a mobile home as an office or dwelling incidental to construction on the site may be authorized by special permit by the board of appeals, subject to the approval of the board of health, for a term not to exceed six months.

2324. 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 three or more persons in a single-family dwelling by the owner/occupant thereof shall be deemed a boarding house subject to the provisions of §2230, herein.

2325. Family Day Care Homes. In all districts, family day care may be provided as an accessory use upon the issuance of special permit by the Board of Appeals.

2340. 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:

2341. 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.

2342. 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; provided, however, that no exterior alteration of the building shall be permitted to accommodate the home occupation.

2343. No person not a member of the household shall be employed on the premises in the home occupation.

2344. The home occupation shall not serve clients, customers, pupils, salespersons, or the like on the premises.

2345. 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.

2346. No disturbance shall be caused, nor shall the home occupation use or store hazardous materials in quantities greater than associated with normal household use.

2347. Traffic generated shall not exceed volumes normally expected in a residential neighborhood.

2350. 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 Appeals; provided, however, that all of the following conditions shall be satisfied:

2351. All of the requirements of §§2341, 2342, and 2347.

2352. Not more than three (3) persons not a member of the household shall be employed on the premises in the home occupation.

2353. 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. Signs advertising the home occupation shall not exceed one square foot in area.

2354. Parking generated by the home occupation shall be accommodated off-street, other than in a required front yard.

2355. No disturbance, as defined in §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.

2400. NONCONFORMING USES AND STRUCTURES.

2410. General.

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, §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.

2420. 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:

2421. Change or substantial extension of the use;

2422. Change from one nonconforming use to another, less detrimental, nonconforming use.

2430. Nonconforming Structures, Other Than Single and Two Family Structures.

The Board of Appeals may award a special permit to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change 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:

2431. Reconstructed, extended or structurally changed;

2432. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent;

2440. Variance Required.

Except as provided below, the reconstruction, extension or structural change of such nonconforming structures so 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.

2450. Nonconforming Single and Two Family Structures.

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

2451. Alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient area, where the alteration will also comply with all of said current requirements.

2452. Alteration to a structure which complies with all current setback, yard, building coverage, and building height requirements but is located on a lot with insufficient frontage, where the alteration will also comply with all of said current requirements.

2453. Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and building height requirements (the provisions of this clause shall apply regardless of whether the lot complies with current area and frontage requirements).

2454. Alteration to the side or face of a structure which encroaches upon a required yard or setback area, where the alteration will not encroach upon such area to a distance greater than the existing structure (the provisions of this clause shall apply regardless of whether the lot complies with current area and frontage requirements).

2455. Alteration to a nonconforming structure, which will not increase the footprint of the existing structure provided that existing height restrictions shall not be exceeded. In the event that the Building Commissioner 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.

2460. 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.

2470. Catastrophe or Demolition.

Any nonconforming structure may be reconstructed after a fire, explosion or other catastrophe, or after demolition, provided that such reconstruction is completed within twelve months after such catastrophe or demolition, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure unless a larger volume or area is authorized by special permit from the Board of Appeals. Such time for reconstruction may be extended by the Board of Appeals for good cause.

2480. Reversion to Nonconformity.

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

2500. ACCESSORY APARTMENTS.

2510. General.

An Accessory Apartment is an independent dwelling unit of five hundred (500) to nine hundred (900) square feet contained within a single family residence. The Accessory Apartment shall have a separate exterior entrance, a kitchen/living room, a bathroom and a maximum of one bedroom. Either the single family residence or the Accessory Apartment must be occupied by the owner of the lot. No more than one Accessory Apartment shall be allowed by right per single family residence provided the criteria set forth are met:

2520. Criteria.

Prior to the issuance of a building permit for an Accessory Apartment or occupancy permit for an Accessory Apartment Permit is issued, the following approvals or conditions must be met:

- a. Written approval from the Board of Health.
- b. Written approval from the Fire Department.
- c. Building, plumbing, electrical and any other required permits are obtained.
- d. The Accessory Apartment is contained within a single-family dwelling in the manner set forth in section 2510 above.
- e. If an external staircase is needed to reach an accessory apartment, this staircase must be enclosed and not change the general appearance of a single-family house.
- f. Space may be provided by either raising the roof, or extending the dwelling, but only in accordance with the existing height and setback requirements and other dimensional requirements of the bylaw.

- g. To maintain the single-family character of the neighborhood, the entrance to the Accessory Apartment should be on the side or rear, if possible, but may be through the front door, if there is a vestibule.
- h. The owner must occupy one of the two units as set forth in section 2510 above.
- i. There shall be no more than one Accessory Apartment within a single-family dwelling.
- j. Accessory Apartments shall be occupied by no more than 2 persons.
- k. The single family dwelling containing an Accessory Apartment shall be in conformity with By-Law "Permitted Uses- Renting of rooms or furnishing of board for not more than four persons in a dwelling regularly occupied for residential purposes."
- l. The gross area of the Accessory Apartment shall be no less than 500 square feet; no more than 35% of the total area of the single-family dwelling before conversion, but shall not exceed 900 square feet, exclusive of staircase and entrance area.
- m. 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.
- n. Not more than one such unit shall be located on a lot.
- o. Such a unit shall be located only on the same lot as the residence of the owner of the lot.

2530. Preexisting Accessory Apartments.

Any Accessory Apartments in Existence at the adoption of this bylaw may continue upon the receipt of a satisfactory inspection by the building inspector and fire prevention officer confirming that said Accessory Apartment conforms with applicable state building code requirements and state fire code requirements, Said certificates must be received and filed with the building commissioner on or before the expiration of twelve months from the adoption of this bylaw.

2540. Administration and Enforcement.

- 1. It shall be the duty of the Building Commissioner to administer and enforce the provisions of this Bylaw.
- 2. No building shall be constructed or changed in use or configuration, until the Building Commissioner has issued a permit. No permit shall be issued until a sewage disposal works permit, when applicable, has first been obtained from the Board of Health and the proposed building and location thereof conform with the town's laws and bylaws. Any new building or structure shall conform to all adopted state and town laws, bylaws, codes and regulations. No building shall be occupied until a certificate of occupancy has been issued by the Building Commissioner where required.
- 3. The Building Commissioner shall refuse to issue any permit, which would result in a violation of any provision of this chapter.
- 4. The Building Commissioner shall issue a cease and desist order on any work in progress or on the use of any premises, either of which are in violation of the provisions of this chapter.

2600. DIMENSIONAL REGULATIONS FOR PRINCIPAL STRUCTURES

2610. 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.

2620. Table of Dimensional Requirements.

SEE APPENDIX B.

2630. Special Dimensional Regulations.

The following special dimensional regulations shall apply:

2631. Where part of a lot in a Business, Open Recreation, or Industrial District is adjacent to a Residence District, no building shall be erected with regard to the adjacent rear or side lot line except in compliance with §2620, above.

2632. Where a district boundary divides a lot, the regulations applicable to the less restricted portion of such lot may extend for not more than thirty (30') feet into the more restricted portion.

2633. On a corner lot, no planting, fence, structure, wall or other obstruction to vision more than three (3') feet high shall be located within a radius of twenty (20') feet from the point of intersection of the street lines.

2634. A corner lot or a lot opening on two streets shall be subject to the regulations for front yards set forth in §2620 with respect to every street on which it opens.

2640. Multiple Principal Structures.

Except in the Residential District, more than one principal nonresidential structure may be erected on a lot, pursuant to a special permit issued by the Planning Board in accordance with §5300 herein and the following conditions:

2641. No principal building shall be located in relation to another principal building on the same lot, or on an adjacent lot, so as to cause danger from fire;

2642. All principal buildings on the lot shall be served by access ways suitable for fire, police, and emergency vehicles.

2700. DIMENSIONAL REGULATIONS FOR ACCESSORY STRUCTURES

2710. General.

Accessory structures are only allowed on the same lot as an existing principal structure.

2720. Setbacks and yards.

A detached accessory building or structure not larger than 10' × 10' shall not be located closer than

three (3') feet from the side or rear lot line for residential dwellings; however, no accessory building or structure shall be located closer than 15' to any dwelling on an adjacent lot. Where a building exists on a lot that has less than the minimum dimensional requirements, the board of appeals may by special permit authorize these reductions of such requirements as may be reasonable with respect to the size and shape of the lot and not hazardous or detrimental to the neighborhood and the adjacent properties.

2730. Attached to dwelling.

Any accessory building attached to a dwelling or within ten (10') feet thereof shall be considered as part of the dwelling and shall comply with the yard and setback requirements for the district.

2740. Height.

Accessory buildings or structures shall not be erected over twenty (20') feet in height; provided, however, that barns may be erected to the height set forth in Appendix B.

2800. SUBDIVISION PHASING.

2810. Purpose.

The purpose of this section, "Subdivision Phasing," is to assure that growth shall be phased so as not to unduly strain the Town's ability to provide public facilities and services, so that it will not disturb the social fabric of the community, so that it will be in keeping with the community's desired rate of growth; and so that the Town can study the impact of growth and plan accordingly.

2820. Applicability.

Areas of land subject to the jurisdiction of the Planning Board under the subdivision control law shall not be developed by the construction of dwelling units at a greater rate than permitted below. Subdivisions containing eight (8) or more building lots shall not be developed by the construction of dwelling units at a rate greater than eight (8) lots or ten (10%) percent of the total number of lots shown on the approved definitive subdivision plan per year, whichever is greater.

2830. Exceptions.

Issuance of more than eight (8) building permits for the same tract of land in a twelve-month period may be allowed by special permit. The Planning Board may grant such special permit only if it determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such special permit, after considering the impact on schools, other public facilities, traffic and pedestrian travel, recreational facilities, open spaces and agricultural resources, traffic, preservation of unique natural features, rate of development, and housing for senior citizens and people of low or moderate income. The Planning Board shall give particular consideration to proposals that demonstrate a reduction in allowable density of fifty percent (50%) or more, or that provide significant open space.

2840. Zoning Change Protection.

The protection against subsequent zoning change granted by G. L. c. 40A, §6 to land in subdivision shall, in the case of a development whose completion has been constrained by this section, be extended to ten (10) years.

2850. Relation to Real Estate Assessment.

Any land owner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G. L. c. 59, §59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.

2900. MARIJUANA ESTABLISHMENTS

2910. Purposes.

2911. To provide for the limited establishment of Registered Marijuana Dispensaries (RMDs) and Marijuana Establishments, as defined pursuant to G.L. c. 94G and Section 2916, in appropriate places and under strict conditions in accordance with applicable laws.

2912. To minimize the adverse impacts of RMDs and Marijuana Establishments on adjacent properties, residential neighborhoods, schools and other places where children congregate, local historic districts, and other land uses potentially incompatible with RMDs and Marijuana Establishments.

2913. To regulate the siting, design, placement, safety, monitoring, modification, and removal of RMDs and Marijuana Establishments.

2914. Applicability

2915. The cultivation, production, processing, assembly, packaging, retail or wholesale sale, trade distribution or dispensing of Marijuana for Medical or Adult Use is prohibited unless permitted as an RMD or Marijuana Establishment under this Section 2900.

No RMD or Marijuana Establishment shall be established except in compliance with the provisions of Section 2900.

Nothing in this Bylaw shall be construed to supersede federal and state laws governing the sale and distribution of narcotic drugs.

If any provision of this Section or the application of any such provision to any person or circumstance shall be held invalid, the remainder of this Section, to the extent it can be given effect, or the application of those provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this end the provisions of this Section.

2916. Definitions

Marijuana – shall be defined as “marihuana” under Chapter 94C of the Massachusetts General Laws.

Marijuana Cultivator – shall mean an entity licensed to cultivate, process and package marijuana, and to transfer marijuana to other Marijuana Establishments, but not to consumers.

Marijuana Establishment - shall mean considered a cultivator, marijuana testing facility, marijuana product manufacturer, marijuana retailer or any other type of licensed marijuana-related business,

all as defined the Massachusetts General Laws, Chapter 94G, said Marijuana Establishments shall be deemed independent of any other definition in this by-law and not a subset or subcategory of any other category.

Marijuana for Adult Use – Marijuana that is designated for use by for adults 21 years of age or older.

Marijuana for Medical Use – Marijuana that is designated and restricted for use by, and for the benefit of, Qualifying Patients in the treatment of Debilitating Medical Conditions.

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

Marijuana Retailer – shall mean an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Registered Marijuana Dispensary – shall mean an entity, registered by the Department or Public Health, or subsequent to the enactment of this bylaw licensed by the Cannabis Control Commission, that acquires, cultivates possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

2917. Authority

The Marijuana Overlay District is adopted pursuant to authority provided by G.L. c. 40A, G.L. c. 94G and the Home Rule amendment, Article 89 of the amendments to the Constitution of the Commonwealth.

2918. Establishment of Overlay District

The Marijuana Overlay District is herein established as an Overlay District as shown on the revised Zoning Map dated January 1, 2017. Included in said overlay district are those parcels with frontage on Williams Street beginning at that parcel identified as Lot 127 of Assessor's Map 2 and ending at the Town Line, as well as those parcels in the Industrial District and Industrial Overlay District. An RMD or Marijuana Establishment shall be permitted only in the Marijuana Overlay District by Special Permit by the Planning Board in accordance with the provisions noted below and in accordance with the general Special Permit and Site Plan requirements as set forth in sections 5300 and 5400 of these bylaws, provided, however, that retail RMDs and Marijuana Retailers accessible to registered patients and caregivers or eligible adult use consumers are not permitted in the Industrial District and Industrial Overlay District portions of the Marijuana Overlay District. All rules of the underlying district(s) shall remain in full force and effect, except where the requirements of the MARIJUANA OVERLAY DISTRICT are more stringent in which case, the requirements of this overlay district shall supersede those of the underlying district.

2919. General Requirements and Conditions for all Registered Marijuana Dispensaries and Establishments

2920. All RMDs and Marijuana Establishments shall be contained within a building or

structure.

2921. Drive-through services for the purpose of dispensing Medical or Adult Use Marijuana are prohibited.

2922. The hours of operation of an RMD or Marijuana Establishment shall be set by the Special Permit Granting Authority, but in no event shall retail RMDs or Marijuana Retailers accessible to registered patients and caregivers or eligible adult use consumers be open and/or operating between the hours of 9:00 PM and 8:00 AM.

2923. No special permit for an RMD or Marijuana Establishment shall be issued to a person who has been convicted of a felony or a violation of state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs, except a prior conviction solely for a marijuana offense or solely for a violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor. Further, no special permit for an RMD or Marijuana Establishment shall be issued to a business or non-profit corporation in which an owner, shareholder, member officer, manager, or employee has been convicted of a violation of a felony or a state or federal statute prohibiting the unlawful possession, sale or distribution of narcotic drugs or prescription drugs, except a prior conviction solely for a marijuana offense or solely for a violation of section 34 of chapter 94C of the General Laws, unless the offense involved distribution of a controlled substance, including marijuana, to a minor.

2924. No RMD or Marijuana Establishment shall be located within 100 feet of a residential zoning district.

2925. No RMD or Marijuana Establishment shall be located within 1,000 feet of any of the following structures or uses:

- a. any school attended by children under the age of 18;
- b. any licensed child care facility;
- c. any drug or alcohol rehabilitation facility;
- d. any correctional facility, half-way house, or similar facility; or
- e. any other an RMD or Marijuana Establishment.

2926. No RMD or Marijuana Establishment shall be located within ¼ mile of any playground, public athletic field or similar public recreational facility.

2927. No smoking or burning of marijuana or marijuana- related products shall be permitted on the premises of an RMD or Marijuana Establishment.

2928. No RMD or Marijuana Establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories, or inside a

movable or mobile structure such as a van or truck.

2929. Signage for an RMD or Marijuana Establishment must conform to Section 3300 of this bylaw, as well as any and all rules and regulations established by the Department of Public Health or the Cannabis Control Commission.

2930. All RMDs and Marijuana Establishments shall provide the Special Permit Granting Authority with the name, phone number and email address of an on-site community relations staff person to whom one can provide notice if there are operating problems associated with the Facility.

2931. An RMD or Marijuana Establishment may sell or distribute cannabis only to registered, qualifying patients in possession of a current, valid, medical cannabis registration card issued by the Department of Public Health, or to the duly registered personal care giver of a qualified, registered patient, or an adult 21 years of age or older having a valid, government-issued photographic identification containing the bearer's date of birth that the purchaser is 21 years of age or older, respectively.

2932. All employees of an RMD or Marijuana Establishment shall be at least 21 years of age.

2933. No person who is not at least 18 years of age shall be permitted on the premises of an RMD if co-located with a Marijuana Establishment during hours of operation unless that person is a qualified patient or caregiver with a valid registration card; No person who is not at least 21 years of age shall be permitted on the premises of a Marijuana Establishment, unless said Marijuana Establishment is co-located with an RMD as stated above.

2934. Special Permit Requirements

An RMD or Marijuana Establishment may only be allowed by special permit from the Special Permit Granting Authority in accordance with G.L. c. 40A, § 9, subject to the following statements, regulations, requirements, conditions and limitations.

2935. A special permit granted under this Section shall have a term limited to the duration of the applicant's ownership and use of the premises as an RMD or Marijuana Establishment. A special permit may be transferred only with the approval of the Special Permit Granting Authority in the form of an amendment to the special permit.

2936. A special permit for an RMD or Marijuana Establishment shall be limited to one or more of the following uses that shall be prescribed by the Special Permit Granting Authority.

a. Cultivation of Marijuana for Medical or Adult Use (horticulture);

b. Processing and packaging of Marijuana for Medical or Adult Use, including Marijuana that is in the form of smoking materials, food products, oils, aerosols, ointments, and other products;

- c. Retail sale or distribution of Marijuana for Medical or Adult Use to Qualifying Patients or persons over the age of 21;
- d. Wholesale sale of Marijuana for Medical or Adult Use to other RMDs or Marijuana Establishments.
- e. Testing marijuana and marijuana products, including certification for potency and the presence of contaminants.

2937. In addition to the application requirements set forth in Sections of this Bylaw, and Section 5400 Special Permit, a special permit application for an RMD or Marijuana Establishment shall include the following:

- a. A statement for the Applicant under oath, setting forth the following information:
 - i. The name and address of each owner, manager, member, partner and employee of the Facility, and a statement indicating whether the application conforms to Sections above;
 - ii. The source of all marijuana that will be sold or distributed at the Facility;
 - iii. The source of all marijuana that will be cultivated, processed, packaged, sold and/or distributed at the Facility; and
 - iv. The quantity of marijuana that will be cultivated, proceeded, packaged, sold and/or distributed at the facility; and
 - v. If marijuana is to be cultivated, processed, and/or packaged at the Facility, the name and address of each purchaser of said marijuana.
- b. If the Applicant is a non-profit organization, a copy of its Articles of Organization, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a for-profit corporate entity, a copy of its Articles of Incorporation or equivalent documents, a current Certificate of Legal Existence from the Secretary of the Commonwealth, and the most recent annual report; if the Applicant is a public agency, evidence of the agency's authority to engage in the development of the Facility as proposed by the application.
- c. Copies of all licenses and permits issued by the Commonwealth of Massachusetts and any of its agencies for the Facility;
- d. Evidence of the Applicant's right to use the site of the Facility for use as an RMD or Marijuana Establishment, such as a deed, lease, purchase and sale agreement or other legally-binding document;
- e. If the Applicant is a business organization, a statement under oath disclosing all of its owners, shareholders, partners, members, managers, directors, officers, or other similarly-situated individuals and entities. If any of the above are entities rather than

persons, the Applicant must disclose the identity of the owners of such entities until the disclosure contains the names of individuals;

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

g. Proposed security measures for the RMD or Marijuana Establishment, including lighting and alarms, to ensure the safety of persons and to protect the premises from theft in accordance with 105 CMR 725.110;

h. Resume(s) of the Applicant and all members of the Facility's management, including company history, references, and relevant experience;

2938. Mandatory Findings.

The Special Permit Authority shall not issue a special permit for an RMD or Marijuana Establishment unless it finds that:

a. The Facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest, as defined in G.L. c. 40A, § 11;

b. That the project is compatible with the immediately surrounding uses. In determining same the Applicant shall show how the proposed use fits in with the surrounding uses, by traffic impacts, pedestrian safety impacts, odor(s), and noise impact(s).

c. The Facility is fully permitted by all applicable agencies within the Commonwealth of Massachusetts and is in compliance with all applicable state laws and regulations;

d. The applicant has not provided materially false documents or testimony; and

e. The applicant has satisfied all of the conditions and requirements of this Bylaw.

2939. Annual Reporting.

Each RMD and Marijuana Establishment permitted under this Bylaw shall as a condition of its special permit file an annual report to the Special Permit Granting Authority and the Town Clerk no later than January 31st, providing a copy of all current applicable state licenses for the Facility and/or its owners, and containing a statement under oath that answers each of the questions set forth under Sections in this bylaw for the preceding calendar, as well as the Facility's best good faith estimate for the then-current calendar year.

2940. Violations.

Any violations of this bylaw shall be grounds for revocation of a special permit issued under this Section.

2941. Buffer Waivers or Variances.

The Planning Board shall have discretion to reduce or waive, or grant a variance from, the buffer distance requirements set forth in Sections 2924, 2925 and 2926 for Marijuana Cultivators and Marijuana Product Manufacturers located in the the Marijuana Overlay District if the Special

Permit applicant demonstrates that the Marijuana Cultivator or Marijuana Product Manufacturer will employ adequate security measures to prevent diversion of marijuana to minors and the Planning Board determines that a shorter distance will suffice to accomplish the objectives set forth herein.

SECTION III. GENERAL REGULATIONS.

3100. OFF-STREET PARKING AND LOADING.

3110. General Parking Requirements.

3111. Adequate off-street parking must be provided to serve all parking demand created by the new structures, additions to existing structures, or changes of use. Existing buildings and uses need not comply unless expanded or otherwise changed to increase their parking needs.

3112. In applying for building or occupancy permits, the applicant must demonstrate that the minimum parking requirements set forth below will be met for the new demand without counting existing parking necessary for existing uses to meet these requirements.

3113. Common parking areas may be permitted for the purpose of serving two (2) or more principal uses on the same or separate lots, provided that:

- a. Evidence is submitted that parking is available within five hundred (500') feet of the premises, which lot satisfies the requirements of this by-law and has excess capacity during all or part of the day, which excess capacity shall be demonstrated by competent parking survey conducted by a traffic engineer registered in the Commonwealth of Massachusetts.
- b. A contract, agreement, or suitable legal instrument acceptable to Dighton's town counsel, shall be filed with the application for building permit, occupancy permit, or special permit for exception which shall specify the location of all spaces to be jointly used, the number of such spaces, the hours during the day that such parking shall be available, and the duration or limit, if any on such parking.
- c. Nothing in this section shall relieve the owner from providing parking facilities in accordance with this by-law if subsequently the joint use of parking facilities shall terminate.

3120. Number of Spaces.

For the purpose of computing the parking requirements of different uses, the number of spaces required shall be the largest whole number obtained after increasing all fractions upwards to one. Employees shall include the largest number of owners, managers, full and part-time workers and volunteers that may be normally expected on the premises during any single shift or portion thereof. The number of seats in benches, pews, or other continuous seating arrangements shall be calculated at twenty (20") inches for each seat. The following minimum parking requirements shall apply to uses as listed below:

USE	NUMBER OF SPACES
Stores, retail business, and services	One (1) space per two hundred (200) square feet of net leasable floor area or a minimum of at least three (3) spaces per establishment
Banks, libraries, and post offices	One (1) space per one hundred (100) square feet of floor area devoted to public use, plus one (1) space per employee
Bowling alleys	Four (4) spaces for each alley
Business and professional offices, office buildings, and office of a wholesale establishment including sales space	One (1) space per two hundred (200) square feet of net floor area
Medical and dental offices and clinics	One (1) space per two hundred (200) square feet of net floor area
Restaurants, lounges, and function rooms	One (1) space per employee on the largest shift and one space per two and one-half (2.5) seats based on the maximum rated legal seating capacity of the facility
Fast food establishment	One (1) space per fifty (50) square feet of net floor area
Adult entertainment establishment	One (1) parking space for each 1¼ persons allowed for said establishment's seating capacity
Theater, funeral home, and places of assembly	One (1) space for each four (4) seats or for each fifty (50) square feet of assembly area, whichever is greater
Hotels, motels, and tourist homes	One (1) space per guest room, plus one (1) space per employee, plus a number of spaces as required elsewhere herein for restaurants, assembly halls, function rooms, shops and similar functions if occurring on the premises
Non-family accommodation	One (1) space per two (2) persons accommodated
Nursing and convalescent homes	One (1) space for each three (3) beds, plus one (1) space for each employee serving on the shift having the greatest number of employees, plus one (1) space for each visiting staff
Clubs, lodges and association buildings	One (1) space per three (3) memberships
Lumber and building material yards, nurseries,	One (1) space per two hundred (200) square

and outdoor sales	feet of net floor area and one (1) space per one thousand (1,000) square feet of outdoor or bulk sales area
Manufacturing, truck terminals, wholesale establishments, public utility buildings other than their business office, warehouses and similar uses not normally visited by the general public	One (1) space per two hundred (200) feet of net floor area. Provided, however, that the Building Commissioner may waive the actual construction of said space to no less than one (1) space per one and four-tenths (1.4) employees, plus one (1) space for each vehicle used in the operation upon issuance of a building permit or occupancy permit
Facilitated Living Facility	One space for each employee on the shift having the greatest number of employees, plus one (1) space for each visiting staff person. When on site parking for the facility's residents is permitted, the parking requirement is eight-tenths (8/10) space per room. When on site parking for the facility's residents is not permitted, the parking requirement is one (1) space for each three- (3) beds. The site must support the potential for meeting the parking requirement for "Business and professional offices" in the event of a building conversion, and shall be shown on the site plan as potential future parking.
Single-family and two-family dwelling	Two (2) spaces per dwelling unit for units with two (2) or more bedrooms
Multi-family dwelling	One (1) space per dwelling unit for one bedroom; two (2) spaces per dwelling unit for units with two (2) or more; plus one space per every three units or fraction thereof.
Home occupations	In addition to the spaces required for the dwelling, one (1) space per nonresident employee.
Any other nonresidential use, or any use involving a combination of functions similar to or listed herein	A number of spaces as determined by the Building Commissioner by application of the ratios above
Medical Office	One (1) space per two employees plus one (1) per 200 gross square feet of floor area

3121. The requirements of §3120 may be reduced on special permit by the planning board if a property owner can demonstrate to the satisfaction of the board that the required

number of spaces will not be needed for the proposed use, and that fewer spaces meet all parking needs. Such cases might include:

- a. Use of a common parking lot for separate uses having peak demands occurring at different times;
- b. Age or other characteristics of occupants, which reduce their auto usage;
- c. Peculiarities of the use, which make usual measures of demand, invalid.
- d. The area necessary for the reduced spaces is available on the lot.

3130. Size of Parking Spaces.

Parking spaces shall be no less than eight and five-tenths (8.5) feet in width and nineteen (19') feet in length.

3140. Off-Street Loading.

All buildings, requiring the delivery of goods, supplies, or materials, or shipments of the same shall have bays and suitable maneuvering space for off-street loading of vehicles.

3150. Parking and Loading Area Design and Location.

3151. No off-street parking area shall be located within ten (10') feet of a property line, within twenty (20') feet of a street right-of-way, or in any required yard adjacent to a residential or institutional use.

3152. Sidewalks may be required within the site where necessary for safe pedestrian access and circulation. There shall be a marked pedestrian aisle at each entrance to the building served by the parking lot.

3153. Parking spaces more than five hundred (500') feet from the building entrance they serve may not be counted towards fulfillment of parking requirements unless the planning board determines that circumstances justify this greater separation of parking from use.

3154. All required parking areas except those serving single-family residences shall be paved, unless exempted on special permit from the planning board for cases such as seasonal or periodic use where unpaved surfaces will not cause dust, erosion, hazard, or unsightly conditions.

3155. Parking areas for five (5) or more cars shall not require vehicles to back onto a public way.

3156. Parking areas for ten (10) or more cars shall provide screening in accordance with §3500.

3157. No dead end aisle shall exceed five (5)-parking spaces in width.

3158. Continuous curbing shall be provided to control access, drainage and damage. Curb

stops, planting strips or other means shall be provided to maintain a minimum usable sidewalk width of four feet or the minimum width required by the Americans with Disabilities Act.

3160. Parking Areas with Twenty or More Spaces.

The following shall apply to entrances or exits to all parking areas with twenty (20) or more spaces:

3161. Entrance or exit center lines shall not fall within fifty (50') feet of an intersection of street sidelines or within one hundred fifty (150') feet of the centerline of any other parking area entrance or exit on the same side of the street, whether on the same parcel or not, if serving twenty (20) or more spaces. Uses shall arrange for shared egress if necessary to meet these requirements.

3162. Egressing vehicles shall have four hundred (400') feet visibility in each travel direction.

3163. Street entrances shall be designed consistent with Massachusetts Department of Highways Regulations.

3164. An appropriate area for snow storage after plowing shall be provided on the premises.

3200. [Reserved]

3300. SIGNS AND OUTDOOR LIGHTING.

3310. General Regulations.

3311. Permits. No sign shall be erected, enlarged or structurally altered without a sign permit issued by the Building Commissioner, with the exception of (a) unlighted signs one (1) square foot or smaller; (b) temporary construction signs less than twelve (12) square feet in area; and (c) temporary unlighted real estate signs.

3312. Maintenance. All signs shall be maintained in a safe and neat condition to the satisfaction of the Building Commissioner and in accordance with the State Building Code.

3313. Nonconforming Signs. Any sign legally erected may be continued and maintained despite being made nonconforming through change in the zoning by-law. Any sign rendered nonconforming through erection of additional signs on the premises or through change or termination of activities on the premises shall be removed within thirty (30) days of order of the Building Commissioner. No existing sign shall be enlarged or altered in size or shape except in conformity with the provisions contained herein. Any sign which has been destroyed or damaged to the extent that the cost of repair or restoration will exceed one-third of the replacement value as of the date of the destruction shall not be repaired, rebuilt, restored, or altered unless in conformity with this by-law.

3320. Prohibited Signs.

3321. No moving, animated, revolving, moving light, or flashing sign or sign elements shall be permitted, except for traditional illuminated barbershop poles with revolving pillars.

3322. No pennants, streamers, advertising flags, spinners, or similar devices shall be permitted.

3323. No sign shall be located within twenty-five (25') feet of the intersection of sidelines of intersecting streets unless entirely less than three and one-half (3½') feet or more than eight (8') feet above grade.

3324. No part of any sign shall be more than twenty (20') feet in height above ground level or exceed the height of the building to which it relates unless granted a special permit for an exception by the board of appeals.

3325. No part of any sign shall overhang a public way by more than twelve (12") inches.

3326. No billboard or other sign shall be erected or maintained unless its subject matter relates exclusively to the premises on which it is located, or to products, accommodations, services, or activities on those premises.

3330. Signs Permitted in Residential District.

The following signs are permitted in the Residence District.

3331. One (1) sign for each family residing on the premises indicating the owner or occupant or pertaining to a permitted accessory use, provided that no such sign shall exceed one (1) square foot in area.

3332. One (1) temporary sign not over six (6) square feet in area pertaining to the sale, rent, or lease of the premises provided that it shall be removed within seven (7) days after sale, rent, or lease thereof. Such signs may be illuminated only if granted a special permit by the board of appeals upon its determination that such illumination serves public safety and convenience without damage to neighborhood character.

3333. Unlighted directional signs not exceeding one (1) square foot in area each and pertaining to permitted building, uses of the premises other than dwellings and their accessory uses, or prohibiting use of the premises or certain portions of it.

3334. One (1) temporary unlighted sign not larger than twenty-five (25) square feet in an area indicating the name and address of the parties involved in construction on the premises. Requires no permit if not more than twelve (12) square feet in area and is removed within thirty (30) days of erection.

3340. Signs Permitted in Business Districts.

The following signs are permitted in the Business District.

3341. Attached signs. One sign may be attached to any one wall of a building, not to exceed an area equivalent to fifteen (15%) percent of the front wall area of said building, or sixty (60) square feet, whichever is greater.

- a. Allowable sign area may be divided between two (2) signs, each sign to be attached to a different wall of the building, and the total allowable sign area shall not exceed an area equivalent to twenty (20%) percent of the front wall area of said building or eighty (80) square feet, whichever is smaller.
- b. In the case of buildings with multiple occupants, each occupant is allowed one (1) sign, with the above total allowable sign area divided among them in proportion to their share of total floor area.
- c. No attached sign shall extend above the wall to which it is attached. No sign shall be attached to a roof, real or simulated.
- d. A building located at an intersection fronting on two (2) public ways may divide the allowable sign area between two (2) signs, each sign to be attached to a different wall of the building, and the total allowable sign area shall not exceed an area equivalent to twenty (20%) percent of the front wall area of said building, or eighty (80) square feet, whichever is smaller.

3342. Freestanding signs.

- a. One freestanding sign located within the front yard area of the building and not exceeding five (5%) percent of the front wall of the building, or forty (40) square feet, whichever is smaller, provided that the building has a minimum setback of thirty (30') feet and the sign is so located as to be set back fifteen (15') feet from the street line and twenty (20') feet from any side lot line. On special permit from the board of appeals the allowable sign area may be increased to sixty (60) square feet.
- b. Directory signs. A freestanding "directory" sign, a sign representing multi-tenants, must have uniformity of size and color and the overall sign must meet the criteria for freestanding signs.

3343. Directional signs. No more than two (2) directional signs per driveway said signs to contain no advertising and shall not exceed an area of five (5) square feet each.

3344. Window signs. One (1) unlighted window sign for each window of the building not to exceed in area twenty (20) percent of the area of any window upon which located.

3345. Lighted Window Signs. One lighted window sign, including all types of internally illuminated signs, whether or not neon, conforming to the following standards:

- a. Such signs shall not exceed five (5) square feet in area or cover more than 20% of the window in which it is situated, whichever is less, and shall only be allowed in ground floor windows;
- b. Such signs shall be equipped with a timer which shall permit illumination no longer than thirty minutes before opening or after closing of the business;
- c. Such signs shall not flash or blink or use lights changing in intensity;
- d. Such signs shall not contain more than three different colors;
- e. Such signs illuminated by a neon source shall be composed of primarily single strand glass tubing with a maximum outside diameter of one inch;
- f. Such signs within three feet of a window shall be considered to be a window sign for purposes of these standards.

3350. Signs Permitted in Industrial Districts.

Any sign permitted in the Business District is permitted in Industrial District, except window signs.

3360. Illumination.

3361. Overspill. Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that their collective result does not create so much light overspill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources.

3362. Unless all the following are met, it will be presumed that the above performance requirements are not satisfied. The board of appeals may grant a special permit for lighting which does not comply with these specifications if it determines that the performance standards of the first paragraph will still be met, and if the applicant documents that brightness of any sign or building element will not exceed twenty (20') foot lamberts in residence districts or fifty (50') foot lamberts in other districts.

- a. Internally illuminated signs on the premises collectively total not more than two hundred (200) watts unless not exceeding fifteen thousand (15,000) lumens.
- b. Externally illuminated signs employ only shielded lights fixed with three (3') feet of the surface they illuminate.
- c. Building floodlighting totals not more than two thousand (2,000) watts unless not exceeding fifty thousand (50,000) lumens.
- d. Exterior lighting fixtures other than signs are mounted not more than twenty (20') feet high.

3363. Hours. No sign or building in any residential district or within three hundred (300') feet of any residential district if within sight from it shall be illuminated between the hours of 11 p.m. and 7 a.m. unless indicating an establishment open to the public during those hours.

3364. Movement. No flashing, moving, or revolving lights shall be maintained.

3370. Temporary Signs.

Temporary signs (including those mounted on wheels, trailers, or motor vehicles if those vehicles, trailers, or wheeled signs are regularly located for fixed display) are prohibited unless complying with all requirements of this by-law as applicable to permanent signs, or as may be allowed herein.

3371. Political Signs. Temporary, freestanding political signs, which are designed to influence the action of voters for the passage or defeat of a referendum question or other measure appearing on the ballot of an election duly called in the Town of Dighton or designed to influence the action of voters for election of a candidate whose name appears on the ballot of an election duly called in the Town. These signs require no sign permit.

3372. Construction signs. Temporary, freestanding signs may be erected on the premises to identify any building under construction, its owner, architect, builder or other associated with it, provided that such sign shall not exceed sixty (60) square feet in area and shall not be erected to interfere with sight lines along the public way. Such sign shall be removed within seven (7) days of the issuance of an occupancy permit. These signs require no sign permit if not more than twelve (12) square feet in area and are removed within thirty (30) days of erection.

3373. Real estate signs. Temporary freestanding sign or sign attached to the front wall of the building and pertaining to the sale, rental, or lease of the premises. Such sign shall be removed within seven (7) days of the sale, rental, or lease of said premises. These signs require no sign permit if erecting agent has obtained an one-year permit from the Building Commissioner for erecting such signs. Signs advertising an "open house" shall be situated only on the property which is for sale, and/or at nearby intersections to guide potential buyers to that location, only during the hours of the open house.

3374. Yard sale signs. A sign advertising a yard sale shall not exceed two square feet in area, shall not be erected more than seventy-two hours before the sale, and shall be removed immediately thereafter. No permit is required for a yard sale sign.

3380. Guidelines.

These guidelines are not mandatory, but degree of compliance with them shall be considered by the board of appeals in acting upon special permits authorized under this section, as shall consistency with the basic sign objectives and any specific criteria cited above.

3381. Designs.

- a. Any increase above the basic maxima for the size and number of signs should be justifiable because of multiple frontages, development scale, or other special needs, and should be appropriate in relation to street width, signage on nearby structures, and speed of vehicular travel.
- b. Sign content normally should not occupy more than forty (40%) percent of the sign background, whether a signboard or a building element.
- c. Signs should be simple, neat and avoid distracting elements, so that contents can be quickly and easily read.

- d. Signs should be sized and located so as to not interrupt, obscure, or hide the continuity of columns, cornices, roof eaves, sill lines, or other elements of building structure, and where possible, should reflect and emphasize building structural form.
- e. Sign materials, form, colors, and lettering shall be reflective of the character of the building to which the sign relates.
- f. Clutter should be avoided by not using support brackets extending above the sign or guy wires and turnbuckles.

3382. Content.

- a. Signs should not display brand-names, symbols, or slogans of nationally distributed products except in cases where the majority of the floor or lot area on the premises is devoted to manufacture, sale, or other processing of that specific product.
- b. Premises chiefly identified by a product brand name (such as a gasoline or auto brand) should devote some part of their permitted sign area to also displaying the identity of the local outlet.
- c. Signs should not contain selling slogans, product descriptions, help wanted notices, or other advertising, which is not an integral part of the name or other identification of the location or the enterprise.

3400. ENVIRONMENTAL PROTECTION STANDARDS.

3410. General.

No activity shall be permitted in any district unless it shall be in conformity with the standards for environmental protection included herein. The Building Commissioner may require an applicant for a building or occupancy permit to supply, at his expense, such technical evidence as is necessary in support of the application, and may, in connection therewith, and at the applicant's expense, obtain expert advice as necessary to review the plans and proposals of the applicant. Payment of such expert advice to the Building Commissioner shall be made before further consideration of the application shall continue. After a permit is issued in accordance with this section, continuing compliance is required.

3420. Standards.

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' from the boundaries of the originating premises if in a nonresidential district, or more than 40' 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.

3421. Cinders, dust, fumes, gases, odors, smoke, radiation, refuse or other waste materials shall be effectively confined to the premises and treated or disposed of in accordance with state, federal, and town laws and regulations.

3422. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against hazards from fire and explosion, and with adequate fire fighting and fire suppression equipment standard in this industry. Burning of waste materials in the open contrary to state law is prohibited.

3423. All materials, which may be edible by or attractive to rodents or insects, shall, when stored in or outdoors, be stored in tightly closed containers.

3430. 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:

3431. 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.

3432. All such slopes exceeding 15% which result from site grading or construction activities shall either be covered with topsoil to a depth of 4" 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.

3433. 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" 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.

3434. The Building Commissioner 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.

3435. In granting a special permit hereunder, the Planning Board shall require a

performance bond to ensure compliance with the requirements of this section.

3436. 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

3500. GENERAL LANDSCAPING REQUIREMENTS.

3510. Purpose.

This §3500 is designed to accomplish the following objectives:

3511. To provide a suitable boundary or buffer between residential uses and districts and nearby nonresidential uses;

3512. To define the streets edge and provide visual connection between nonresidential uses of different architectural styles;

3513. 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;

3514. To provide visual relief and a source of shade in parking lots and other areas, and protection from wind in open areas;

3515. To preserve or improve the visual and environmental character of Dighton, as generally viewed from residential or publicly accessible locations; and

3516. To offer property owners' protection against diminution of property values due to adjacent nonresidential use.

3520. Applicability.

The requirements of this section shall apply to any nonresidential use and to multifamily dwellings.

3530. Landscaping Requirements for Property Lines.

Property line(s) with residential districts shall be screened from nonresidential uses by means of plantings or maintenance of trees of a species common to the area and appropriate for screening, spaced to minimize visual intrusion, and providing an opaque year-round visual buffer between

uses. Such plantings shall be provided and maintained by the owner of the property used for nonresidential purposes. The buffer area may contain walks, sewerage, and wells, but no part of any building structure, or paved space intended for or used a parking area may be located within the buffer area. Planted buffer areas along property lines with residential districts or uses shall have a minimum depth of 10'.

3540. Landscaping Requirements for Parking Areas.

3541. Parking areas with more than 10 spaces shall contain 150 square feet of planted areas for every 1000 square feet of parking proposed, including aisles, appropriately situated within the parking area. Such planted area shall contain an appropriate mix of shade trees and other plants.

3542. Parking lots, loading areas, storage areas, refuse storage and disposal areas, and service areas shall be screened from view, to the extent feasible, from all public ways, and from adjacent properties, by the use of planted areas, berms, natural contours, fences or a combination of the above.

3543. Buffer strips between parking lots and rear or side lot lines shall meet the following specifications:

Number of Spaces in Lot	Depth of Buffer Strip
Up to 10	10'
11-24	10' plus one foot for each space in excess of 10 spaces
25 or more	25'

3544. The requirements set forth in §3543 may be reduced by special permit issued by the Planning Board upon a finding that such reduction will not detract from the objectives of this §3500.

3550. Planted Area Requirements.

Planted Areas shall contain an appropriate mix of the following types of plants. Plant species shall be appropriate to proposed use, siting, soils, and other environmental conditions. Where the Planning Board determines that the planting of trees is impractical, the permit applicant may substitute shrubbery for trees.

3551. Shrubs and hedges shall be at least 2½' in height at the time of planting, and have a spread of at least 18".

3552. Grass is preferable to mulch where practical.

3553. Existing trees with a caliper of six (6") inches or more shall be preserved wherever feasible.

3554. 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.

3560. 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 §3500.

3570. 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.

3600. EARTH REMOVAL

3610. 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 §5300, below.

3620. 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.

3630. Screening and Noise.

Excavation areas and processing equipment shall be screened by buffer strips or other means, and noise and dust shall be controlled to meet all federal, state and local requirements.

3640. 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.

3650. Bond.

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

SECTION IV. SPECIAL REGULATIONS

4100. WIRELESS COMMUNICATIONS FACILITIES (WCF) OVERLAY DISTRICT.

4110. Purpose.

The purpose of this section is to establish areas in which wireless communications facilities may be provided while protecting Dighton'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 Dighton.

4120. Location.

The WCF District shall be located in the Industrial District and as follows: [reserved]

4130. 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.

4140. Submittal requirements.

As part of any application for a special permit, applicants shall submit, at a minimum, the information required for site plan approval, as set forth herein at §5400. Applicants shall also describe the capacity of the facility, including the number and types of antennas that it can accommodate and the basis for the calculation of capacity.

4150. Special permit.

A wireless communications facility may be erected in the WCF District upon the issuance of a special permit by the Planning Board if the Board determines that the adverse effects of the proposed facility will not outweigh its beneficial impacts as to the town or the 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 each of the following:

- 4151. Communications needs served by the facility;
- 4152. Traffic flow and safety, including parking and loading;
- 4153. Adequacy of utilities and other public services;
- 4154. Impact on neighborhood character, including aesthetics;
- 4155. Impacts on the natural environment, including visual impacts;
- 4156. Potential fiscal impact, including impact on town services, tax base, and employment;

4157. 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.

4160. Conditions.

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

4161. To the extent feasible, service providers shall co-locate on a single facility. Monopoles shall be designed to structurally accommodate foreseeable users (within a ten-year period) where technically practicable.

4162. New freestanding facilities shall be limited to monopoles; no lattice towers shall be permitted. Monopole height shall not exceed 100' above mean finished ground elevation at the base of the mounting structure; provided, however, that a monopole may be erected higher than 100' where co-location is approved or proposed, not to exceed a height of 140' above mean finished ground elevation at the base of the mounting structure.

4163. Wireless communications facilities may be placed as of right 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 two (2') feet above the height of the existing structure or building.

4164. All structures associated with wireless communications facilities shall be removed within one year of cessation of use. The Board may require a performance guarantee to affect this result.

4165. To the extent feasible, all network interconnections from the communications facility shall be via landlines.

4166. Existing on-site vegetation shall be preserved to the maximum extent practicable.

4167. The facility shall minimize, to the extent feasible, adverse visual effects on the environment. The Planning Board may impose reasonable conditions to ensure this result, including painting, lighting standards, landscaping, and screening.

4168. Traffic associated with the facility shall not adversely affect public ways.

4169. Fencing may be required to control unauthorized entry to wireless communications facilities.

4200. FLOOD HAZARD OVERLAY DISTRICT

4210. Purpose.

The purpose of the Flood Hazard Overlay District (FHOD) is to protect the public health, safety and general welfare; to protect human life and property from the hazards of periodic flooding; to preserve the natural flood control characteristics and flood storage capacity of the flood plain; and

to preserve and maintain the ground water table and water recharge areas within the flood plain.

4220. Location

The FHOD is delineated on the Bristol County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program, and includes all special flood hazard areas within the Town of Dighton designated as Zone A, AE, and VE. The map panels of the Bristol County FIRM that are wholly or partially within the Town of Dighton are panel numbers 25005C0139F, 25005C0143F, 25005C0227F, 25005C0229F, 25005C0231F, 25005C0232F, 25005C0233F and 25005C0241F, dated July 7, 2009; and panel numbers 25005C0234G and 25005C0242G and 25005C0261G dated July 16, 2014; and panels 25005C0251G and 25005C0253H dated July 16, 2015. The precise boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the flood profiles contained in the Bristol County Flood Insurance Study (FIS) report dated July 16, 2015.

4221. The floodway boundaries are delineated on the map panels that are wholly or partially within the Town of Dighton, listed in Section 4220, dated July 7, 2009, July 16, 2014 and July 16, 2015 and further defined by the Floodway Data Tables contained in the Bristol County Flood Insurance Study, dated July 16, 2015.

4222. Within Zone A, where the 100 year flood elevation is not provided on the Firm, the applicant shall obtain any existing flood elevation data and it shall be reviewed by the Board of Appeals. If the Board of Appeals determines such information to be accurate, it shall be relied upon to ensure compliance with this §4200 and the State Building Code. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones

4223. All maps and supporting documents referenced above are hereby incorporated into and are a part of the Dighton Zoning by-law and Zoning Map. Such materials are on file in the Office of the Town Clerk.

4224. In a riverine situation, The Building Commissioner shall notify the following of any alteration or relocation of a watercourse:

- Adjacent Communities
- NFIP State Coordinator
Massachusetts Department of Conservation and Recreation
251 Causeway Street, Suite 600-700
Boston, MA 02114-2104
- NFIP Program Specialist
Federal Emergency Management Agency, Region I
99 High Street, 6th Floor
Boston, MA 02110

4225. All subdivision proposals must be designed to assure that:
- a) such proposals minimize flood damage;
 - b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
 - c) adequate drainage is provided to reduce exposure to flood hazards.

4226.

1. Man-made alteration of sand dunes within Zones V1-30, VE, and V which would increase potential flood damage are prohibited.
2. All new construction within Zones V1-30, VE, and V must be located landward of the reach of mean high tide.

4230. Overlay District.

The FHOD is hereby established as an overlay district. All rules of the underlying district(s) shall remain in full force and effect, except where the requirements of the FHOD are more stringent, in which case such requirements shall supersede those of the underlying district.

4240. Permitted Uses.

The following uses of low flood damage potential which cause no obstructions to flood flows shall be permitted provided they do not require structures, fill or storage of materials or equipment:

4241. Agricultural uses such as farming, grazing, truck farming, horticulture, and the like;
4242. Forestry and nursery uses;
4243. Outdoor recreational uses, including fishing, boating, play areas and the like;
4244. Conservation of water, plants and wildlife;
4245. Wildlife management areas; foot, bicycle and horse paths;
4246. Temporary nonresidential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises;
4247. Building lawfully existing prior to the adoption of these provisions.

4250. Special Permit Uses.

Any use permitted as of right or by special permit in the underlying district(s) may be authorized by special permit in the FHOD by the Board of Appeals. No structure or building shall be erected, constructed, substantially improved, reconstructed, or otherwise created or moved, nor shall earth or other materials be dumped, filled, excavated, or transferred within the FHOD, except upon the issuance of a special permit. Such special permits may be subject to conditions to ensure that the purposes of this §4200 are promoted, including, but not limited to, the following:

4251. The proposed use shall comply in all respects with the provisions of the underlying district in which the land is located;

4252. All encroachments, including fill, new construction, substantial improvements to existing structures and other development are prohibited in the FHOD unless certification by a registered professional engineer is provided by the applicant demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the 100 year flood;

4253. All development, including structural and nonstructural activities, shall comply with the provisions of G. L. c. 131, §40 and the requirements of the State Building Code.

4300. CONSERVATION SUBDIVISION

4310. Purpose.

The purpose of this §4300, 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 Dighton'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.

4320. 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 District *** may proceed under this section pursuant to the issuance of a special permit by the Planning Board. Such special permits shall be acted upon in accordance with the following provisions.

4330. Procedures.

Applicants for a Conservation Subdivision shall file with the Planning Board six (6) copies of the following:

4331. A Development Plan conforming to the requirements for a preliminary subdivision plan under the Subdivision Regulations of the Planning Board. Such plan shall indicate proposed topography, wetlands, and, unless the development is to be sewered, the results of 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, §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.

4332. **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' to wetlands areas, but may be situated within 50' 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.

4340. 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:

4341. Lots having reduced area or frontage shall not have frontage on a street other than a street created by subdivision involved.

4342. Each lot shall contain not less than seven thousand five hundred square feet (7,500) of area, and have frontage of not less than 50'.

4343. Each lot shall have yards of at least fifteen (15') feet.

4350. 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.

4360. 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, §40.

4361. 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.

4362. 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 bike paths, and agriculture.

4363. Underground utilities to serve the Conservation Subdivision site may be located within the required open space.

4364. The required open space shall, at the owner's election, be conveyed to

- a. the Town 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 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.

4365. 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.

4370. Buffer Areas.

All dwellings and structures shall be located a minimum of 50' from adjacent properties, and 100' 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, §40, the Wetlands Protection Act, except where adjacent to agriculturally used property.

4380. 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 herein, than would orthodox development.

4390. Relation to Other Requirements.

The submittals and permits of this section shall be in addition to any other requirements of the Subdivision Control Law or any other provisions of this Zoning by-law.

4400. ASSISTED LIVING FACILITIES

4410. General.

An assisted living facility is a residential facility occupied primarily by persons 55 years of age and older including their spouses or surviving spouses, and including rooms occupied by resident staff personnel. Assisted living facilities may include the full range of nursing care from total to only partial assistance. Such facility may provide shared food preparation services but also may allow limited residential unit food preparation areas and may provide common recreational, laundry, social, medical and service facilities for the exclusive use of residents of the assisted elderly housing.

4420. Special Permit Required.

Assisted living facilities may be allowed by Special Permit from the Planning Board on a property larger than five acres if the following conditions are met:

4421. The scale of the proposal does not detract from the residential character of the neighborhood.

4422. The architecture of buildings is residential in character, particularly providing gabled roofs, predominately wood siding, an articulated footprint and varied facade. Alternate architectural styles or materials can be considered if appropriate to the site and not out of character with the neighborhood.

4423. Public or private roads, which lead to the property, are of adequate design, width, and condition to handle proposed traffic.

4424. Proposed traffic will not severely change the residential character of the neighborhood.

4425. The Board of Health confirms that the assisted living facility can be accommodated

with respect to onsite water, onsite septic disposal and any other standards of the Board of Health.

4426. Parking areas are screened from adjacent streets and properties, and have additional landscaped areas within the parking area to reduce the impact of large paved areas.

4427. Signs shall be limited to one wooden identification sign no more than 6 square feet in area except for traffic/parking/pedestrian regulation signs as required by the Planning Board. A second wooden identification sign may be allowed if the Planning Board determines it is needed.

4428. All lighting units shall be located no higher than 14', with lights shielded to direct light downward. Lighting shall not cause glare onto abutting properties.

4429. The maximum number of residential units or beds allowed on a site shall be determined by the Planning Board based on such factors as but not limited to, impact on the neighborhood, affordability for residents, quality of life, and provision for adequate open space, recreational facilities, parking, landscaping, and buffers. No private unit shall be larger than 800 square feet.

4430. Other Conditions.

The Planning Board may impose additional restrictions or conditions to maintain the residential character of the neighborhood.

4500. WATER RESOURCE PROTECTION OVERLAY DISTRICT

4510. Purpose.

The purpose of the Water Resource Protection Districts is:

4511. 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;

4512. To preserve and protect existing and potential sources of drinking water supplies;

4513. To conserve the natural resources of the Town; and

4514. To prevent temporary and permanent contamination of the environment.

4520. Authority.

The Water Resource Protection Districts are adopted pursuant to authority provided by G. L. c. 40A and the Home Rule Amendment, Article 89 of the Amendments to the Constitution of the Commonwealth.

4530. 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.

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

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, §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, §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.

Recharge Areas - Areas that collect precipitation or surface water and carry it to aquifers.

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, §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 Resource Protection District I (WRPD I) - The protective radius required around a public water supply well or wellfield, as set forth in 310 CMR 22.02’s definition of “Zone I.”

Water Resource Protection District II (WRPD II) - WRPD II is bounded by (a) that area of the aquifer that contributes water to a public water supply well or wellfield under the most severe pumping and recharge conditions than can realistically be anticipated, as set forth in 310 CMR 22.02’s definition of “Zone II;” or (b) Interim wellhead Protection Areas, as established in the Town and defined by 310 CMR 22.02; or (c) the surrounding high and medium yield aquifers within the Town, having a transmissivity of 1,350-4,000 ft²/d (potential well yield 100 to 300 gal/min). Until such time as the Town may acquire information to delineate areas (a) or (c), the interim wellhead protection areas as shown on the map entitled “DFA: Groundwater Protection Program, Town of Dighton” prepared by the Mass. Dept. of Food and Agriculture, dated January 1996, or the map entitled “Areas Affected by Title V, Dighton,” dated February 1, 1999, prepared by the Mass. GIS Information System, whichever is more restrictive, shall constitute WRPD II.

Water Resource Protection District III (WRPD III) - That area of land beyond the area of WRPD II from which surface water and groundwater drain into Zone II, as that term is defined in 310 CMR 22.02.

4540. Establishment of Districts.

The Water Resource Protection Districts are herein established as overlay districts. All maps are hereby made a part of this Zoning by-law and are on file in the office of the Town Clerk.

4541. Boundary Disputes. Where the bounds of the Water Resource Protection Districts are in dispute, as delineated on the Water Resource Protection Districts Map, the burden of proof shall be upon the owners of the land in question to show where they should properly be located. Resolution of boundary disputes shall be through a special permit application to the Planning Board. Any application for a special permit under this subsection shall be accompanied by documentation prepared by a person who meets the following two requirements:

- a. Is experienced in delineating hydrogeological zones in Massachusetts; and
- b. Has one of the following credentials:

TITLE	CONFERRING ENTITY
Registered Professional Hydrogeologist	American Institute of Hydrology
Certified Professional Geologic Scientist	American Institute of Professional Geological Scientists
Registered Professional Engineer, Sanitary	Commonwealth of Massachusetts

Certified Ground Water Professional	Association of Ground Water Scientists and Engineers
Certified Professional Soil Scientist	American Registry of Certified Professionals in Agronomy, Crops, and Soils, Ltd.

4542. WRPD II Boundary Disputes. Where the WRPD II is an Interim Wellhead Protection Area, the applicant shall provide the results of a survey by a registered surveyor as to the 2,500-foot circle.

4543. WRPD III Boundary Disputes. The applicant shall provide information in substantial conformance with the criteria set forth in 310 CMR 22.00 for the delineation of “Zone III”, as administered by the Massachusetts Department of Environmental Protection, to show where the boundary should properly be located.

4544. The Planning Board shall not grant a special permit under this section unless the applicant demonstrates that the provisions governing the Water Resource Protection District(s), under this Article VII may be waived without detrimental effect to water quality as specified herein.

4550. Use Regulations.

The Water Resource Protection Districts are overlay districts superimposed over the underlying districts set forth in this Zoning by-law. Within a Water Resource Protection District, the requirements of the underlying district continue to apply, except where the requirements of the Water Resource Protection District are more stringent.

4551. Uses within WRPD I. Uses within WRPD I shall be governed by the standards set forth in 310 CMR 22.00 with regard to “Zone I” therein.

4552. Uses within WRPD II and WRPD III. Uses are prohibited where indicated by “N” in the following schedule, and require a special permit where indicated by “SP”, even where the underlying district requirements are more permissive. Uses permitted in a Water Resource Protection District are indicated by “Y”. Where a portion of the lot is located partially within WRPD III and partially outside the Water Resource Protection Districts, site design shall, to the extent feasible, locate potential pollution sources outside the District boundaries.

1. PRINCIPAL USES	WRPD II	WRPD III
(a) Manufacture, use, storage, transport, or disposal of hazardous materials as a principal activity	N	N
(b) Landfills and open dumps	N	N
(c) Automobile graveyards and junkyards	N	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	N	SP

repair of existing system(s) that will not result in a design capacity greater than the design capacity of the existing system(s)		
(e) Wastewater treatment works for sanitary wastewaters that are subject to 314 CMR 5.00, including privately owned facilities	SP	SP
(f) Landfilling of sludge and septage	N	N
(g) Storage of sludge and septage	SP	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	N SP
(i) Gasoline station, motor vehicle repair or body shop, marine repair shop, car wash	N	SP
(j) Earth removal; provided, however, that no earth removal shall take place within 6' 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' above the historical high groundwater mark	SP	SP
(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 10,000 gallons per day	SP	SP
2. ACCESSORY USES	WRPD II	WRPD III
(a) Underground storage of hazardous materials, including fuel oil and gasoline	N	SP
(b) Aboveground storage of hazardous materials in quantities greater than associated with normal household use, other than fuel oil for residential heating purposes	SP	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, §52A; (4) treatment works approved by the DEP for treatment of contaminated ground or surface waters	N	SP
(d) Storage of animal manure. Within WRPD II, such storage must be within an enclosed building or contained in accordance with the specifications of the U.S. Soil Conservation Service	SP	Y
(e) Storage of commercial fertilizers and soil conditioners. Within WRPD II, such storage must be within a structure designed to prevent the generation and escape of contaminated runoff or leachate	SP	Y
3. OTHER USES	WRPD II	WRPD III
(a) Rendering impervious more than 15% of the lot, or 2500 sq. ft., whichever is greater, excluding operations associated with the construction or occupancy of a single-family dwelling	SP	Y
(b) Stockpiling and disposal of snow and ice containing de-icing chemicals if brought in		

from outside the district	N	SP
(c) Industrial and commercial uses which discharge process wastewater on-site	SP	SP

4560. Special Permit Procedures.

4561. 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 that the intent of this Article VII 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.

4562. Review by Other Boards and Officials. Whenever an application for a special permit is filed with the Planning Board under this Article VII, 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, Fire Chief, and the Town Engineer for their consideration, review, and report. The copies necessary to fulfill this requirement shall be furnished by the applicant. 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 fourteen (14) days of submittal, of incomplete application status, and the applicant shall have fourteen (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 thirty-five (35) day period, the Planning Board shall continue the Public Hearing to permit the formal submission of reports and recommendations within that thirty-five (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.

4563. Applicability. Any special permit required under this Article VII shall be in addition to, and separate from, any other special permit required under this by-law.

4564. Submittals. All applications for special permits shall contain the information listed below, unless waived or modified by the SPGA, with reasons therefor.

- a. A site plan, submitted on 24" × 36" sheets, on a minimum scale of one (1") inch equals 40', 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 areas.

b. 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 fifteen (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.

4570. Special Permit Criteria.

Special permits shall be granted only if the SPGA determines, after reviewing the recommendations of the reviewing parties delineated in §4562, 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.

4580. 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.

4600. GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

4610. Purpose.

The purpose of this Article is:

- A. to provide standards for the placement, design, construction, operation, monitoring, modification and removal of large-scale and small scale ground-mounted solar photovoltaic installations;
- B. to minimize the adverse impacts of large-scale and small scale ground-mounted solar photovoltaic installations on adjacent properties and residential neighborhoods;
- C. to minimize impacts on scenic, natural and historic resources; and
- D. to provide adequate financial assurance for complete construction of approved plans the eventual decommissioning of such installations.

The provisions set forth in this Section shall take precedence over all other provisions of this Bylaw when considering applications related to the construction, operation, and/or repair of large-scale ground-mounted solar photovoltaic installations.

4620. Applicability.

This Article applies to any Large-Scale or Small-Scale Ground-Mounted Solar Photovoltaic Installation proposed to be constructed after the effective date of this Section. Such installation may proceed following issuance of a Site Plan Review Approval by the Planning Board in accordance with section 5400 hereof and the requirements of this section 4600 as of right as set forth in the Table of Use Regulations without the need for a special permit, variance, zoning amendment, waiver, or other discretionary approval, except that where there is proposed a Large or Small Scale Ground Mounted Solar Photovoltaic Installation in a Residential District then said installation shall also be subject to the Special Permit process as set forth in 5300 hereof. Any modification of any existing Small or Large-Scale Ground-Mounted Solar Photovoltaic Installation that materially alters the type, configuration, or size of such facility or related equipment shall also be subject to the Article.

Except as defined hereunder and any system which is mounted on a building and to which the bylaw does not apply, no other solar photovoltaic installation shall be permitted in any district.

4630. General Requirements.

The following requirements are common to all Large-Scale Ground-Mounted Solar Photovoltaic Installations.

4631. Minimum Lot Size:

a. A Large Scale Ground Mounted Solar Photovoltaic system may not be located on a parcel of less than eight (8) acres.

b. A Small Scale Ground Mounted Solar Photovoltaic system may not be located on a parcel of land less than the minimum lot size required under this bylaw for the district in which it is located. Notwithstanding the foregoing any Small Scale Ground Mounted System which exceed a name-plate capacity of 50 KW shall not be located on a parcel of land which is less than two acres.

4632. Compliance with Laws, Ordinances and Regulations. The construction and operation of all such proposed Small and Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable safety, construction, and environmental, electrical, communications

4633. Site Plan Review, Building Permit. No Small or Large-Scale Ground-Mounted Solar Photovoltaic Installation shall be erected, constructed, installed or modified as provided in this Article without first obtaining approval from the Planning Board for Site Plan Approval pursuant to Section 5400 and this section 4600 of this Bylaw and without first obtaining a building permit and all other applicable permits required by law. Any Site Plan Review Application must include documentation showing review and approval from the Fire Chief and Police Chief. In the event Site Plan Review is not completed by the Planning Board one year from the date of a completed application as determined by the Planning Board, the application shall be deemed approved. In addition to the above, any Small or Large-Scale Ground-Mounted Solar Photovoltaic Installation proposed in the Residential District must also receive a Special Permit in accordance with section 5300 of this bylaw.

4634. Fees. The application for a building permit for a Large-Scale Ground-Mounted Solar Photovoltaic Installation must be accompanied by the fee required in accordance with the Planning Board Fee Schedule.

4635. Special Permit Granting Authority. The Planning Board shall be the Special Permit Granting Authority hereunder.

4640. Submittal to the Planning Board.

An application for Site Plan Review for a Large Scale Ground Mounted Solar Photovoltaic Installation shall include the following information. All plans and maps shall be prepared, stamped and signed by a professional engineer licensed to practice in Massachusetts.

- a. Blueprints or drawings of the solar photovoltaic installation signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures
- b. One or three line electrical diagram detailing the solar photovoltaic installation, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and overcurrent devices;
- c. Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
- d. Name, address, and contact information for proposed system installer;
- e. Name, address, phone number and signature of the project proponent, as well as all co-proponents or property owners, if any;
- f. The name, contact information and signature of any agents representing the project proponent;
- g. Documentation of actual or prospective access and control of the project site.
- h. An operation and maintenance plan including measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation;
- i. Proof of liability insurance;
- j. Evidence that the utility company that operates the electrical grid where the installation is to be located has been informed of the applicant's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

4641. **Site Control.** The applicant shall submit documentation of actual or prospective access and control of the project site sufficient to allow for installation and operation of the proposed installation. Control shall include the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

4642. **Operation and Maintenance Plan.** The applicant shall submit to the Planning Board a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the installation.

4643. **Utility Notification.** No Large-Scale Ground-Mounted Solar Photovoltaic Installation facility shall be installed until evidence has been submitted to the Planning Board that the utility company that operates the electrical grid where the installation is to be located has been informed of the customer's intent to install such installation. Off-grid systems shall be exempt from this requirement.

4650. Design Standards.

The following standards shall apply to any Large-Scale Ground -Mounted Solar Photovoltaic Installation.

4651. **Lighting.** Lighting of Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be consistent with local, state and federal law. Lighting of other parts of

the installation, such as accessory structures, shall be limited to that required for safety and operational purposes, and shall not cast measurable light onto adjacent properties or into the night sky. Lighting of the solar photovoltaic installation shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.

4652. Signage. Signs on such installations shall comply with the Town's sign by-law. The following signs shall be required:

- a. Those necessary to identify the owner, provide a 24-hour emergency contact phone number, and warn of any danger.
- b. Educational signs providing information about the facility and the benefits of renewable energy.
- c. Installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the facility.

4653. Utility Connections. The Planning Board may require as a condition of site plan approval that all utility connections from the solar photovoltaic installation shall be underground, after considering soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

4654. Accessory Structures. All accessory structures to Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be subject to reasonable regulations concerning the bulk and height of structures, lot area, setbacks, open space, parking and building coverage requirements. All building set backs shall be in conformance with **Appendix B**. All such accessory structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other. To the maximum extent feasible, structures which are visible or directly adjacent to residentially zoned or occupied properties or which are adjacent to a public way shall be screened from view by landscaping or other means and/or joined or clustered to avoid adverse visual impacts.

4655. Dimensional and Density Requirements; Setbacks.

- a. For Large-Scale Ground-Mounted Solar Photovoltaic Installations, front, side and rear setbacks for system components shall be as follows:
 - I. Front yard. The front yard depth shall be at least 75 feet and shall be measured from the roadway right of way center line; provided, however, that where the lot abuts a Residential district, the front yard shall not be less than 100 feet.
 - II. Side yard. Each side yard shall have a depth at least 30 feet; provided, however, that where the lot abuts a Residential district, the side yard shall not be less than 50 feet
 - III. Rear yard. The rear yard depth shall be at least 30 feet; provided, however, that where the lot abuts a Residential district, the rear yard shall not be less than 50 feet.

- IV. Abutting properties shall be visually screened to mitigate impacts to the abutting properties. The screening shall consist of any one or combination of the following; distance, location, plantings, existing vegetation and/or fencing.
- b. For Small-Scale Ground-Mounted Solar Photovoltaic Installations, front, side and rear setbacks for system components shall be in accordance with the setbacks required for accessory structures within the district in which it is located, but in all events shall be at least 100 feet from any dwelling on another parcel.
 - c. Waivers: Notwithstanding the aforementioned setback requirements, the Planning Board, as appropriate, shall have the authority to waive setback requirements based on site-specific conditions, and only after review of substantial evidence, including but not limited to detailed engineering reports or product engineering certification, which demonstrate that safety concerns have been minimized and that setbacks have been complied with to a reasonable extent.

4656. Land Clearing, Soil Erosion and Habitat Impacts. Given the nature of the need for no shadowing and maximum exposure of the solar panels to the sun, clearing of natural vegetation shall be limited to that which is necessary for the construction, operation and maintenance of the installation or otherwise prescribed by applicable laws, regulations, and bylaws.

4660. Safety and Environmental Standards

The following standards shall apply to any Large-Scale Ground Mounted Solar Photovoltaic Installation.

4661. Emergency Services. The Large-Scale Ground-Mounted Solar Photovoltaic Installation owner or operator shall provide a copy of the project summary, electrical schematic, and site plan to the Fire Chief. Upon request the owner or operator shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.

4662. Unauthorized Access. Installations shall be surrounded by security fencing of at least eight feet (8') or other suitable barrier approved by the Planning Board including locked gates to prevent unauthorized access. Electrical equipment shall be locked where possible. Keys for all locks on the premises must be stored in a Knox Box maintained and approved by the Fire Department for use in the case of an emergency.

4663. Monitoring and Maintenance. The owner or operator of the Large-Scale Ground-Mounted Solar Photovoltaic Installation shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The owner or operator shall be responsible for

the cost of maintaining the solar photovoltaic installation and any access road(s), unless accepted as a public way.

4670. Accessory Roof-Mounted Solar Photovoltaic Installations.

Nothing in this Article IV Section 5300 shall be construed to prevent the installation, pursuant to G.L. c. 40A, s. 3, of accessory roof-mounted solar photovoltaic installations in any district.

4680. Financial Surety for Decommissioned Installation.

The applicant for a Large-Scale Ground-Mounted Solar Photovoltaic Installation shall provide a form of surety, either through escrow account, bond or otherwise, to cover the cost of removal in the event the town must remove the Installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than one-hundred twenty-five percent (125%) of the cost of removal and compliance with the additional requirements set forth herein, as determined by the applicant. Such surety will not be required for municipally- or state-owned facilities. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer at the time of application for Site Plan Review. The amount shall include a mechanism for calculating increased removal costs due to inflation.

4690. Exemption for Municipal Land.

Small or Large-Scale Ground-Mounted Solar Photovoltaic Installations shall be allowed to be constructed upon any municipal property meeting the requirements of this bylaw regardless of the Zoning District.

4700. INDUSTRIAL AREA OVERLAY DISTRICT

4710. Purpose and Intent.

The Overlay District (OD) is hereby established to allow more flexible use of a portion of the Industrial District, without compromising the existing industrial area. The OD is intended to provide an opportunity to make reuse or new use of sites which lay fallow due to the decline in industrial development generally while at the same time preserving the underlying restrictions of the district. The intent is to provide for the consideration and allowance of new uses in scale and context, without displacing or negatively impacting existing uses. To achieve this end new uses will only be permitted by Special Permit issued by the Planning Board.

4720. Establishment and Definition of District.

The OD is hereby established as an overlay district as shown on the Zoning Map of the Town of Dighton. Within the OD, the provisions of the underlying Industrial District shall remain in full force and effect, except where a Special Permit is issued and where the provisions of the OD shall apply to the extent different than those of the Industrial District.

4730. Permitted and Special Permitted Uses.

- (a) In addition to the uses permitted in the Industrial District in section 2200 as noted on the Use Table found in Appendix A, the following uses may be permitted in the OD by Right subject only to compliance with the Site Plan Review requirements of section 5400 herein.

Retail Store
Indoor Commercial Recreation
Business of professional office, including medical

(b) In addition to those uses noted above, the following uses may be permitted in the OD subject to the issuance of a Special Permit by the Planning Board in accordance with the criteria set forth in section 5320 herein.

Animal Clinic or hospital; kennel
Restaurant
Bank, financial agency
Personal Service Establishment

4740. Procedures for Issuance of Special Permits.

Applications for an OD Special Permit shall be submitted and reviewed in accordance with the procedures outlined in Section 5330. Applications for OD Special Permits shall, in addition to the criteria listed herein also meet the criteria listed in section 5320. Applicants for an OD Special Permit shall also be required to comply with the provisions section 5400, Site Plan Review.

4750. Approval.

In order to grant approval of an OD special permit the Special Permit Granting Authority shall make the findings as required in section 5320 and in addition, the Special Permit Granting Authority shall make the following additional findings:

- (a) That the project is compatible with the immediately surrounding uses. In determining same the Applicant shall show how the proposed use fits in with the surrounding uses, by traffic impacts, pedestrian safety impacts, odor(s), and noise impact(s).

4760. Lapse of Special Permit.

Any special permit granted under this subsection shall lapse if construction is not commenced within two years following the date of issuance, unless good cause for failure to begin construction can be shown by the applicant to the Special Permit Granting Authority prior to the expiration of the Special Permit. Financial ability shall not be considered cause for delay.

4770. Severability.

The provisions of this section are severable, and in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

4800. MEDICAL OVERLAY DISTRICT

4810. Purpose and Intent.

The purpose of the Medical Overlay District (MOD) is to promote the health, safety, and general welfare of the community through guiding the development and use of health care and related activities, primarily serving those who live and work in Dighton with quality health care while minimizing potential adverse impacts upon nearby residential and other premises. These purposes

are to be achieved through establishing controls specifically for medical-related uses at locations where either such uses exist presently or would be appropriate based on accessibility and locational considerations.

4820. Establishment and Definition of District.

The MOD is hereby established as an overlay district as shown on the Zoning Map of the Town of Dighton. Within the MOD, the provisions of the underlying Industrial and Industrial Overlay Districts shall remain in full force and effect, except where a Special Permit is issued and where the provisions of the MOD shall apply to the extent different than those of the Industrial and Industrial Overlay Districts.

4830. Permitted and Special Permitted Uses.

(a) In addition to the uses permitted in the Industrial District in Section 2200 as noted on the Use Table found in Appendix A, the following uses may be permitted in the MOD by Right subject only to compliance with the Site Plan Review requirements of Section 5400 herein.

1. Community Hospital
2. Medical Clinic
3. Medical Services Building
4. Any of the following, but only if ancillary to and contained within a common structure with a community hospital
 - a. Health Care Facility
 - b. Medical Laboratory
 - c. Pharmacy
5. All uses allowed by right in the underlying zoning district at that location
6. Buildings and uses accessory to 1-5 above, such as parking garage, gift shop, cafeteria, and day care facilities.

(b) In addition to those uses noted above, the following uses may be permitted in the MOD subject to the issuance of a Site Plan Review and Special Permit by the Planning Board in accordance with the criteria set forth in Section 4840 herein.

1. Registered Marijuana Dispensary (RMD)

4840. Procedures for Issuance of Special Permits.

Applications for an MOD Special Permit shall be submitted and reviewed in accordance with the procedures outlined in Section 2900, *et seq.* and Section 5300, *et seq.* Applicants for an MOD Special Permit shall also be required to comply with the provisions in Section 5400, Site Plan Review.

4850. Approval.

In order to grant approval of an MOD special permit the Special Permit Granting Authority shall make the findings as required in Section 5320 and in addition, the Special Permit Granting Authority shall make the following additional findings in Section 2940.

4860. Lapse of Special Permit.

Any special permit granted under this subsection shall lapse if construction is not commenced within two years following the date of issuance, unless good cause for failure to begin construction can be shown by the applicant to the Special Permit Granting Authority prior to the expiration of the Special Permit. Financial ability shall not be considered good cause for delay.

4870. Severability.

The provisions of this section are severable, and in the event that any provision of this section is determined to be invalid for any reason, the remaining provisions shall remain in full force and effect.

4900. MIXED USE OVERLAY DISTRICT

4910. Purpose.

The purposes of the Mixed Use Overlay District is to encourage redevelopment, full use of existing structures and infill development in the Business and Residential areas area in a manner that promotes compact building form, protects and enhances the value of land and buildings and provides for a variety of business and residential uses. The Mixed Use Overlay District seeks to encourage interaction among activities located within the area, to enhance business vitality, promote efficient use of land and building area, reduce vehicular traffic, ensure the compatibility with each other of the commercial and residential uses, ensure that the appearance and effects of buildings and uses are harmonious with both the existing business or residential character of the area in which they are located:

4920. Authority.

The Mixed Use Overlay District is adopted pursuant to authority provided by G.L. c. 40A and the Home Rule amendment, Article 89 of the amendments to the Constitution of the Commonwealth.

4930. Establishment of Overlay District.

The Mixed Use Overlay District is herein established as an Overlay District as shown on the revised Zoning Map dated June 1,2015. All rules of the underlying district(s) shall remain in full force and effect, except where the requirements of the MIXED USE OVERLAY DISTRICT are more stringent, in which case the requirements of this overlay district shall supersede those of the underlying district.

4940. Use Regulations.

The Mixed Use Overlay District is an overlay district superimposed over the underlying business and residential districts set forth in this Zoning by-law. Within the Mixed Use Overlay District, the requirements of the underlying business or residential districts continue to apply, except when the following uses are proposed then the following provisions shall apply:

4941. Uses Preferred As-of-Right Uses in the Mixed Use Overlay District: The following uses are preferred and may be developed as-of-right, subject to the development standards herein.

a. Any principal uses allowed by-right in the underlying Business or Residential district as shown in Appendix A.

4942. Uses allowed by Special Permit in the Mixed Use Overlay District: The following uses may be allowed by special permit from the Planning Board, which shall be the special permit granting authority (SPGA) in the Mixed Use Overlay District:

a. Structures which are single floor, the addition of residential unit(s) where the proposed residential unit(s) is located in the rear of the structure the front of which is facing the street and which includes a use(s) allowed as of right or by a special permit in the Business District and which residential use includes no more than fifty (50%) percent of the entire structure.

b. Structures which are more than a single floor, the addition of residential unit(s) where the proposed residential unit(s) are located on the second floor.

4943. Prohibited Uses.

a. No residential use shall be permitted in the front of the first floor which faces the street, of any structure at any time.

b. Any uses not specifically listed under Subsections A and B above shall be prohibited.

4950. Dimensional Regulations.

The Dimensional Regulations of the underlying Business or Residential district shall continue to apply See Appendix B Table of Dimensional Regulations.

4960. Parking Regulations.

The Parking Regulations of the underlying Business or Residential district shall continue to apply and in addition the Parking Regulations equivalent to the proposed residential use as set forth in section 3120 shall apply. For example: if one residential unit is proposed then the required parking for a single family home shall apply in addition to the required business parking. If three or more residential units are proposed then the parking requirements for a multi-family dwelling shall apply in addition to the required business parking. The Planning Board shall be permitted to waive this requirement if, in their sole discretion, they determine that the parking which is proposed will meet the intent and purpose of this ordinance and that public safety will be served.

4970. Procedures.

4971. Special Permit. The Special Permit Granting Authority (SPGA) shall be the Planning Board. The SPGA shall follow the procedural requirements for special permits as

set forth in Section 9 of M.G.L. Chapter 40A and section 5300 herein. After notice and public hearing and after due consideration of the reports and recommendations, if any, of other town boards, commissions and/or departments, the SPGA may grant such a permit in accordance with the standards set forth herein and section 5300.

4972. Site Plan Review. Notwithstanding anything herein to the contrary, all Applications hereunder shall be subject to and apply for Site Plan Review as set forth in Section 5400 herein.

4973. Additional Conditions. The SPGA shall also impose, in addition to any applicable conditions specified in this section, such conditions as the SPGA finds reasonably appropriate to improve the site design as based on traffic flow, safety and or otherwise serve the purpose of this section. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.

4974. Regulations. The SPGA may adopt and from time to time amend reasonable regulations for the administration of this Bylaw. The Regulations shall contain detailed requirements governing applications for review, which shall include, but need not be limited to, the following:

- a) the content of plans;
- b) the designation of proposed building locations;
- c) location and design characteristics of proposed roads, driveways, and parking area;
- d) existing and proposed site grades;
- e) identification of wetlands affected by or adjoining the proposed project;
- f) utility service to the proposed project and drainage plans and calculations;
- g) traffic studies relating to the proposed project; and,
- h) screening plans for the proposed project.

4980. Performance and Development Standards.

Special Permits hereunder shall be granted by the special permit granting authority, unless otherwise specified herein, only upon written determination that the benefit to the town and neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site of the proposal in relation to that site. In addition to the specific factors set forth below, the determination shall include consideration of each of the criteria as set forth in section 5320 herein.

4981. Enhancement and improvement of existing properties and/or structures relative to access and traffic impacts.

4982. Impacts on the neighborhood character insofar as special consideration shall be given to reuse of existing buildings over new construction and new construction which design is consistent with typical New England character and consistent with the neighborhood and community at large.

4983. Adequacy of loading/unloading areas, walkways with consideration to the safety of the added residential use.

4984. Impacts on the neighborhood character caused by the added use and the resulting appearance and architectural design of the structure.

4985. Compliance with the Town of Dighton Stormwater by-law, Commonwealth of Massachusetts Stormwater Policy and Environmental Protection Agency NPDES requirements, as applicable.

5000. VILLAGE OVERLAY DISTRICT

5010. Purpose.

The purposes of the Village Overlay District is to encourage redevelopment and infill development in the Route 138 and Center Street and Main Street and Route 138 intersection areas in a manner that promotes compact building form, protects and enhances the value of land and buildings and provides for a variety of business and residential uses; and toward these ends, to establish distinctive dimensional and design standards that reinforce and foster aesthetic and functional improvements to the Center Street Village and Main Street Village. The intent, furthermore, is to provide the frame work for a future redevelopment of an area that is primarily residential in use but also contains; Town Hall, Post Office, Grange Hall and various small commercial uses that retain the residential qualities of the area. The Village Overlay District seeks to encourage interaction among activities located within the area, to enhance business vitality, reduce vehicular traffic, provide employment opportunities for residents close to home, ensure the compatibility with each other of the commercial and residential uses, ensure that the appearance and effects of buildings and uses are harmonious with the residential character of the area in which they are located through:

- The enhancement and improvement of existing properties and/or structures relative to pedestrian access, vehicular circulation, and signage,
- The implementation of design and development standards to guide future development and re-use proposals which reflect the features of the neighborhood;
- The implementation of design and development standards that encourage parking areas to be subordinated in relation to buildings, landscaping, and pedestrian access;
- The encouragement of communication and shared redevelopment efforts among adjoining property owners to help achieve their long term goals and objectives;
- The promotion of a mixture of uses to reduce vehicle trips, such that residents and area employees can walk to needed services and amenities, and to conversely provide a built-in demand for the local commercial and retail uses;
- The reutilization of properties that have reached their market or physical obsolescence;

5020. Authority.

The Village Overlay District is adopted pursuant to authority provided by G.L. c. 40A and the Home Rule amendment, Article 89 of the amendments to the Constitution of the Commonwealth.

5030. Establishment of Overlay District.

The Village Overlay District is herein established as an Overlay District as shown on the Town's Zoning Map. All rules of the underlying district(s) shall remain in full force and effect, except where the requirements of the VILLAGE OVERLAY DISTRICT are more stringent, in which case the requirements of this overlay district shall supersede those of the underlying district.

5040. Use Regulations.

The Village Overlay District is an overlay district superimposed over the underlying residential district set forth in this Zoning by-law. Within the Village Overlay District, the requirements of the underlying residential district continue to apply, except when the following uses are proposed then the following provisions shall apply:

- A. Uses Preferred As-of-Right Uses in the Village Overlay District: The following uses are preferred and may be developed as-of-right, subject to the development standards herein.
1. Single-family dwelling,
 2. Exempt and Institutional Uses as provided for in Subsection B, of Appendix A,
 3. Private Club or Lodge,
 4. Funeral Home,
 5. Retail Store with a facility of under 2,000 gross sq. ft. as part of a single-family dwelling,
 6. Restaurant (under 2,000 gross sq. ft.) including Bakery, deli, coffee shop, ice cream shop, sandwich shop, or similar establishment in which all or a majority of the food service is food to be consumed off the premises, but not including drive-through food service ,
 7. Business or Professional Office, including Medical Office (under 2,000 sq. ft.)
 8. Bank, Financial Agency (under 400 gross sq. ft.) including Automated teller machine (ATM), not attached to a full-service banking office, provided that public access is available only from within a building and is operated in connection with other uses in the same building but not including a Stand Alone Kiosk, Drive-through or Walk-up
 9. Personal Service Establishment as part of a single-family dwelling,
 10. Bed and Breakfast.
 11. Any other principal uses allowed by-right in the underlying residential district as shown in Appendix A.
- B. Uses allowed by Special Permit in the Village Overlay District: The following uses may be allowed by special permit from the Planning Board, which shall be the special permit granting authority (SPGA) in the Village Business Overlay District:
1. Retail Store with a facility of 2,000 gross sq. ft. to 14,000 sq. ft. which may include a drive through window,
 2. Restaurant (2,000 sq. ft. to 14,000 gross sq. ft.) including Bakery, deli, coffee shop, ice cream shop, sandwich shop, or similar establishment in which all or a majority of

the food service is food to be consumed off the premises, but not including drive-through food service ,

3. Business or Professional Office, including Medical Office (2,000 gross sq. ft. to 14,000 gross sq. ft.),
4. Bank, Financial Agency (2,000 gross sq. ft. to 14,000 gross sq. ft.) including Automated Teller Machine (ATM), not attached to a full-service banking office, provided that public access is available only from within a building and is operated in connection with other uses in the same building but not including a Stand Alone Kiosk, Drive-through or Walk-up
5. Personal Service Establishment as part of a single-family dwelling,
6. Nursing or convalescent home.
7. Mixed Use Development
8. Mixed Use Infill
9. Any other principal uses allowed by special permit in the underlying residential district as shown in Appendix A.
10. Medical Center or Clinic not exceeding four percent (4%) of the gross sq. ft of the principal use as an Accessory Use to a Retail Store only.

C. Prohibited Uses. Any uses not specifically listed under Subsections A and B above shall be prohibited.

5050. Dimensional Regulations.

The Dimensional Regulations of the underlying residential district shall continue to apply See Appendix B Table of Dimensional Regulations.

5060. Procedures.

The Special Permit Granting Authority (SPGA) shall be the Planning Board. The SPGA shall follow the procedural requirements for special permits as set forth in Section 9 of M.G.L. Chapter 40A and section 5300 herein. After notice and public hearing and after due consideration of the reports and recommendations, if any, of other town boards, commissions and/or departments, the SPGA may grant such a permit in accordance with the standards set forth herein and section 5300.

Notwithstanding anything herein to the contrary, all Applications hereunder shall be subject to and apply for Site Plan Review as set forth in Section 5400 herein.

The SPGA shall also impose, in addition to any applicable conditions specified in this section, such conditions as the SPGA finds reasonably appropriate to improve the site design as based on traffic flow, safety and or otherwise serve the purpose of this section. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.

The SPGA may adopt and from time to time amend reasonable regulations for the administration of this Bylaw. The Regulations shall contain detailed requirements governing applications for review, which shall include, but need not be limited to, the following:

- a) the content of plans;

- b) the designation of proposed building locations;
- c) location and design characteristics of proposed roads, driveways, and parking area;
- d) existing and proposed site grades;
- e) identification of wetlands affected by or adjoining the proposed project;
- f) utility service to the proposed project and drainage plans and calculations;
- g) traffic studies relating to the proposed project; and,
- h) screening plans for the proposed project.

5070. Parking Requirements.

The Parking Requirements of the underlying Business or Residential district shall continue to apply and in addition the Parking Regulations equivalent to the proposed use as set forth in section 3120 shall apply. In all events, the most restrictive parking requirement shall apply to the proposed use and if there is more than one use proposed then the requirements for all uses shall be met. The Planning Board shall be permitted to waive this requirement if, in their sole discretion, they determine that the parking which is proposed will meet the intent and purpose of this ordinance and that public safety will be served.

5080. Performance and Development Standards.

Special Permits hereunder shall be granted by the special permit granting authority, unless otherwise specified herein, only upon written determination that the benefit to the town and neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site of the proposal in relation to that site. In addition to the specific factors set forth below, the determination shall include consideration of each of the criteria as set forth in section 5320 herein.

5081. Enhancement and improvement of existing properties and/or structures relative to access and traffic impacts.

5082. Impacts on the neighborhood character insofar as special consideration shall be given to reuse of existing buildings over new construction and new construction which design is consistent with typical New England character and consistent with the neighborhood and community at large.

5083. Impacts caused by noise, vibration, smoke, heat, glare and odor; lighting, outdoor storage, waste disposal.

5084. Adequacy of loading/unloading areas, walkways.

5085. Impacts on the neighborhood character caused by signage, landscaping, and appearance/architectural design. The Special Permit Granting authority may consider, among others, the compatibility of the proposed structures with the existing neighborhood, including but not limited to style, size, massing and landscaping.

5086. Compliance with the Town of Dighton Stormwater by-law, Commonwealth of Massachusetts Stormwater Policy and Environmental Protection Agency NPDES requirements, as applicable.

5090. RETREAT LOTS

5091. Purpose.

The purpose of this section 5090 is to allow the creation of reasonable and safe residential use of backland in a manner which allows for the preservation of the streetscape and rural nature of the town while preserving open – space but enhancing the value of land within the community.

5092. Special Permit Granting Authority.

The Planning Board shall be the Special Permit Granting Authority hereunder.

5092. Procedure.

The applicant shall file seven (5) copies of the proposed Form A land division plan as well as all other materials required for an application for Special Permit as set forth in section 5300 of this bylaw. At a minimum the Form A shall show:

- a. Property owner
 - b. Name of Registered Professional Land Surveyor and stamp
 - c. Zoning district
 - d. Lot area
 - e. Lot dimensions
 - f. Regularity factor or buildable area notation
 - g. Locus
 - h. Notation: “The retreat lot depicted on this Form A shall never be further divided.”
- The plan shall also comply with the standards for Form A plans detailed in the Town of Dighton Subdivision Rules and Regulations and M.G.L. Chapter 41, §81K-GG.

5093. Requirements.

A Special Permit shall not be granted unless the Planning Board determines that the following conditions have been met:

- a. Said lot shall be entirely within a residential zoning district.
- b. Said lot shall have a minimum street frontage of forty (40) feet and a width of not less than Twenty (20) feet at all points.
- c. The area of said lot shall be 8(+) acres with at least 1 acre being contiguous upland.
- d. A driveway length greater than 100 linear feet shall provide a hammer head or other method of reversing the direction of a vehicle as approved by the Planning Board.
- e. Not more than one single family dwelling shall exist on a single Retreat Lot.
- f. The Retreat Lot shall not be further subdivided. It shall be a condition of the special permit that there is a prohibition against further subdivision. A deed restriction preventing further subdivision (enforceable by the Town of Dighton) shall also be recorded with the plan. No building permit shall issue without proof that the restriction has been recorded.
- g. The following notes shall be placed on the Plan: “The Retreat Lot shown on this plan shall not be further subdivided” and “No building permit shall be issued for the Retreat Lot on this plan until a copy of the recorded deed restriction and special permit is delivered to the Planning Board.
- h. Said lot shall not be further divided. The Form A plan submitted to the Planning

Board for endorsement after grant of the special permit pursuant to this section. Prior to granting of the special permit, the proponent shall provide a covenant, in a form acceptable to the Planning Board, prohibiting further division of said retreat lot in perpetuity.

- i. Access from the frontage of said lot to the principal structure on said lot shall be within the boundary lines of said lot and shall not be via a right-of-way or any public or private easement over an adjacent lot.
- j. Frontage of said lot shall be situated entirely on a public way.
- k. Said lot shall comply with the Dighton Zoning Bylaw and Subdivision Rules and Regulations except as indicated in this bylaw.
- l. Existing drainage patterns shall not be disrupted by the construction of a driveway on the Retreat Lot. A grading plan showing existing and proposed conditions may be subject to appropriate conditions or safeguards if deemed necessary by the Planning Board.
- m. Underground utilities shall be provided on retreat lots, unless the Planning Board makes findings in open meeting that underground utilities are not practical due to extreme topographical or environmental constraints and/or safety issues. Above ground utilities shall not be allowed solely for the convenience and/or preference of a petitioner.
- n. The house number of the retreat lot shall be clearly visible at the street.
- o. In the event the distance from the public way to the house exceed 500 feet, the application shall be accompanied by a letter from the fire chief certifying that the location of the home will comply with public safety and fire safety.

5094. Additional Criteria.

No special permit shall issue hereunder until the Planning Board has determined that the Application satisfies the Special Permit criteria set forth in Section 5320 hereof.

5095. Creation of the Lot.

- a. A Form A plan identifying a buildable retreat lot may be endorsed by the Planning Board after the issuance of a special permit by the Planning Board in accordance with this Section.
- b. After the grant of a Special Permit hereunder and the endorsement of a Form A plan by the Planning Board, the Applicant shall provide the Planning Board with recorded copies of the Form A plan and the deed restriction. The recorded plan and deed restriction must be received prior to the issuance of any building permit hereunder.

SECTION V. ADMINISTRATION AND PROCEDURES.

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 unless such action is in compliance with then-applicable zoning, and 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 certification of such compliance.

5120. Enforcement.

The Zoning Enforcement officer (Assistant Building Commissioner) 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 there under including notification of noncompliance and proper legal action. .

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.

The Board of Appeals shall consist of three members and three associate members, appointed by the Board of Selectmen in accordance with the provisions of 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 §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, §10. The Board of Appeals shall not grant use variances.

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, §§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, §§20-23.

5230. Regulations.

The Board of Appeals may adopt rules and regulations for the administration of its powers.

5240. Fees.

The Board of Appeals may adopt reasonable administrative fees and technical review fees for petitions for variances, administrative appeals, and applications for comprehensive permits.

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 shall be granted by the special permit granting authority, unless otherwise specified herein, only upon its written determination that the benefit to the town and the neighborhood outweigh the adverse effects of the proposed use, taking into account the characteristics of the site and of the proposal in relation to that site. In addition to any specific factors that may be set forth in 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; and
- 5326. Potential fiscal impact, including impact on town services, tax base, and employment.

5330. Procedures.

Applications shall be filed in accordance with the rules and regulations of the special permit granting authority. An application shall not be deemed complete until all copies of required information and documentation have been filed with the special permit granting authority.

5340. Development Impact Statement (DIS).

At the discretion of the special permit granting authority, the submittal of a development impact statement (DIS) may be required at the expense of the applicant. The special permit granting authority may deny a special permit where the DIS discloses that the proposed use does not comply with the provisions of this by-law. The DIS shall be prepared by an interdisciplinary team including a Registered Landscape Architect or Architect, a Registered Professional or Civil Engineer, and a Registered Surveyor, and may include all or some of the following information:

- 5341. Physical Environment.

- a. Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, archeological, scenic and historical features or structures, location of significant viewpoints, stone walls, trees over sixteen (16") inches in diameter, trails and open space links, and indigenous wildlife.
- b. Describe how the project will affect these conditions, providing a complete physical description of the project and its relationship to the immediate surrounding area.

5342. Surface Water and Subsurface Conditions.

- a. Describe location, extent, and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the site.
- b. Describe any proposed alterations of shorelines or wetlands.
- c. Describe any limitations imposed on the project by the site's soil and water conditions.
- d. Describe the impact upon ground and surface water quality and recharge, including estimated phosphate and nitrate loading on groundwater and surface water from septic tanks, lawn fertilizer, and other activities within the site.

5343. Circulation Systems.

- a. Project the number of motor vehicles to enter or depart the site per average day and peak hour. Also state the number of motor vehicles to use streets adjacent to the site per average day and peak hour. Such data shall be sufficient to enable the special permit granting authority to evaluate (i) existing traffic on streets adjacent to or approaching the site, (ii) traffic generated or resulting from the site, and (iii) the impact of such additional traffic on all ways within and providing access to the site. Actual study results, a description of the study methodology, and the name, address, and telephone number of the person responsible for implementing the study, shall be attached to the DIS.

5344. Support Systems.

- a. **Water Distribution:** Discuss the water system proposed for the site, means of providing water for fire-fighting, and any problems unique to the site.
- b. **Sewage Disposal:** Discuss the sewer system to be used, and evaluate impact of sewage disposal on the wastewater treatment facility.
- c. **Refuse Disposal:** Discuss the location and type of facilities, the impact on existing Town refuse disposal capacity, hazardous materials requiring special precautions.
- d. **Fire Protection:** Discuss the type, location, and capacity of fuel storage facilities or other flammables, distance to fire station, and adequacy of existing fire fighting equipment

to confront potential fires on the proposed site.

e. Recreation: Discuss the distance to and type of public facilities to be used by residents of the proposed site, and the type of private recreation facilities to be provided on the site.

f. Schools: Project the increase to the student population for nursery, elementary, junior high school, and high school levels, also indicating present enrollment in the nearest public schools serving these categories of students.

5345. Phasing.

Where development of the site will be phased over more than one (1) year, indicate the following:

a. Describe the methods to be used during construction to control erosion and sedimentation through use of sediment basins, mulching, matting, temporary vegetation, or covering of soil stockpiles. Describe the approximate size and location of portion of the parcel to be cleared at any given time and length of time of exposure.

b. Describe the phased construction, if any, of any required public improvements, and how such improvements are to be integrated into site development.

5350. 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.

5360. Plans.

An applicant for a special permit shall submit a plan in substantial conformance with the requirements of §5400, herein.

5370. 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, §17, from the grant thereof) with the Town Clerk.

5380. Regulations.

The special permit granting authority may adopt rules and regulations for the administration of this section.

5390. Fees.

The special permit granting authority may adopt reasonable administrative fees and technical review fees for applications for special permits.

5400. SITE PLAN REVIEW.

5410. Applicability.

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

5411. Construction, exterior alteration or exterior expansion of, or change of use within, a municipal, institutional, commercial, industrial, or multi-family structure; or

5412. Construction or expansion of a parking lot for a municipal, institutional, commercial, industrial, or multi-family structure or purpose.

5420. Procedures.

Applicants for site plan approval shall submit five (5) copies of the site plan to the Planning Board for review, and within three (3) days thereafter shall also submit a copy of the site plan to the Board of Health, Board of Appeals, Building Commissioner, Town Engineer, and Conservation Commission for their advisory review and comments. 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 or certificate of occupancy shall be issued by the Building Commissioner without the written approval of the site plan by the Planning Board, unless sixty (60) days lapse from the date of the submittal of the site plan without action by the Planning Board.

5421. Application for Building Permit. An application for a building permit to perform work as set forth in §5410 available as of right shall be accompanied by an approved site plan

5422. Application for Special Permit or Variance. An application for a special permit or a variance to perform work as set forth in §5410 shall be accompanied by an approved site plan; in the alternative, any special permit or variance granted for work set forth in §5410 shall contain the following condition:

The work described herein requires the approval of a site plan by the Planning Board pursuant to §5400 of the Zoning By-law. Any conditions imposed in such site plan approval shall also be conditions of this special permit/variance.

5423. Where the Planning Board approves a site plan “with conditions”, and said approved site plan accompanies a special permit or variance application to the Board of Appeals, 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.

5424. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

5425. No deviation from an approved site plan shall be permitted without modification thereof.

5430. Preparation of Plans.

Applicants are invited to submit a pre-application sketch of the proposed project to the Planning Board and to schedule a comment period at a regular meeting of the board. Site Plans shall be submitted on 24" × 36" 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'.

5440. Contents of Plan.

The contents of the site plan are as follows:

5441. Six (6) separate plans prepared at a scale of one (1") inch equals twenty (20') feet or such other scale as may be approved by the Planning Board. The plans are as follows:

- a. Locus plan, at a scale of one (1") inch equals one hundred (100') feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000') feet from the project boundaries or such other distance as may be approved or required by the planning board.
- b. Site layout, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, drives, parking, fences, walls, walks, outdoor lighting, loading facilities, and areas for snow storage after plowing.
- c. Topography and drainage plan, which shall contain the existing and proposed final topography at two (2') foot intervals and plans for handling stormwater drainage.
- d. Utility plan, which shall include all facilities for refuse and sewerage disposal or storage of all wastes, the location of all hydrants, fire alarm and fire fighting facilities on and adjacent to the site, and all wetlands including floodplain areas.
- e. Architectural plan, which shall include the ground floor plan and architectural elevations of all proposed buildings and a color rendering.
- f. Landscaping plan, showing the limits of work, existing tree lines, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures and all proposed recreational facilities and open space areas.

5442. The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

5443. A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage

in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land, and any other evidence necessary to indicate compliance with this by-law.

5444. The site plan shall be accompanied by drainage calculations by a registered professional engineer. Storm drainage design must conform to Town of Dighton subdivision regulations.

5445. The Planning Board may require a DIS as set forth in §5300, above.

5450. Waiver of Compliance.

The Planning Board may, upon written request of the applicant, waive any of the requirements of §5400 where the project involves relatively simple development plans or constitutes a minor site plan.

5460. Minor Site Plan.

Applications for permits to build, alter or expand any nonresidential building, structure or use in any district where such construction will not exceed a total gross floor area of 2000 square feet, or will not generate the need for more than 10 parking spaces, shall be deemed a minor site plan. For the purposes of computing the total gross floor area of a minor site plan, the Planning Board shall aggregate all such applications made within the five (5) previous calendar years. Unless otherwise waived at the request of the applicant per §5450, minor site plans shall set forth all of the information required by §5440; provided, however, that the scale of the site plan may be 1" = 80', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey, and need not be prepared professionally.

5470. Approval.

Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant, including performance guarantees, to promote these objectives. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as to:

5471. 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;

5472. Maximize pedestrian and vehicular safety both on the site and egressing from it;

5473. Minimize obstruction of scenic views from publicly accessible locations;

5474. 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;

5475. Minimize glare from headlights and lighting intrusion;

5476. Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.

5477. 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;

5478. 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 Boards Subdivision Rules and Regulations;

5479. Ensure compliance with the provisions of this Zoning by-law, including parking and landscaping.

5480. 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.

5490. Regulations and Fees.

The Planning Board may adopt and from time to time amend reasonable regulations for the administration of these Site Plan guidelines. The Planning Board may adopt reasonable administrative fees and technical review fees for site plan review.

5491. Any decision of the Planning Board made pursuant to this §5400 shall be appealed to a court of competent jurisdiction in accordance with the provisions of G. L. c. 40A, §17.

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, §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 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.

SECTION VI. DEFINITIONS.

In this by-law, the following terms and constructions shall apply unless a contrary meaning is required by the context or is specifically prescribed in the text of the by-law. Words used in the present tense include the future. The singular includes the plural and the plural includes the singular. The word “shall” is mandatory and “may” is permissive or discretionary. The word “and” includes “or” unless the contrary is evident from the text. The word “includes” or “including” shall not limit a term to specified examples, but is intended to extend its meaning to all other instances, circumstances, or items of like character or kind. The word “lot” includes “plot”; the word “used” or “occupied” shall be considered as though followed by the words “or intended, arranged, or designed to be used or occupied”. The words “building,” “structure,” “lot,” or “parcel,” shall be construed as being followed by the words “or any portion thereof.” The word “person” includes a firm, association, organization, partnership, company, or corporation, as well as an individual. Terms and words not defined herein but defined in the Commonwealth of Massachusetts state building code shall have the meaning given therein unless a contrary intention is clearly evident in this by-law.

Accessory building: A subordinate building located on the same lot as the main or principal building or principal use, the use of which is customarily incidental to that of the principal building or use of the land.

Accessory Rooftop Element: an architectural or other permanent feature that rises above the primary roof surface of a building but does not contain any enclosed habitable space. Examples include: parapet wall, skylight, clerestory, monitor, cupola, roof deck and railing, roof access hatch and/or headhouse, mechanical equipment, and elevator headhouse.

Accessory use: A use customarily incidental to that of the main or principal building or use of the land.

Adult day care facility: A social day care or adult day health facility as those terms are defined by the Commonwealth's Department of Elder Affairs serving not more than ten persons.

Agricultural use, nonexempt: Agricultural use of property not exempted by G. L. c. 40A, §3.

Alterations: As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities, or an enlargement whether by extending on a side or by increasing in height, or the moving from one (1) location or position to another.

Animal clinic or hospital: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use.

Assisted Living Facility: A facility as defined in 651 CMR 12.02.

Bed and breakfast establishment: Accommodations with not more than four bedrooms occupied by bed and breakfast guests in which the owner of the establishment resides. Bed and breakfasts are intended for guest on intermittent visits, and shall not be used as long-term rental units or apartments. All parking for residents and guests shall be off-street.

Boarding house: A dwelling or part thereof in which lodging is provided by the owner or operator to more two (2) boarders. Where four (4) or more unrelated individuals rent a dwelling, it shall be considered a boarding house.

Building: A structure enclosed within exterior walls or firewalls, built, erected, and framed of a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals, or property. For the purposes of this definition, “roof” shall include an awning or any similar covering, whether or not permanent in nature.

Building coverage: That percentage of the lot or plot area covered by the roof area of a building or buildings.

Building height: The vertical distance from the grade to the highest point of the roof. When a building faces more than one street, the height shall be measured from the average of the grade at the centerline of each street front. Not included are spires, cupolas, antennae, or similar parts of structures, which do not enclose potentially habitable floor space.

Building, principal: A building in which is conducted the main or principal use of the lot on which said building is situated.

Business or professional office: A building or part thereof, for the transaction of business or the provision of services exclusive of the receipt, sale, storage, or processing of merchandise.

Campground: An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including cabins, tents, and major recreational equipment, which is primarily used for recreational purposes and retains on open air or natural character.

Child Care Facility: A day care center or school age child care program, as those terms are defined in G. L. c. 28A, §9.

Club or lodge, private: Buildings, structures and premises used by a nonprofit social or civic organization, or by an organization catering exclusively to members and their guests for social, civic, recreational, or athletic purposes which are not conducted primarily for gain and provided there are no vending stands, merchandising, or commercial activities except as may be required generally for the membership and purposes of such organization.

Commercial recreation, indoor: A structure for recreational, 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 conducted for or not for profit.

Commercial recreation, outdoor: 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: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

Design Standards: all provisions of this Bylaw that apply to site design, building design, and landscape design within this Village Business Overlay District.

Dwelling: A building designed and occupied as the living quarters of one (1) or more families. Single- and two-family dwellings shall be designed for and occupied by not more than one (1) or two (2) families, respectively. A multifamily dwelling shall be one designed for and occupied by three (3) or more families.

Earth removal: Extraction of sand, gravel, top soil, or other earth for sale or for use at a site removed from the place of extraction exclusive of the grading of a lot preparatory to the construction of a building for which a building permit has been issued, or the grading of streets in accordance with an approved definitive plan, and exclusive of granite operations.

Educational use, nonexempt: Educational facilities not exempted from regulation by G. L. c. 40A, §3.

Erect: To build, construct, reconstruct, move upon, or conduct any physical development of the premises required for a building; to excavate, fill, drain, and the like preparation for building shall also be considered to erect.

Essential services: 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, but not including wireless communications facilities. 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.

Family: Any number of individuals living and cooking together on the premises as a single housekeeping unit.

Family day care home: Any private residence operating a facility as defined in G. L. c. 28A, §9.

Farm stand, nonexempt: Facility for the sale of produce, wine and dairy products on property not exempted by G. L. c. 40A, §3.

Floor area, gross: The total square feet of floor space within the outside dimensions of a building including each floor level, without deduction for hallways, stairs, closets, thickness of walls, columns, or other features.

Floor Area, Gross: the sum of the horizontal area of the several floors of a building, as measured to the outside surfaces of exterior walls, including halls, stairways, vents, elevator shafts, mechanical equipment rooms, inner courts, attached garages, porches, balconies, basement or attic storage areas, and other common space or uninhabitable space.

Floor Area, Net: the usable or leasable floor area of a building, excluding halls, stairways, vents, elevator shafts, mechanical equipment rooms, inner courts, attached garages, porches, balconies, basement or attic storage areas, and other common space or uninhabitable space.

Floor area ratio (FAR): A mathematical expression determined by dividing total floor area of a building by the area of the lot on which it is located. For example, a one acre lot with a FAR of .75 could contain 32,670 square feet of gross floor area ($43,560 \times .75 = 32,670$).

Funeral home: Facility for the conducting of funerals and related activities such as embalming.

Hazardous material: Any substance which is listed in, but not limited to, the EPA priority pollutants as described in §307(a) of the Clean Water Act, as amended.

Home occupation: An occupations, business, trade, service or profession which is incidental to and conducted in a dwelling unit or in a building or other structure accessory thereto, by a resident thereof. Neither a contractor's yard nor a landscaping business shall be deemed to constitute a lawful home occupation, but may be permitted as a second principal use as set forth herein.

Impervious: Any area impenetrable by surface water.

Institutional: A nonprofit, religious, or public use, such as a church, library, public or private school, hospital, or government owned and operated building used for public purpose.

Junk: Any article or material or collection thereof which is worn out, cast off or discarded and which is ready for destruction or has been collected or stored for salvage or conversion. Any article or material which, unaltered or unchanged and without further reconditioning can be used for its original purpose as readily as when new shall be considered junk.

Junkyard or automobile graveyard: The use of any area or any lot, whether inside or outside of a building, for the storage, keeping, or abandonment of junk, scrap or discarded materials, or the dismantling, demolition, or abandonment of automobiles, other vehicles, machinery, or parts thereof.

Kennel, commercial: A commercial establishment in which more than three (3) dogs or domesticated animals are housed, groomed, bred, boarded, trained or sold located on at least five (5) acres of land.

Large-Scale Mounted Solar Photovoltaic Installation: A solar photovoltaic system, including ground mounted hot water collectors or other solar collector, on a parcel of at least eight (8) acres that is structurally mounted on the ground and is not roof-mounted, and has a minimum nameplate capacity of 1 Mgw DC.

Light manufacturing: Fabrication, assembly, processing, finishing work or packaging.

Live-Work Units: a structure used by a single household both as a dwelling unit and as a “Work Space”, as defined herein, where such Work Space occupies at least [fifty percent (50%)] of the unit’s total floor area. The unit may be designed as a “liveabove” with the workspace on the ground level and the living space above or it may be designed as a “live beside” with the workspace and the living space on the same level but adequately separated. The living space of a Live-Work unit shall contain a kitchen area and sanitary facilities.

Lot: A continuous parcel of land with legally definable boundaries.

Lot Area: The horizontal area of the lot exclusive of any area in a street or recorded way open to public use. At least a piece of land 30,000 square feet for the lot area required for zoning compliance shall be contiguous land other than that under any water body, bog, swamp, wet meadow, marsh, or other wetland, as defined in §40, Chapter 131, G.L., as amended. No pork chop, rat tail, or excessively funnel-shaped or otherwise unusually gerrymander lots shall be allowed if their shape is caused solely by the attempt to meet lot size or frontage requirements of these by-laws while evading the by-law’s intent to regulate building site density: such a lot being, for example, a pork chop or rat tail lot which does not contain a squared building area which is at least 100’ by 100’.

Lot, corner: A lot with two (2) adjacent sides abutting upon streets or other public spaces.

Lot, depth of: The mean distance from the street line of the lot to its opposite rear line measured in the general direction of the sidelines of the lot.

Lot, frontage of: A lot line coinciding with the sideline of a street which provides both legal rights of vehicular access and physical vehicular access to the lot, said line to be measured continuously along a single street or along two (2) intersecting streets if their angle of intersection is greater than one hundred and twenty (120°) degrees. Vehicular access to a building site on the lot shall be exclusively through the frontage of the lot.

Lot line: A line dividing one lot from another or from a street or any public place.

Lot, width of: The horizontal distance between side lot lines, measured parallel to the lot frontage at the front yard setback line.

Major Recreational Equipment: Campers, trailers or other recreational vehicles including boats over twenty-four (24') feet in length.

Manufacturing: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

Medical Marijuana Treatment Center - shall mean a “not-for-profit entity, as defined by Massachusetts law only, registered by the Department of Public Health, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to qualifying patients or their personal caregivers.

Medical center or clinic: A building designed and used for the diagnosis and treatment of human patients that does not include overnight care facilities.

Medical Office: a Business or Professional Office which includes the provision of medical related services.

Mixed Use Development Project: a Development Project that contains a combination of residential and business uses within the same building, on the same lot, or of residential business, civic, institutional, and/or open space uses within the same development.

Mixed Use Development: The development of a tract of land, building, or structure with two (2) or more different uses such as, but not limited to, residential, Business or Professional Office including Medical office, Retail Store, Institutional, or Light Manufacturing, in a compact village form, with vehicular access to an accepted public way. A proposed Mixed Use Development shall have a minimum of five (5) contiguous acres of land and shall demonstrate that the project shall be served by town water and sewer service upon completion of the proposed development.

Mixed Use Infill: Within the Village Business Overlay District, the development of a tract of land, building, or structure with two (2) or more different uses such as, but not limited to, residential, Business or Professional Offices including Medical office, Retail, Institutional, or Light Manufacturing, in a compact village Form A proposed Mixed Use Infill development, shall have no minimum area requirements other than those imposed by dimensional requirements of the Dighton Zoning Bylaws but shall occur only on parcels of land less than five (5) acres in size. The proposed Mixed Use Infill development shall demonstrate that the project shall be served by town water and sewer service upon completion of the proposed development.

Mixed-Use Development, Vertical: a single building in which the ground floor facing the street is used primarily for retail/commercial or service uses, and other ground floor and upper floor space used for residential or office uses.

Mixed-Use Development, Horizontal: Two or more buildings on one lot which provide retail/commercial or service uses in building(s) facing the street and residential or office uses above the ground floor or in separate building(s) behind or to the side.

Mobile home: A dwelling built upon a chassis, containing complete electrical, plumbing and sanitary facilities, and designed without necessity of a permanent foundation for year-round living, irrespective of whether actually attached to a foundation or otherwise permanently located.

Motel or hotel: A building or buildings intended and designed for transient, overnight or extended occupancy, divided into separate units within the same building with or without a public dining facility. If such hotel or motel has independent cooking facilities, such unit shall not be occupied by any guest for more than four (4) continuous months, nor may the guest reoccupy any unit within thirty (30) days of a continuous four-month stay, nor may the guest stay more than six (6) months in any calendar year. No occupant of such hotel or motel may claim residency at such location.

Motor vehicle body repair: An establishment, garage or work area enclosed within a building where repairs are made or caused to be made to motor vehicle bodies, including fenders, bumpers and similar components of motor vehicle bodies, but does not include the storage vehicles for the cannibalization of parts.

Motor vehicle general repairs: Premises for the servicing and repair of autos, but not to include fuel sales.

Motor vehicle light service: Premises for the supplying of fuel, oil, lubrication, washing, or minor repair services, but not to include body work, painting, or major repairs.

Multi-Family Residential: a building that contains or will contain more than three apartment or condominium units.

Municipal facilities: Facilities owned or operated by the Town of Dighton.

Nursing or convalescent home: Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

On-Site Solar Photovoltaic Installation: A solar photovoltaic installation that is constructed at a location where other uses of the underlying property occur.

Parking garage: A structure, which is accessory to a commercial or industrial establishment and is primarily for the parking and storage of vehicles operated by the customers, visitors and employees of such an establishment.

Personal service establishment: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

Rated Nameplate Capacity: The maximum rated output of electric power production of the Photovoltaic system in Direct Current (DC).

Restaurant: A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility. The term “restaurant” shall not include “fast food establishments.”

Restaurant, fast-food: An establishment whose principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready to consume state for consumption either within the restaurant building or off premises and usually requires ordering food at a counter.

Retail: A facility selling goods but not specifically listed in the Table of Use Regulations.

Retail Store: A facility selling goods, including but not limited to a bank or financial institution, but not specifically listed in the Table of Use Regulations. The term facility shall include the main structure, any area(s) covered or uncovered in or upon which merchandise is stored or displayed for sale.

Retreat Lot: An oversized lot, generally set some distance back from a public way which provides access to the lot, which lot has less than the requisite frontage in the residential zoning district in which it lies and which lot has been permitted by Special Permit in accordance with the provisions of Section 5090 of this Zoning Bylaw.

Sign: Any device designed to inform or attract the attention of persons not on the premises on which the device is located. Any building surfaces other than windows, which are internally illuminated or decorated with gaseous tube or other lights, are considered “signs.” The following, however, shall not be considered signs within the context of this by-law:

- (a) Flags and insignia of any government except when displayed in connection with commercial promotion.
- (b) Legal notices, or informational devices erected or required by public agencies.
- (c) Temporary devices erected for a charitable or religious cause, provided they are removed within seven (7) days of erection.
- (d) Temporary displays inside windows, covering not more [than] thirty (30%) percent of window area, illuminated by building illumination only.
- (e) Standard gasoline pumps bearing thereon in usual size and form the name, type, and price of gasoline.
- (f) Integral decorative or architectural features of a building, except letters, trademarks, moving parts, or parts internally illuminated or decorated with gaseous tube or other lights.

(g) Devices identifying a building as distinct from one (1) or more of its occupants, such device being carved into or attached in such a way as to be an integral part of the building, not illuminated separate from building illumination, without color contrasting with sign background, and not exceeding four (4) square feet in area.

(h) Address identification through numerals or letters not exceeding three (3") inches in height.

Sign area: The area of the smallest horizontally or vertically oriented rectangle which could enclose all the display area of the sign, together with any backing different in color or material from the finish material of the building face, without deduction for open space or other irregularities.

Structural members not bearing advertising matters shall not be included unless internally or decoratively lighted. Only one side of flat, back-to-back signs need be included in calculating sign area.

Small-Scale Ground Mounted Solar Photovoltaic Installation: A solar photovoltaic system including ground mounted hot water collectors or other solar collector, on a parcel of land which meets the minimum lot area requirements for the district in which it is located and which system has a nameplate capacity no larger than that which is necessary to provide enough energy sufficient to operate the structure or use located on the same parcel upon which it is located.

Solid waste disposal facility: Refuse transfer station, composting plant, solid waste recycling operation and any other works or use approved by the Massachusetts Department of Public Health and the Board of Health of the Town of Dighton for processing, handling, treating, and disposing of solid or liquid waste materials, including garbage, rubbish, junk, discarded bulk items, and sludges but not raw sewage, and similar waste items.

Stand Alone Kiosk, Drive-through or Walk-up: A kind of open and available facility, either standing alone or attached to a main building, used to provide immediate automated service to customers of an institution which may be accessed by driving through or walking up to the facility.

Street: An accepted town way, or a way established by or maintained under county, state, or federal authority, or a way established by a subdivision plan approved in accordance with the subdivision control law, or a way determined by the planning board to have sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, and mast for radio antenna or the like.

Temporary structure: A structure without any foundation or footings to be removed within a twelve (12) month time period. Said structure shall conform to the requirements of the Table of Dimensional Requirements and shall receive a permit from the building inspector.

Toxic materials: A combination of pollutants including disease-carrying agents, which after discharge and upon exposure, ingestion, inhalation, and assimilation into any organism can cause death, disease, mutations, deficiencies, or malfunctions in such organisms or their offspring.

Transport terminal: Terminal facilities for handling freight with or without maintenance facilities.

Warehouse: A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

Work Space: an area within a Live-Work Unit that is designed or equipped exclusively or principally for the conduct of work activities [*allowable work activities may be identified by the community*] and is to be regularly used for such work activities by one or more occupants of the unit.

Yard: A space open to the sky, located between a building or structure and a lot line, unoccupied except by fences, walls, poles, paving, and other customary yard accessories.

Yard, front: A yard extending the full width of the lot and situated between the street line and the nearest point of the building.

Yard, rear: A yard the full width of the lot and situated between the rear line of the lot and the nearest part of the main building projected to the sideline of the lot.

Yard, side: A yard situated between the nearest point of the building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall 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.

APPENDIX A USE REGULATION SCHEDULE

PRINCIPAL USE	Residential	Business	Open Space/Recreation	Industrial	Industrial Overlay District	Marijuana Overlay District
A. Residential Uses						
1. Single-family dwelling	Y	Y	N	N	N	N
2. Two-family dwelling	SP	SP	N	N	N	N
3. Conversion of single-family to two-family dwelling	SP	SP	N	N	N	N
4. Multi-family dwelling	N	N	N	N	N	N
5. Lodging or boarding house	N	SP	N	N	N	N
6. Conservation Subdivision	SP	SP	N	N	N	N
7. Assisted living facility	SP	SP	N	N	N	N
B. Exempt and Institutional Uses						
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation	Y	Y	Y	Y	Y	Y
3. Family day care home	Y	Y	SP	N	N	N
4. Adult day care facility	Y	Y	SP	N	N	N
5. Child care facility	Y	Y	Y	Y	Y	N
6. Use of land for the primary purpose of agriculture, horticulture, floriculture, or viticulture, on a parcel of more than five acres in area <u>(not to include the cultivation of Medical Marijuana)</u>	Y	Y	Y	Y	Y	N
7. Facilities for the sale of produce, wine and dairy products, providing that during the months of June, July, August, and September of every year, or during the harvest season of the primary crop, the majority of such products for sale, based on either gross sales dollars or volume, have been produced by the owner of the land containing more than five acres in area on which the facility is located	Y	Y	Y	Y	Y	N
8. Cemeteries, private	Y	Y	SP	N	N	N
9. Municipal facilities	Y	Y	Y	Y	Y	N
10. Essential services	SP	SP	SP	SP	SP	N

APPENDIX A USE REGULATION SCHEDULE

PRINCIPAL USE	Residential	Business	Open Space/Recreation	Industrial	Industrial Overlay District	Marijuana Overlay District
C. Commercial Uses						
1. Nonexempt agricultural use	SP	SP	SP	SP	SP	N
2. Nonexempt farm stand for wholesale or retail sale of products	SP	SP	SP	SP	SP	N
3. Nonexempt educational use	SP	Y	SP	SP	SP	N
4. Animal clinic or hospital; kennel	N	Y	N	N	SP	N
5. Private club or lodge	N	Y	SP	SP	SP	N
6. Nursing or convalescent home	SP	Y	N	N	N	N
7. Funeral home	Y	Y	SP	SP	SP	N
8. Motel or hotel	N	Y	N	N	N	N
9. Retail stores and services not elsewhere set forth	N	Y	N	N	Y	N
10. Motor vehicle sales and rental	N	Y	N	N	N	N
11. Motor vehicle general and body repair	N	Y	N	N	N	N
12. Motor vehicle light service; car wash	N	Y	N	N	N	N
13. Restaurant	N	Y	SP	N	SP	N
14. Restaurant, drive-in	N	Y	N	N	N	N
15. Business or professional office, including medical <u>(not to include RMDs)</u>	N	Y	N	N	Y	N
16. Bank, financial agency	N	Y	N	N	SP	N
20. Indoor commercial recreation	N	Y	N	N	Y	N
21. Outdoor commercial recreation	SP	Y	SP	SP	SP	N
22. Golf course	Y	Y	SP	SP	SP	N
23. Personal service establishment	N	Y	N	N	SP	N
24. Major commercial project	N	SP	N	SP	SP	N
25. Wireless communications facility	N	N	N	SP	SP	N
26. Commercial greenhouse, wholesale or retail <u>not including the cultivation of Medical Marijuana</u>	Y	Y	SP	Y	Y	N
27. Bed and Breakfast	SP	SP	SP	N	N	N
28. Contractor's yard or landscaping business on a parcel in the "R" district larger than ten acres, or elsewhere larger than two acres, with or without principal residence	SP	SP	SP	SP	SP	N
29. Marina	N	Y	SP	Y	Y	N

APPENDIX A USE REGULATION SCHEDULE

PRINCIPAL USE	Residential	Business	Open Space/Recreation	Industrial	Industrial Overlay District	Marijuana Overlay District
30. Commercial parking lot	N	Y	SP	Y	Y	N
31. Registered Marijuana Dispensary; Marijuana Establishment	N	N	N	N	N	SP*
32. Medical Services – Medical clinic, Doctors’ offices, Community Hospital	N	Y	N	N	Y	Y
D. Industrial Uses						
1. Earth removal	SP	SP	SP	SP	SP	SP
2. Light manufacturing	N	N	N	Y	Y	Y
3. Wholesale, warehouse, self-storage mini-warehouse, or distribution facility	N	Y	N	Y	Y	Y
4. Manufacturing	N	N	N	Y	Y	Y
5. Manufacturing, hazardous materials produced, used or stored on premises	N	N	N	SP	SP	SP
6. Junkyard or automobile graveyard	N	N	N	N	N	N
7. Transport terminal	N	N	N	SP	SP	SP
8. Large scale ground mounted solar photovoltaic installation pursuant to section 4600	SP	Y	N	Y	Y	Y
9. Small scale ground mounted solar photovoltaic installation pursuant to Section 4600	SP	Y	N	Y	Y	Y
10. Marijuana Cultivator pursuant to Section 2900	N	N	N	SP	SP	SP
11. Marijuana Product Manufacturer pursuant to Section 2900	N	N	N	SP	SP	SP
12. Registered Marijuana Dispensary without Retail pursuant to Section 2900	N	N	N	N	N	SP

*Allowed by Special Permit in limited areas of the Marijuana Overlay District, excluding those portions in the Industrial Overlay districts. See Section 2918.

APPENDIX B
TABLE OF DIMENSIONAL REGULATIONS

DISTRICT OR USE	Min. Lot Area (sq. ft.)	Min. Lot Frontage (ft.)	Min. Front Setback (ft.)	Min. Side Yard (ft.)	Min. Rear Yard (ft.)	Max. Bldg. Coverage (% of lot)	Min. Distance between bldgs. (ft.)	Max. Bldg. Ht. (ft.)	Max. # of Stories	Max. Ht. Of Projections (ft.)	Other Requirements
Single family dwelling, all districts	35,000	175	55	15	15	25	10	35	2.5	40	Lots without water or sewer shall have a min. area of 43,560 sq. ft. and 250' of frontage
Other permitted uses in Residence District	35,000	175	55	15	15	25	10	35	2	65	Same as above
Other permitted uses in Open Recreation District	35,000	175	55	15	15	15	10	35	2.5	40	
Other permitted uses in Business District	18,750	150	75	30	30	30	10	35	1	65	
Other permitted uses in Industrial District	60,000	250	100	100	75	35	10	65	Any	65	Side yard of 50' required when abutting land zoned Ind.

APPENDIX B
TABLE OF DIMENSIONAL REGULATIONS

NOTES TO TABLE

1. For accessory structure requirements, see §2700.
2. Front yard requirement measured from center of public way.
3. Projections included chimneys, towers, spires, antennae, water tanks, and other structures carried above the roofline not used for human occupancy. Greater height for such features may be authorized by special permit from the Zoning Board of Appeals

