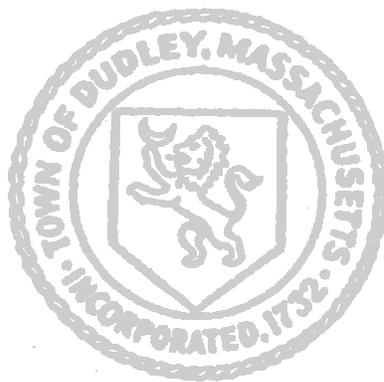


ZONING BYLAWS OF THE TOWN OF DUDLEY MASSACHUSETTS



Adopted: April 9, 1969

Includes Revisions through October 27, 2014

Printed February 6, 2015

For record of changes, please see Appendix A

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(NOTE: Online version does not contain Appendix C. For the Official Zoning Map, go to www.dudleyma.gov, then click on “Documents” and then select “Zoning Map.” For a street map of Dudley, visit Google, Yahoo, or your favorite mapping site.)

SECTION I
AUTHORITY AND POLICIES

1.01.00 PURPOSE

The purpose of this Bylaw is to promote the health, safety, convenience amenity and general welfare of the inhabitants of the Town of Dudley, through encouraging the most appropriate use of the land as authorized by Chapter 40A of the General Laws with the objectives as follows: to conserve health; to secure safety from fire, flood, panic and other dangers; to lessen congestion in the streets and ways; to provide adequate light and air; to prevent over crowding of land; to avoid undue concentration of population; to recognize the need for housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the town, including consideration of town plans and programs and to preserve and increase amenities.

1.02.00 AUTHORITY

Whereas, Chapter 40A, of the General Laws of the Commonwealth of Massachusetts, empowers the Town to enact a zoning bylaw and to provide for its adoption, administration, enforcement, and amendment, and

Whereas, the Town Meeting, pursuant to the provisions of Chapter 41, has elected a Planning Board, which has the power to study and recommend provisions and boundaries for various zoning districts, and

Whereas, the Planning board has made a report containing recommendations detailing the provisions and boundaries of various zoning districts and held public hearings thereon, and

Whereas, all requirements of Chapter 40A, of the Massachusetts General Laws, with regard to the establishment of a zoning bylaw have been met;

NOW, THEREFORE, BE IT ENACTED BY THE TOWN MEETING VOTE THAT THESE REGULATIONS SHALL BE ADOPTED AS THE ZONING BYLAWS, IN ACCORDANCE WITH CHAPTER 40A OF THE MASSACHUSETTS GENERAL LAWS.

1.02.01 Enforcement

This bylaw shall be interpreted, administered and enforced by the Dudley Inspector of Buildings who shall be appointed every three (3) years by the Board of Selectmen. The Building Inspector shall act as the Zoning Agent and shall undertake actions deemed necessary to affect full compliance with each and every provision herein contained: which may include a request through the Board of Selectmen to the Town Counsel for legal action in matters of noncompliance.

Whoever violates any provision of these by-laws, the violation of which is subject to a specific penalty, may be penalized by a non-criminal method of disposition as provided in General Laws, Chapter 40, §21D. The non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal officer, board or department, which is subject to a specific penalty.

Without intending to limit the generality of the foregoing, it is the intention of this provision that the following by-laws are to be included within the scope of this subsection, that the specific penalties as listed here shall apply in such cases and that in addition to police officers, who shall in all cases be considered enforcing persons for the purpose of this provision, the municipal personnel listed for each section, if any, shall also be the primary enforcing persons for such sections. Each day on which any violation exists shall be deemed to be a separate offense.

ZONING BY-LAWS (All violations of Zoning By-Laws)

Penalty: 1st Offense--\$100.00

2nd and Subsequent Offenses--\$200.00

Enforcing Agent: Building Inspector (11/7/05)

1.02.02 Compliance

No building or structure shall be erected, altered or moved in Dudley without a written permit issued by the Building Inspector, in accordance with Massachusetts State Building code and

State Environmental Code, Title 5 compliance. Such permits shall be applied for in writing to the Building Inspector. The Building Inspector shall not approve any such permit unless the plans for the building and the intended use thereof in all respects fulfill the provisions of the Dudley Zoning bylaws except as may have been specifically permitted otherwise by action of the Dudley Zoning Board of Appeals, provided a written copy of the terms governing any such permission be attached to the application and to the resulting building permit issued. One copy of each such permit as issued, including any conditions or exceptions attached thereto, shall be kept on file in the office of the Building Inspector and one copy with the Town Clerk.

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Each application for permit to build, alter, or move a building shall be accompanied by a site plan in such number of copies and drawn to such Scale as is required in the Dudley Building Bylaw. Each such site plot plan shall show dimensions and areas of lots and of structures to be erected, altered or moved, and adjacent streets or ways. Such site plot plans shall accurately indicate dimensions and angles of all lot lines shown thereon, also of any streets or ways. Also such site plot plans shall show the locations of existing sanitary sewers, storm drains, and water pipes in any street shown and the locations of all existing buildings and structures within the application area.

No building permit for the proposed construction of a residence or other structure requiring sewerage service shall be issued by the Building Inspector until a sewer entrance permit or disposal works construction permit has first been obtained unless the Board of Health determines that an existing sewage disposal system is adequate for the proposed construction. The Building Inspector may require a determination by the Board of Health as to the adequacy of the existing sewerage disposal system for any proposed alteration or addition to an existing residence of structure.

1.02.03 Violations

The Zoning Agent, on evidence of any violation, after investigation and inspection shall give written notice of such violation to the owner and to the occupant of such premises. The agent shall demand in such notice that such violation be abated within fourteen (14) days. Such

notice and demand shall be given by the Zoning Agent to the owner at the address appearing for him on the most recent real estate tax records of the Town of Dudley and to the occupant at the address to the premises.

If, after such notice and demand, such violation has not been abated within the time specified the agent shall institute appropriate action of proceedings in the name of the Town of Dudley to prevent, correct, restrain or abate violation of this Bylaw.

1.02.04 Penalty

Any violation of any provision of this bylaw or of any regulation by the town Health Officer pursuant to this bylaw shall be punishable by a fine of one hundred dollars (\$100.00) per violation payable to the Town of Dudley. Each violation and each day of violation shall constitute a separate offense, punishable by fine as aforesaid.

Any structures under erecting or alteration must have posted thereof the building permit number and said permit number must be clearly visible from the street.

1.03.00 REVISIONS

This bylaw may be revised, amended, modified or repealed by the Town Meeting in the manner so provided in Section 5 of the Massachusetts General Laws, Chapter 40A, and any amendments thereto.

1.04.00 JUDICIAL APPEAL

Any person or party aggrieved by decision of the Zoning Board of Appeals, the Planning Board or any municipal officer or board may, as provided for in Massachusetts General Laws, Chapter 40A, Section 17, appeal the matter to the Superior Court or to the Land Court

by bringing an action within twenty (20) days after the decision by which the grievance occurred has been filed in the office of the Town Clerk.

1.05.00 SEPARABILITY

If any action or provision of this bylaw is declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the bylaw as a whole, or any portion thereof other than the part so declared to be unconstitutional or invalid.

SECTION II

USE AND DENSITY RESTRICTIONS

2.01.00 ZONING DISTRICTS

For the purpose of this bylaw the Town of Dudley is hereby divided into the five (5) major zoning district categories which are subdivided into ten (10) zoning classifications.

2.01.01 Establishment of Districts

The following districts are illustrated, defined and bounded on the map entitled “Zoning Map, Dudley, Massachusetts” on file with the Town Clerk. That map and all explanatory matter thereon is hereby made a part of this bylaw.

Residential Districts

RES-10 General Residential
RES-15 Single Family Residential
RES-30 Single Family Residential
RES-87 Single Family Residential

Commercial Districts

BUS-15 Business or General Residential

Industrial Districts

IND-43 Industry
IND-130 Industry
LI-43 Light Industry
LI-87 Light Industry

Conservation District

CON-Conservation

Floodplain District

FPD-Floodplain

Town Refuse Disposal District

TRFD-Town Refuse Disposal

2.01.02 District Delineation

When a lot is situated in part, in the Town of Dudley and in part in an adjacent municipality, the provisions of this bylaw shall be applied to the portion of such lot in the Town of Dudley in the same manner as if the entire lot were situated in Dudley.

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When a lot is transacted by a zoning district boundary, the regulations of the bylaw applicable to the larger part by area of such lot, may also at the option of the lot owner be deemed to govern in the smaller part beyond such zoning district boundary, but only to an extent not more than thirty (30) linear feet in depth beyond such zoning district boundary.

Where a boundary is indicated upon a street, the line shall be the centerline of the street.

Where a boundary is indicated otherwise than above, it is determined by its location on the zoning map.

Where a boundary is indicated approximately parallel to a street, it shall be taken parallel thereto, and if there is any variation between scaled distances and figures shown upon said map, the figures shall govern.

Where questions arise, the Zoning Agent shall determine district boundaries. The Agent's decision may be appealed to the Zoning Board of Review as provided for in Section V -

ADMINISTRATION.

2.01.03 Exemptions

Any single vacant lot lawfully of record prior to adoption of this bylaw and conforming to the then existing zoning bylaw which now has less area or width than is required by this bylaw is hereby exempted from conforming to such requirements.

Any land taken by eminent domain, or conveyed for a public purpose for which the land could have been taken by eminent domain, shall not be deemed to be transferred in violation of the land area, width and space provisions of this bylaw.

A definitive plan submitted under the subdivision control law requiring approval by the Planning Board and approved by the Planning Board prior to the enactment of these zoning bylaws, shall for a period of seven (7) years, if plans were submitted prior to January 1, 1976, following the acceptance of these bylaws, be governed by the applicable provision of the zoning bylaws in effect at the time of endorsement of said definitive plan of approval by the Planning Board.

Any and all municipal uses and structures shall be exempted from any and all provisions of this bylaw.

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2.02.00 NONCONFORMING USES AND STRUCTURES

Within the zoning districts established by this bylaw there exists lots, structures and land uses which were lawful before this bylaw was passed, but which would be prohibited, regulated or restricted under the terms of this bylaw. It is the intent of this bylaw to permit these non-conformities to continue until they are removed, destroyed or willingly ended and not encourage their continuation. It is further the intent of this bylaw that non-conformities be declared as incompatible with permitted uses in the applicable districts.

Any lawful use of any structure, lot or activity existing at the time of this bylaw's acceptance may be continued although not in conformance with the provision of this bylaw.

Nonconforming one and two family structures may be repaired, reconstructed, altered or extended as a matter of right under this Bylaw provided that the following conditions are met:

A. In the case of a structure non-conforming solely because of insufficient lot frontage or lot area, or both, the proposed change shall meet all dimensional requirements for front, side and rear yards, maximum lot coverage, and maximum building height.

B. In the case of a dimensionally non-conforming building with sufficient lot frontage and lot area, where said building, or a portion thereof, is non-conforming as to one or more of the dimensional requirements for front, side and rear yards, maximum lot coverage, and maximum height, all dimensional requirements met by the structure prior to the proposed change shall be met after completion of the proposed change.

2.02.01 Change, Extension, or Alteration

Nonconforming uses, structures or lots may be changed, extended or altered upon approval of a special permit for such from the Zoning Board of Appeals, as provided for in Section V. ADMINISTRATIVE PROVISIONS.

2.02.02 Abandonment, Destruction and Conversion

If any Nonconforming use, structure or land area is changed to a conforming use, it shall not thereafter be put into any Non-conforming use.

If any Non-conforming structure, land or use be discontinued or abandoned for a period of more than twenty-four (24) consecutive months, which in the terms of this bylaw shall constitute abandonment, such land, building or use shall therefore be used or developed only in accordance with the terms of the Dudley Zoning Bylaw for the zoning district of classification in which such property is located with the terms of the Dudley Zoning Bylaw for the zoning district of classification in which such property is located.

Any non-conforming structure destroyed or damaged by fire, flood, lightning, wind or otherwise to the extent of seventy-five percent (75%) or more of the reproduction cost of such at the time of such damage shall not be rebuilt, repaired, reconstructed nor altered after two (2) years later than the date of such damage except for a purpose permitted in the zoning district in which such building is located.

2.03.00 USE REGULATIONS AND APPLICABILITY

No structure shall be erected or used, nor shall any land be used except when in conformity with Use Regulations Schedule of this bylaw. All other structures and all other uses of land or of structures are hereby expressly prohibited, except those already lawfully existing which by these provisions of this bylaw become lawfully Nonconforming as provided for in Section II. NONCONFORMING USES AND STRUCTURES.

Where a land use-activity may be classified under more than one of the following use categories, the more specific classification shall determine categorization.

2.03.01 Use Regulation Catalog

The following terms employed in the catalog shall be construed to represent the following meanings:

- P - A permitted use as a matter of right.
- SP - A permissible use requiring a Special Use Permit from the Zoning Board of Appeals.
- NP - A prohibited use.
- P-SPR - A permissible use contingent upon Site Plan review and approval by the Planning Board.
- SP-SPR - A permissible use requiring a Special Use Permit from the Zoning Board of Appeals and Contingent upon Site Plan review and approval by the Planning Board.

Any use not listed in the catalog as allowed by right or by special permit is expressly prohibited.

2.03.02 Use by District Chart

	<u>DISTRICT⁹</u>								
	RES	RES	RES	RES	RES	BUS	IND	IND	LI
LI ACTIVITY OR USE 87	10	15	30	43	87	15	43	130	43
<u>AGRICULTURAL</u>									
Livestock Raising On Parcel Less Than Five Acres	NP	NP	NP	NP	NP	NP	NP	NP	NP
Other Farm	P	P	P	P	P	P	P	P	P
Greenhouse	NP	P	P	P	P	P	P	P	P
Salesroom or Farm									
	<u>DISTRICT⁹</u>								
	RES	RES	RES	RES	RES	BUS	IND	IND	LI
LI ACTIVITY OR USE 87	10	15	30	43	87	15	43	130	43

Stand for the Sale of Nursery, Garden or Other
Agricultural Produce (including articles of home

manufacture from such produce) on Parcel More
 than Five Acres P P P P P P P P P P

RESIDENTIAL

Single Family Home NP	P	P	P	P	P	P	P	NP	NP	NP
Two Family Home NP	P	P ¹	P ¹	NP	NP	NP				
Apartment Bldg. Boarding or Rooming House Motel NP	P-SPR NP	NP SP	NP SP	NP SP	NP SP	P-SPR P	NP NP	NP NP	NP NP	NP NP
Hotel P-SPR	NP	NP	NP	NP	NP	NP	SP	NP	NP	NP
Licensed Residential (5/24/10) Animal Kennel SP ¹³	SP ¹³	P	P	P	SP ¹³					

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DISTRICT⁹

	RES	RES	RES	RES	RES	BUS	IND	IND	LI
LI ACTIVITY OR USE 87	10	15	30	43	87	15	43	130	43

COMMERCIAL

Animal Kennel NP Or Hospital Business Or Professional Offices P-SPR	NP	NP	NP	SP	SP	P	P	P	NP
Funeral Home NP Motor Vehicles Rental, Sales, Service NP	SP	SP	NP	NP	NP	P	NP	NP	NP
Bank, Financial Office. Restaurant. P-SPR	NP	NP	NP	NP	NP	P	P	P	P-SPR P-SPR
Retail Sales Or Services SP-SPR	NP	NP	NP	NP	NP	P	P	P	SP-SPR
Wholesale Services Without Storage Gasoline Service and Motor Vehicle Repair Station NP	NP	NP	NP	NP	NP	P	P	P	P-SPR P-SPR
Adult Entertainment Establishments	NP	SP-SPR ¹²	NP NP						

Portable Toilet										
Retail Sales, Rental Storage (10/27/08)	NP	NP	NP	NP	NP	NP	P	P	P	P
Restaurants or other places for serving food not confined to service within the structure (10/27/08)	NP	NP	NP	NP	NP	NP	P-SPR	P-SPR	P-SPR	P-SPR
Drive-through type services not within the structure, such as ATMs, dry cleaners, pharmacies, etc. (10/27/08)	NP	NP	NP	NP	NP	NP	P-SPR	P-SPR	P-SPR	P-SPR

			<u>DISTRICT⁹</u>							
LI	RES	RES	RES	RES	RES	BUS	IND	IND	LI	
ACTIVITY OR USE	10	15	30	43	87	15	43	130	43	
87										

INDUSTRIAL

Light Manufacturing of Consumer Goods	NP	NP	NP	NP	NP	NP	P ⁴	P	P	P-SPR
Other Manufacturer Processing & Research	NP	P	P	P-SPR						
Other Manufacturer Processing & Research (5/24/10)	NP	NP	NP	NP	NP	NP	P ⁴	P	P	P-SPR
Bulk Storage Indoor	NP	P	P	P-SPR						
Outdoor	NP	P	P	NP						
Contractor; Yard.	NP	NP	NP	NP	NP	P	P	P	NP	NP

			<u>DISTRICT⁹</u>							
LI	RES	RES	RES	RES	RES	BUS	IND	IND	LI	
ACTIVITY OR USE	10	15	30	43	87	15	43	130	43	
87										

Transportation Terminal	NP	P	P	P-SPR						
Commercial Radio & Television Studio & Transmission	NP	NP	NP	NP	NP	P	P	P	P-SPR	P-SPR
Laundry or Dry Cleaning Plant	NP	NP	NP	NP	NP	NP	P ⁵	P	P	P-SPR
Airplane or										

Commercial Recreation	NP	SP	P-SPR							
P-SPR (With Fields)	NP	SP	NP							
NP										

				11 <u>DISTRICT⁹</u>						
	RES	RES	RES	RES	RES	BUS	IND	IND	LI	
LI ACTIVITY OR USE 87	10	15	30	43	87	15	43	130	43	

RENEWABLE ENERGY

RESOURCES

(Added 5/21/2012)

Small Solar Photovoltaic
Installations

(Less than 250 kW)

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

(Added 5/21/2012)

Large Ground-Mounted Solar
Photovoltaic Installations

(250kW and Greater)

SP	SP	SP	SP	SP	P	P	P	P
----	----	----	----	----	---	---	---	---

(Added 5/21/2012, amended to be permitted in RES districts by Planning Board special permit 5/19/2014))

				<u>DISTRICT⁹</u>						
	RES	RES	RES	RES	RES	BUS	IND	IND	LI	
LI ACTIVITY OR USE 87	10	15	30	43	87	15	43	130	43	

ACCESSORY USES

Home Occupation⁷

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

Parking of Private
Autos of Residents
On Premises

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

Light Commercial
Vehicles

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

Heavy Commercial
Vehicles

NP	NP	NP	NP	NP	NP	P	P	P	P
----	----	----	----	----	----	---	---	---	---

Signs

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

Private Stable

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

Swimming Pool

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

Solar Energy
Conversion Devices

P	P	P	P	P	P	P	P	P	P
---	---	---	---	---	---	---	---	---	---

Wind Energy

DISTRICT

MEASUREMENT	RES LI	RES	RES	RES	RES	BUS	IND	IND	LI
87	10	15	30	43	87	15	43	130	43
Minimum Front Yard (Feet) ³	20	30	35	40	40	20	45	45	30
50									
Minimum Side Yard (Feet)	10	15	15	25	25	10	25	25	30
30									
Minimum Rear Yard (Feet)	15	20	25	25	25	35	40	40	30
30									
Maximum Lot Coverage (Percent)	50	30	20	20	20	20	65	65	65
65									
Maximum Building Height (Feet)	45	35	35	35	35	40	40	40	45
45 ⁵									

1. For Apartment Building structures (building constructed in excess of 2 units), six thousand (6,000) square feet of land area shall be provided for each dwelling unit in addition to the required minimum lot area.
2. Two - hundred (200) feet of frontage is required for apartment building (multiple family) structures.
3. Minimum lot frontage shall apply to each street of a corner lot with 60% of the zone's frontage requirement on one street in non-residentially zoned corner lots. (5/24/10)
- 4 Front yard setback requirement shall apply to each street of a corner lot.
- 5 Maximum Building Height in LI 87 - Height above this level available by Special Permit
- 6 BUSINESS 15 – Land Space Requirements/Residential Use. The same land space measurements as for Residential 15, Single Family Use. (Change to this note approved at Town Meeting 5/19/08)
- 7 Nonconforming residential uses in Industrial and Light Industrial areas shall use the dimensional requirements of RES-15 on Chart2.03.02. (10/27/08)

2.04.03 Build Factor

Lots recorded or endorsed after May 20, 1991, shall be subject to a maximum Build Factor of 23. A lot recorded or endorsed after this date which does not comply with this requirement shall not be considered a buildable lot. This Build Factor shall mean a ratio of lot perimeter to lot area which limits the degree to which a lot may have an irregular shape according to the following formula:

$$\frac{\text{Lot Perimeter Squared} \div \text{Actual Lot Area}}{\text{Actual Lot Area} \div \text{Minimum Lot Area}}$$

The Build Factor for lots containing two (2) acres and having frontage of 150-feet shall be 24.5 or less. (6/19/2006)

SECTION III

SPECIAL USE REGULATIONS

3.01.00 CONSERVATION DISTRICT

A Conservation District is established to protect certain natural features in Dudley. It is the intent of this provision to prevent the use of land within the Conservation District from inconsistent or unaccented conservation practices for woodlands or park area.

3.01.01 District Delineation

The Conservation District is delineated on the Map titled "Dudley Zoning Map" on file with the Town Clerk. District boundaries shall be interpreted in accordance with 2.01.02, inclusive.

3.01.02 Use Regulations

Within the Conservation District, land shall remain primarily undeveloped, in open space little or no construction. The following uses are considered permitted and within the intent of this district: farming; conservation; historic features/existing structures; hunting preserve; park; parkway; playground; wood lot; reforestation area; wildlife reservation; watershed and water supply protection area; and nature center. Any and all uses must be consistent with conservation principals and practices for woodlands and park areas.

3.02.00 FLOOD PLAIN DISTRICT

To protect people and structures from physical and economic damage from the natural disaster of flooding, this Floodplain District is established. This regulation is intended to avoid the long-and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct and indirect support of floodplain development whenever there is a practical alternative.

3.02.01 Flood Plain District Delineation (“Flood Plain” added 5/24/10)

~~The Town is to rely on Flood Insurance Rate Maps (FIRM) and the Flood Boundary and Floodway Maps (FBFM) adopted by the Town by vote of the Town Meeting on May 24, 1982 as an overlay district to determine the flood plain area. (adopted 9-13-89 by the Atty. General) and the Dudley Flood Insurance Study are herein incorporated by reference on file with the Town Clerk, Planning Board and Inspector of Buildings. [October 25, 2010, ARTICLE 17: Unanimously accepted to adopt Department of Homeland Security, Federal Emergency Management Agency, digital Flood Insurance Rate maps (DFIRMs) and Flood Insurance Study (FIS) report, Effective June 2011 to replace the prior maps and report.]The above Section 3.02.01 was voted at Town Meeting May 23, 2011 to be deleted in its entirety and replaced with the following.]~~

The Floodplain District is herein established as an overlay district to all other districts.

The District includes all special flood hazard areas within the Town of Dudley designated as Zones A and AE, on the Worcester County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Worcester County FIRM that are wholly or partially within the Town of Dudley are panel numbers 25027C0953E, 25027C0954E, 25027C0957E, 25027C0958E, 25027C0959E, 25027C0961E, 25027C0962E, 25027C0963E, 25027C0964E, 25027C0966E, 25027C0967E, 25027C0968E and 25027C0969E dated July 4, 2011. The exact

boundaries of the FPPOD may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Worcester County Flood Insurance Study (FIS) report dated July 4, 2011. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and Building Official.

3.02.02 Flood Plain Use Regulations (“Flood Plain added 5/24/10)

Any use permitted by the underlying zoning district is allowed, provided the use complies with the following additional requirements as well as those of the Massachusetts State Building Code dealing within flood Plain Districts:

- A. Within Zone A, where the base flood elevation is not provided on the FIRM, the applicant shall obtain any existing base flood elevation data and it shall be reviewed by the Inspector of Buildings for its reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.
[Next sentence added 5/23/2011] The Wetlands Protection Act regulations may require base flood elevation information to be developed by engineering calculations.
- B. In the Floodway, designated on the Flood Boundary and Floodway Map, the following provisions shall apply:
 1. All encroachments, including fill, new construction, substantial improvements to existing structures, and other development are prohibited 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.
 2. Any encroachment meeting the above standard shall comply with the flood plain requirements of the State Building Code.
 3. Subdivision Standards for the Flood Plain District:

All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Zoning Bylaw it shall be reviewed to assure that:

- A. The proposal is designed consistent with the need to minimize flood damage;
and
- B. All public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage; and
- C. Adequate drainage systems shall be provided to reduce exposure to flood hazards; and
- D. Base flood elevation (the level of 100-year flood) data shall be provided for proposals greater than 50 lots or 5 acres, whichever is the lesser, for that portion within the Flood Plain District.

3.02.03 Health Regulations Pertaining to the Flood Plain District

The Board of Health, in reviewing all proposed water and sewer facilities to be located in the Flood Plain District established under the Zoning Bylaw, shall require that:

- A. New and replacement water supply systems be designed to minimize or eliminate infiltration of flood waters into the systems; and
- B. New and replacement sanitary sewage systems be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

3.02.04 Conservation Commission Flood Plain District Duties (“Flood Plain added 5/24/10)

[Paragraph A was deleted and replaced as shown below at the Town Meeting of 5/23/2011]

- ~~A. Notify, in riverine situations, adjacent communities and the Massachusetts Division of Water Resources, the State Coordinating Agency, proper to any alteration or relocation of a watercourse where an order of conditions has been issued, and submit copies of such notification to the Federal Insurance Administration.~~
- A. Notify in riverine situations the following of any alteration or relocation of a watercourse:

Adjacent Communities

Bordering States

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

- B. Assure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained.

3.02.05 Board of Appeals Rules and Regulations as Pertaining to the Flood Plain District

(“Flood Plain” added 5/24/10) [At the Town Meeting 5/23/2011 Section 3.02.05 was voted to be deleted in its entirety and replaced with the following sentence]

~~Should the Board of Appeals consider a request for a variance from the regulation set forth for the Flood Plain District of Zoning Bylaw, the following procedures will be adhered to:~~

- ~~A. The Board of Appeals shall only issue a variance upon:~~
 - ~~• a showing of good sufficient cause; and~~
 - ~~• a determination that failure to grant the variance would result in exceptional hardship to the applicant; and~~
 - ~~• a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws; and~~

- Wetlands Protection Regulations, Department of Environmental Protection (DEP) (currently 310 CMR 10.00, and amendments);
- Inland Wetlands Restriction, DEP (currently 310 CMR 13.00)
- Minimum requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5, and amendments);

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

3.03.00 HOME OCCUPATIONS

Home occupations are allowed as an accessory to residential use provided:

- no non-resident employees are involved *when the occupation is in a dwelling* (5/24/10);
- not more than twenty-five (25) percent of the dwelling unit floor area existing three years prior to application shall be used to conduct the home occupation; “unit floor area is to be considered the actual floor space of the habitable area of the house”;
- there shall be no change in the outside appearance of the dwelling unit *or accessory building* (5/24/10), or other visible evidence of the conduct of such home occupation other than one (1) sign, not exceeding three (3) square feet in area, non-illuminated;
- no home occupation shall be conducted in any accessory building *without a letter of special permit issued by the Zoning Board of Appeals based on unique circumstances* (5/24/10);

- no traffic or parking shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood; and
- no equipment, process or activity shall be used in such home occupation which creates noise, vibration, glare, noxious odors, electrical interference or otherwise disrupts the neighborhood's integrity.

3.04.00 WIND ENERGY AND SOLAR CONVERSION SYSTEMS

Wind energy and solar conversion systems shall be allowed as accessory structures to an allowed principal use, provided the following applicable conditions are met by the applicant as determined by the Building Inspector.

3.04.01 Wind Energy Conversion Systems

The following conditions shall apply to all structures and devices erected for the primary intent of converting wind energy into a usable power source for personal or commercial upraises: (Spring2006)

- a. The wind energy conversion system shall have an automatic braking or collapsible feature where wind conditions exceed 40 miles per hour.
- b. All such systems shall have a protective shroud to contain any and all projectiles in the event of system breakage.
- c. The setback requirements shall be determined at a one-to-one ratio of tower or device height to the setback requirement.
- d. Fencing shall be required around the base of the wind energy conversion system composed of any material at four feet in height designed to prevent intrusion of any person onto the structure's apparatus. A self-locking or self-latching gate shall be required.
- e. No wind energy conversion system shall be erected, used or otherwise employed if said device unnecessarily interrupts or disturbs radio or television signal reception.

3.04.02 Solar Conversion Systems

The following conditions shall apply to all structures and devices erected for the primary intent of converting solar energy into a usable power source for personal or commercial purposes.

- a. All solar conversion systems shall be designed and located with regard to visual aesthetics and impacts on neighborhood property values.
- b. If solar conversion systems are mounted on apparatus separate from a principal or accessory structure, said apparatus must comply with all appropriate accessory structure intensity regulations and be set back from adjoining property lot lines at a ratio of one-to-one of apparatus height to the setback requirement, whichever is greater.

3.05.00 OPEN SPACE RESIDENTIAL DEVELOPMENT

3.05.01 Purpose and Intent

Primary purposes for Open Space Residential Development, hereafter OSRD, are:

- To advance the goals and policies of the *Dudley, Massachusetts Master Plan 2000*;
- To allow for greater flexibility and creativity in the design of resident developments;
- To facilitate the permanent protection of open space and natural, historic, and scenic resources;
- To encourage a more economical and efficient form of development that is less sprawling, consumes less open land, does not tax community services unduly, respects a site's physical characteristics and minimizes the total amount of disturbance on the site.

3.05.02 Applicability

Any tract of land located within the RES-15, RES-30, RES-43, and RES-87 Districts being a minimum of 10 acres in size shall be considered eligible for OSRD development. The tract may be a subdivision or a division of land pursuant to Massachusetts General Laws Chapter 41, Section 81P, provided, however, that OSRD may also be permitted where intended as a condominium on land not so divided or subdivided.

Any tract of land located within the RES-15, RES-30, RES-43, or RES-87 Districts and being proposed for development as age-restricted dwellings as defined in 6.01.01 may be eligible for OSRD development if it is less than ten (10) acres in size with a majority vote of the Planning Board.

3.05.03 Standards

The number of dwelling units permitted on the site may exceed the basic maximum number that would normally be allowed by a conventional subdivision plan in full conformance with zoning, subdivision regulations, health codes, wetlands bylaws and other applicable requirements by forty percent (40%), in the aggregate, given the following circumstances (computations shall be rounded to the lowest number):

- A. For every four (4) age-restricted dwelling units, one (1) dwelling unit may be added as a density bonus; provided that this density bonus shall not exceed twenty percent (20%) of the basic maximum number.
- B. For every four (4) dwelling units restricted to occupancy for a period of not less than thirty (30) years by persons or families who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development, one (1) dwelling unit may be added as a density bonus; provided, however, that this density bonus shall not exceed twenty percent (20%) of the basic maximum number.
- C. For the construction of passive and/or active recreation facilities that are available for public use, one (1) dwelling unit may be added per two (2) acres of recreation land or per two

thousand five hundred (2,500) feet of trail; however, this density bonus shall not exceed twenty percent (20%) of the basic maximum number.

3.05.04 Dimensional Requirements

Applicants are encouraged to modify the lot size, shape and other dimensional requirements specified in Section 2.04.02, Density Requirement Table, for lots in an OSRD development. The following limitations apply:

- A. No single family or two family lot shall have frontage of less than forty (40) feet per structure, and no multi-family lot shall have frontage of less than thirty (30) feet per dwelling unit.
- B. New lots shall not have frontage on a way other than one created within an OSRD.
- C. Structures shall be at least twenty (20) feet apart in the RES-15, RES-30, RES-43, and RES-87 Districts.

3.05.05 Common Open Space Requirements

Common open space shall comprise a minimum of fifty percent (50%) of the tract. The Planning Board may require that at least half of the common open space be left in a natural state. Any proposed common open space, unless conveyed to the 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 exclusively for the purposes set forth herein, and that it shall be maintained in a manner to ensure that it is suitable for its intended purposes.

- A. At least fifty percent (50%) of the land set aside as common open space shall be upland, as defined by Section IX.
- B. The common open space shall be of a shape, dimension, character, and location suitable for use by all residents of the OSRD.
- C. The common open space shall be large and contiguous. Contiguous open space may be separated by a roadway or accessory amenity. The Planning Board may waive this

requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the goals of this bylaw and/or protect identified primary and secondary conservation areas.

D. The common open space shall be used for the following purposes or a combination thereof: conservation, forestry, horticulture, agriculture, historic preservation, outdoor education, and active and passive recreation. The common open space shall have at least forty (40) feet of frontage to permit suitable access for such purposes. The Planning Board may permit up to five percent (5%) of the open space to be paved or built upon for structures accessory to the dedicated use or uses of such open space. Subsurface wastewater and stormwater management systems serving the OSRD may be located within the open space provided that the Board finds that such uses will not be detrimental to the character, quality or use of the open space. Surface systems, such as retention and detention ponds, shall not count towards the minimum required common open space.

E. The common open space shall be conveyed to:

1. The Conservation Commission;
2. 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;
3. A corporation or trust owned jointly or in common by the owners of lots within the OSRD. If such corporation or trust is utilized, ownership thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open space and facilities shall be permanently guaranteed by such corporation or trust which shall provide for mandatory assessments for maintenance expenses to each dwelling unit. Each such corporation or trust shall be deemed to have assented to allow the Town to perform maintenance of such 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 corporation or trust as to the inadequate maintenance, and, if the trust or corporation fails to complete such maintenance, the Town may perform it. If the Town performs maintenance, the

owners of lots within the OSRD shall pay the cost thereof and the cost shall constitute a lien upon their properties until said cost has been paid. Each individual deed, and the deed or trust or articles of incorporation, shall include provisions designed to effect these provisions. Documents creating such corporation or trust shall be submitted to the Planning Board for approval, and shall thereafter be recorded at the Worcester Registry of Deeds.

3.05.06 Application Procedure

The Planning Board may authorize an OSRD pursuant to the grant of a special permit. Such special permit shall be acted upon in accordance with the following provisions:

A. Pre-Application Procedure

The applicant is very strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite the Planning Board Engineer, Building Inspector, Board of Health, Conservation Commission, Fire Chief, Highway Department and other interested persons, committees or boards. The purpose of a pre-application review is to minimize the applicant's costs of engineering and to commence negotiations with the Planning Board at the earliest possible stage in the development. At the pre-application meeting, the applicant may outline the proposed OSRD, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application.

The applicant is encouraged to submit a Site Context Map and Site Analysis Map as detailed below. In order to facilitate pre-application review, the applicant is also encouraged to request a site visit by the Planning Board and/or its agents. If such a site visit is requested, all applicable boards and committees will be notified by the Planning Board and invited to attend.

1. Site Context Map – This map places the parcel in context with the surrounding neighborhood. Based upon existing data sources and field inspections, it shows various major natural resource areas or features that cross parcel lines or are located on adjoining lands.
2. Site Analysis Map – This map familiarizes officials with existing conditions on the property. Based upon existing data sources and field inspections, it

locates and describes noteworthy resources that should be protected through a sensitive subdivision layout. These resources include wetlands, riverfront areas, floodplains and steep slopes, but may also include mature woodlands, hedgerows, unique or special wildlife habitats, historic or cultural features (such as old buildings or stone walls), unusual geologic formations and scenic views into and out of the property. By overlaying this plan onto a development plan, the parties involved can clearly see where conservation priorities and desired development overlap/conflict.

3. Other Information – Applicants are invited to submit the information set forth in Section 3.05.06, Subsection B, in a form acceptable to the Planning Board.

B. Design Process

At the time of the application for a special permit for OSRD in conformance with Section 3.05.06, Subsection C below, applicants are required to demonstrate to the Planning Board that the following Design Process was performed by a certified Landscape Architect and considered in determining the layout of proposed streets, house lots and open space.

1. Identifying Conservation Areas. Identify and delineate Primary Conservation Areas (such as wetlands, riverfront areas and floodplains regulated by state or federal law) first, Secondary Conservation Areas (unregulated elements of the natural landscape such as steep slopes, mature woodlands, farmland, meadows, additional wildlife habitats, scenic views, and cultural features such as historic and archeological sites) second, and the Potentially Developable Area last. To the maximum extent possible, the Potentially Developable Area shall consist of land outside identified Primary and Secondary Conservation Areas.

2. Locating House Sites. Locate the approximate sites of individual houses within the Potentially Developable Area as well as private yards and shared amenities so as to reflect an integrated community. The number of homes enjoying the amenities of the development shall be maximized.
3. Aligning the Streets and Trails. Align the streets in order to access the house lots. Trails shall be laid out to create internal and external connections to existing and/or potential streets, sidewalks and trails.
4. Draw in the lot lines. The Planning Board has the right to waive this requirement in an OSRD that utilizes condominium ownership.

C. Design Standards

The following Generic and Site Specific Design Standards shall apply to all OSRD's and shall govern the development and design process:

1. Generic Design Standards
 - a. The orientation of individual building sites shall be such as to maintain maximum natural topography and cover. To the maximum extent possible, topography, tree cover and natural drainage ways shall be treated as fixed determinants of road and lot configuration rather than as malleable elements that can be changed to follow a preferred development scheme.
 - b. Streets shall be designed and located in such a manner as to maintain and preserve natural topography, significant landmarks, and trees; to minimize cut and fill; and to preserve and enhance views and vistas on or off the subject parcel.
 - c. Proposed buildings and associated development shall be compatible with surroundings, terrain, and the scale and architecture of existing buildings that share a functional or visual relationship to the proposed buildings.
 - d. The removal or disruption of historic or significant uses, structures, or architectural elements shall be minimized insofar as practicable, whether these exist on the site or on adjacent properties.

2. Site Specific Design Standards

- a. Mix of Housing Types – The OSRD may consist of any combination of single-family, two-family and multi-family residential structures. Multi-family structures shall be oriented toward the street serving the premises rather than the required parking area.
- b. Buffer Areas – A buffer area of one hundred (100) feet shall be provided at the following locations: (a) perimeter of the property where it abuts residentially zoned and occupied properties; (b) certain resource areas on or adjacent to the tract including ponds, wetlands, streams, rivers, agricultural or recreational ball fields, and land held for conservation purposes; and (c) existing public ways. No vegetation in this buffer area will be disturbed, destroyed or removed, except for normal maintenance of structures and landscapes approved as part of the project. The Planning Board may waive the buffer requirement in these locations when it determines that a smaller buffer (or no buffer) will suffice to accomplish the objectives set forth herein.
- c. Drainage – The Planning Board shall encourage the use of “soft” stormwater management techniques (such as swales) and other drainage techniques that reduce impervious surface and enable infiltration where appropriate.
- d. Landscaping – All structural surface stormwater management facilities shall be accompanied by a conceptual landscape plan.
- e. On-site Pedestrian and Bicycle Circulation – Walkways and bicycle paths shall be provided to link residences with parking areas, recreation facilities (including parkland and open space) and adjacent land uses where appropriate.
- f. Additional Criteria for Multi-family Development
 1. The design and location of the structure on the site shall be consistent with the visual scale and character of single family development.
 2. No more than two (2) bedrooms shall be permitted per multi-family dwelling unit.

D. Application Procedure

1. Concept Plan

Any person seeking a Special Permit for an OSRD shall file an original and eight (8) copies of an application with the Planning Board, and a copy with the Town Clerk. At the expense of the applicant, the Planning Board may retain a registered professional engineer or other professional consultant(s) to advise the Planning Board on any or all aspects of the application. In accordance with the Planning Board Fee Schedule, a non-refundable filing fee and engineering review fee shall be paid to the Town of Dudley. The unexpended balance of the engineering review fee shall be returned to the applicant within thirty (30) days from issuance of approval or disapproval. To the extent that the engineering review fee shall prove insufficient to pay for the evaluation and review of the plans by independent technical experts, and/or pay for clerical, publication, and all other related costs, the charges, if any, shall be billed to the applicant. The applicant shall pay all invoices submitted to him by the Planning Board within thirty (30) days.

The application shall contain a Concept Plan consisting of a Sketch Plan and a Yield Plan, as well as additional information reasonably necessary to make the determinations and assessments cited herein, including the Site Context Map and Site Analysis Map specified in Section 3.05.06, Subsection A, above. Within seven (7) days of its submission, the Planning Board shall refer the application to the Board of Health, Conservation Commission, Fire Department, Building Department, Highway Department, and other applicable boards, committees or departments for review and comments. The parties receiving copies of the application shall submit written recommendations to the Planning Board within thirty-five (35) days of receiving the application. Failure to report to the Planning Board within thirty-five (35) days shall be deemed a lack of opposition thereto. The Planning Board shall hold a public hearing for which notice has been given in accordance with Massachusetts General Law Chapter 40A, Section 11, within sixty-five (65) days of filing the application. Said date may be

extended upon mutual agreement with the applicant and filed forthwith with the Town Clerk.

a. Sketch Plan – The Sketch Plan shall be prepared by a certified Landscape Architect, or by a multi-disciplinary team of which one must be a certified Landscape Architect, and shall address the general features of the land and give approximate configurations of the lots, open space and roadways. The Sketch Plan shall incorporate the Four-Step Design Process, according to Section 3.05.06, Subsection B and the Design Standards according to Section 3.05.06, Subsection C above, when determining a proposed design for the development. The Sketch Plan shall include the following:

1. The OSRD name, boundaries, north point, date, legend, title “Concept Plan”, and scale (1" = 40').
2. The names and addresses of the owner of record and the applicant (if different than that of the owner of record), and the name, address and official seal of the Landscape Architect who prepared the plan.
3. The names, approximate location and widths of adjacent streets.
4. Existing and proposed topographical lines at two (2) foot intervals. Elevations shall be referred to mean sea level (an applicant may ask the Planning Board for a waiver from this requirement).
5. The locations of existing landscape features including forests, farm fields, meadows, wetlands, riverfront areas, waterbodies, archeological and historic features, rock outcrops, boulder fields, stone walls, cliffs, high points, outstanding vistas, forest glades, major tree groupings, noteworthy tree specimens, and habitats of

endangered or threatened wildlife, as identified as primary and secondary resources according to Section 3.05.06, Subsection B, above. All site features to be preserved, demolished, or moved shall be noted on the Sketch Plan.

6. All on-site local, state and federal regulatory resource boundaries and buffer zones shall be clearly identified and all wetland flag locations shall be numbered and placed upon the Sketch Plan.
7. Lines showing proposed residential lots, as located during Step-Four of the Design Process (see Section 3.05.06, Subsection B), with approximate areas and frontage dimensions.
8. Locations of all existing and proposed features and amenities including trails, recreation areas, pedestrian and bicycle paths, community buildings, and off-street parking areas. Off-street parking areas, if any, shall be shown on the plan and described briefly.
9. The existing and proposed lines of streets, ways, common driveways, easements and any parcel of land intended to be dedicated for public use or to be reserved by deed covenant for use of all property owners in the subdivision, or parcels of land or lots to be used for any purpose other than private residential shall be so designated in a general manner.
10. Proposed roadway grades.
11. A narrative explanation shall be prepared by a certified Professional Engineer detailing the proposed wastewater systems that will be utilized by the development and its likely impacts on-site and to any abutting parcels of land.

12. A narrative explanation prepared by a certified Professional Engineer proposing systems for stormwater drainage. For example, the narrative will specify whether soft or hard engineering methods will be used and the number of any detention/retention basins or infiltrating catch basins; it is not intended to include specific pipe sizes. Any information needed to justify this proposal should be included in the narrative. The approximate location of any stormwater management detention/retention basins shall be shown on the plan.
13. A narrative explanation prepared by a certified Professional Engineer, detailing the proposed water distribution system.
14. A narrative explanation of the proposed quality, quantity, use and ownership of the common open space. Common open space parcels shall be clearly shown on the plan.
15. All proposed landscaped and buffer areas shall be noted on the plan and generally explained in a narrative.
16. A list of all legal documents necessary for implementation of the proposed development, including any Conservation Restrictions, land transfers, and Master Deeds, with an accompanying narrative explaining their general purpose.
17. A narrative indicating all requested waivers, reductions, and/or modifications as permitted within the requirements of this bylaw.

b. Yield Plan

The basic maximum number of units shall be derived from a Yield Plan. The Yield Plan shall show the maximum number of dwelling units that could be placed upon the site in a conventional subdivision in full conformance with

zoning, subdivision regulations, health codes, wetlands bylaws and other applicable requirements. The Yield Plan shall contain the information required for a Sketch Plan, as set forth above. The proponent shall have the burden of proof with regard to the basic maximum number of dwelling units resulting from the design and engineering specifications shown on the Yield Plan.

c. Definitive Subdivision Plan – If the Special Permit is granted, the applicant shall submit a definitive subdivision plan, in conformity with Section 3, Subsection C of the Town of Dudley Rules and Regulations Relating to the Subdivision of Land. Any Concept Plan special permit issued by the Planning Board shall specifically state that the Definitive Subdivision Plan shall substantially comply with the Concept Plan.

d. Substantial Variation

The Planning Board may find that a substantial variation exists between the Concept Plan and the Definitive Subdivision Plan. A substantial variation shall be any of the following:

- an increase in the number of building lots;
- a significant decrease in the open space acreage;
- a significant change in the lot layout;
- a significant change in the general development pattern which adversely affects natural landscape features and open space preservation;
- significant changes to the stormwater management facilities; and/or
- significant changes in the wastewater management systems if such changes affect the quality or quantity of open space or the designed layout.

If the Planning Board determines that the Definitive Subdivision Plan does not substantially comply with the Concept Plan, the Board may disapprove the

Definitive Subdivision Plan for failure to comply with the special permit provision requiring that the Definitive Subdivision Plan substantially comply with the Concept Plan.

The Planning Board may conditionally approve an OSRD Definitive Subdivision Plan that does not substantially comply with the Concept Plan special permit. Such conditional approval must identify where the plan does not substantially comply with the Concept Plan special permit and shall require that the Concept Plan special permit be amended to be in compliance with the significant changes identified by the Planning Board. A public hearing shall be held on the modifications to the Concept Plan.

The public hearing on the application to amend the Concept Plan special permit shall only discuss the significant changes identified by the Planning Board in their conditional approval of the Definitive Subdivision Plan. These are the only considerations that the Planning Board may take into account in deciding whether to amend the Concept Plan special permit.

3.05.07 Decision of the Planning Board

The Planning Board must act on a special permit application within ninety (90) days of submittal of the completed application. The Planning Board may grant a special permit for an Open Space Residential Development if it determines that the proposed OSRD complies with the requirements of this Bylaw. A four-fifths (4/5) vote of the Planning Board shall be required to grant the Special Permit. The following factors shall be considered:

- whether the OSRD furthers the goals and policies of the *Dudley, Massachusetts Master Plan 2000*;
- whether the OSRD achieves greater flexibility and creativity in the design of residential developments than a conventional plan meeting the zoning requirements otherwise applicable to the zoning district in which the tract is situated;

- whether the OSRD promotes the permanent preservation of open space, other natural resources including waterbodies and wetlands, and historic, cultural and scenic resources;
- whether the OSRD promotes a less sprawling form of development that consumes less open land and conforms to existing topography and natural features better than a conventional subdivision;
- whether the OSRD reduces the total amount of disturbance on the site;
- whether the OSRD facilitates the construction and maintenance of streets, utilities and public service in a safe, economical and efficient manner; and
- whether the Concept Plan and its supporting narrative documentation complies with all sections of this Bylaw.

3.06.00 SWIMMING POOL REGULATIONS

Swimming pools and hot tubs shall be regulated in accordance with the Dudley Town Bylaw.

In addition, no pool or hot tub may be located closer than the setback line for that zone.

3.07.00 TOWN REFUSE DISPOSAL DISTRICT

Within this district residential use is not allowed. The use permitted as a matter of right is town refuse disposal. Uses permitted by special permit are dog shelters, municipal or governmental buildings or related supporting facilities, municipal parks or playgrounds. No special permit will be issued where refuse is buried.

3.08.00 OUTDOOR LIGHTING

Any outdoor lighting fixture newly installed or replaced shall be shielded so that it does not produce a strong direct light beyond the property boundaries and does not create a nuisance or hazard to pedestrians, land uses in the proximity of the light source or motorists.

3.09.00 INTERIOR LOTS (FLAG LOTS, PORKCHOP LOTS)

1a. Interior lots shall have at least 50' of road frontage on an accepted town road or state highway. No part of any lot between the front line of the principal building and street line shall be less than 50' in width and shall not be used for minimum lot size calculations. This part of the lot shall be referred to as the access area.

1b. In all non-residential zones, interior lot frontage shall be 25' or greater. Also, these lot sizes shall be the same as non-interior lot sizes, not including access area.

1c. The Planning Board may require greater lot frontage to ensure sight line safety.

1d. An interior lot access may not adjoin more than one other interior lot.

1e. All residential lots shall be a minimum of 5 acres, not including access area and must contain at least 50% upland.

1f. No building shall be built in the access area of an interior lot greater than 8' in height and contain not more than 60' square feet of floor area.

1g. Interior lots shall be permitted in all zoning districts as per Section 2.01.04 Interior Lots. All usage, dimensions and setbacks shall be in conformance to the appropriate zoning district in which the Interior Lot lies.

1h. The following statement must appear on the plan when submitted for approval to the Office of the Planning Board. The statement must appear within the bounds shown for every interior lot, "THIS LOT MAY BE SUBDIVIDED IN THE FUTURE ONLY AS PART OF AN APPROVED SUBDIVISION INCLUDING ROAD FRONTAGE APPLICABLE TO THE ZONING OF THIS LOT. THIS INTERIOR LOT SHALL NEVER BE SUBDIVIDED FURTHER WITHOUT PLANNING BOARD APPROVAL." (6/19/06)

3.10.00 MILL CONVERSION OVERLAY DISTRICT

3.10.01 Purpose and Intent

Primary purposes for the Mill Conversion Overlay District, hereafter MCO, are:

- To promote the economic health and vitality of the Town by encouraging the preservation, reuse and renovation of underutilized or abandoned historic mill properties;
- To allow for the conversion of Dudley's historic mills in a way that preserves the character of nearby residential and commercial neighborhoods; and
- To encourage mixed-use development that includes, but is not limited to, offices, retail and/or service establishments, community facilities, and multi-family housing.

3.10.02 Definitions

Affordable to Persons or Families Qualifying as Low Income - Affordable to persons in the Dudley area who earn less than 65% of the median income in accordance with the Massachusetts Department of Housing and Community Development definition of low income.

Affordable to Persons or Families Qualifying as Moderate Income - Affordable to persons in the Dudley area who earn 65% to 80% of the median income in accordance with the Massachusetts Department of Housing and Community Development definition of moderate income.

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

Mill Conversion Project (MCP) - The conversion of an existing mill, or portion thereof, to multi-family dwellings and/or some combination of appropriate nonresidential uses as defined in Section 3.10.05.

3.10.03 Overlay District

The Mill Conversion Overlay District is hereby established and shall be construed as an overlay district. Within the MCOB, all regulations of the underlying district(s) shall continue to be in full force and effect, except where these regulations supercede such underlying requirements or provide an alternative to such requirements. The MCOB shall consist of the following properties (properties are identified by assessor's map - block - lot number):

Former Steven's Linen/Toltec Property: [Old map/block/lot numbering style]

212/A 1 27/2 -008

212/B 1 37/6 -008/-2/

213/A 8 13/9 -002

Former Steven's Linen Bleachery Property:

213/B 6 10/4 -010

Former Ethan Allen Property:

261/C 2 13/1 -007

3.10.04 Applicability

Within the MCOB, the Planning Board may issue a special permit and site plan approval for the construction of a Mill Conversion Project (MCP). No other use or structures shall be permitted in conjunction with a MCP, except as specifically provided herein.

3.10.05 Permitted Uses

Within a MCP, residential use or assisted living facility shall be permitted in conjunction with one or more of the following specified non-residential uses:

- A. Commercial (restaurant, retail, or office establishment);
- B. Institutional (museum, educational use, charitable or philanthropic institution, municipal use, club or lodge);
- C. Recreational (indoor commercial recreation); and
- D. Appropriate accessory uses.

3.10.06 Application Procedure

A. Pre-Application Procedure

The applicant is strongly encouraged to request a pre-application review at a regular business meeting of the Planning Board. If one is requested, the Planning Board shall invite appropriate town departments, boards and committees as follows: Board of Health, Conservation Commission, Department of Inspections and Permitting, Water Department, Sewer Department, Highway Department, and Fire Department. The purpose of a pre-application review is to minimize the applicant's costs of engineering and to commence negotiations with the Planning Board at the earliest possible stage in the development. At the pre-application review, the applicant may outline the proposed MCP, seek preliminary feedback from the Planning Board and/or its technical experts, and set a timetable for submittal of a formal application. No formal filings are required for the pre-application review; however, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board of the scale and overall design of the proposed MCP.

B. Application Procedure

Any person seeking a Special Permit for a MCP shall file an original and eight (8) copies of a special permit application with the Planning Board and a copy with the Town Clerk. At the expense of the applicant, the Planning Board may retain a registered professional engineer or other professional consultant(s) to advise the Planning Board on any or all aspects of the application. In accordance with the Planning Board Fee Schedule, the applicant shall submit a non-refundable filing fee and engineering review fee. The unexpended balance of the engineering review fee shall be returned to the applicant within thirty (30) days from issuance of approval or disapproval. To the extent that the engineering review fee shall prove insufficient to pay for the evaluation and review of the site plan by independent technical experts, and/or pay for clerical, publication, and all other related costs, the charges, if any, shall be billed to the applicant. The applicant shall pay all invoices submitted to him by the Planning Board within thirty (30) days.

Within seven (7) days of receiving a complete special permit application, the Planning Board shall submit one (1) copy of the application to appropriate town departments, boards and committees as follows: Board of Health, Conservation Commission, Department of Inspections and Permitting, Water Department, Sewer Department, Highway Department, and Fire Department for their consideration, review and comment. The specified town departments, boards and commissions shall submit written recommendations to the Planning Board within thirty-five (35) days of receiving the special permit application. Failure to submit written comments to the Planning Board within thirty-five (35) days shall be deemed a lack of opposition thereto. The Planning Board shall hold a public hearing for which notice is given in accordance with Massachusetts General Law Chapter 40A, Section 11, within sixty-five (65) days of receiving the complete application. Said date may be extended upon mutual agreement with the applicant and filed forthwith with the Town Clerk.

The application for a special permit shall be submitted with forms furnished by the Planning Board in accordance with its regulations. Each such application shall be accompanied, if applicable, by a definitive plan of land pursuant to the provisions of the Town of Dudley Rules and Regulations Governing the Subdivision of Land. In addition, the applicant shall submit:

1. The following plans:
 - a. A site plan and all supporting documents as set forth in Section 5.04.00 SITE PLAN REVIEW;
 - b. A plan at a scale of 1"=40' showing the topography of the site at a minimum of two (2) foot intervals, as well as vegetation and special features, including wetlands, perennial streams and ponds, waterways, waterfalls, canals and dams, trees of more than 8" caliper, rock outcroppings, slopes in excess of fifteen percent (15%), existing and proposed trails and paths, open vistas, structures of historical importance, wildlife habitats, and proposed conservation and recreation areas;
 - c. A plan illustrating preliminary landscaping and architectural design, showing type, location and layout of buildings, typical elevations, as well as the general height, bulk and appearance of structures. Perspective drawings may be subsequently required by the Planning Board;
 - d. A floor plan to scale for each floor of each building indicating, if applicable:
 - Number of units;
 - Number of bedrooms;
 - Location of affordable dwelling units;
 - Proposed use of floor space;

2. The following narrative reports or data:

- a. A proposed development schedule showing the beginning of construction, the rate of construction and development, including stages, if applicable, and the estimated date of completion;
- b. A concise narrative prepared by a preservation consultant that includes:
 1. Architectural history of all structures on the site, including period, style, method of building construction, and association with any particular architect or builder.
 2. Mention of any important association with one or more historic persons or events;
 3. Mention of any cultural, political, economic or social significance of the site or any structures on the site to the Town, Commonwealth of Massachusetts or United States of America.
- c. A development impact statement prepared by qualified professionals detailing the impact of the development at all phases, including construction and operation.

The statement shall include the following:

1. Description of the subdivision and its relationship to the surrounding area.
2. Tabulation of the total area being subdivided, the total area of lots, the total area dedicated for streets, drainage or utilities, and the total area reserved for recreation, parks or other open land.
3. Description of the nature and extent of the proposed work and its impact on environmental and historical resources; all measures being utilized to minimize damage; any adverse short-term or long-term environmental consequences which cannot be avoided should the work be performed; as well as alternatives to the proposed action and their effects on environmental and historic resources.
4. Description of the methods to be used during construction to control erosion and sedimentation; description of the approximate size and location of land to be cleared at any given time and length of time of exposure; covering of soil

stockpiles; and other control methods used. Evaluation of the effectiveness of the proposed methods and their effect on the surrounding areas.

5. Description of the permanent methods to be used to control erosion and sedimentation.
6. Description of any limitations on the proposed project caused by subsurface soil and water conditions, and methods to be used to overcome them.
7. Description of the estimated traffic flow at peak periods, the likely circulation patterns, and changes in level of service or safety for vehicles and pedestrians. The scope of the area evaluated for traffic impacts should be related to the volume of traffic that could be generated by future developments in said MCP, and by what routes that traffic will likely use. The report shall contain information about the proposed access points and characteristics of adjacent public streets including, but not limited to: capacity, width, sight distances, alignment, turning data, accident information, and condition of pavement (including shoulders).
8. Description of the effect of the project on public sewer system. If the proposed project will contain residential uses, state the number of bedrooms proposed for each unit. If the project will contain non-residential uses, provide estimates for the amount of sewage that will be discharged per day.
9. Description of the effect of the project on the Town water supply and distribution system.
10. Description of any special impact on municipal and governmental services.
11. Estimate of the number of new school children generated by the MCP, and number of total new persons added to the Town's population. In addition, projected net tax and other revenues over anticipated municipal costs should be submitted to help the Planning Board gain an understanding of the total fiscal impact of the proposed project upon Town resources.

- d. Information pertaining to any organization which the Applicant proposes to form where the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same, for approval as to form by Town Counsel;
 - e. Copies of all proposed covenants, easements, and other restrictions which the Applicant proposes to grant to the Town, utility companies, and any condominium or other ownership organization and the owners thereof, including plans of land to which they are intended to apply, for approval as to form by Town Counsel;
 - f. Any and all other information that the Planning Board may reasonably require in a form acceptable to assist in determining whether the Applicant's proposed development plan meets the objectives of this Section.
3. Waiver of Application Requirements: The Planning Board may waive the submission of technical information or documents otherwise required hereunder where the applicant demonstrates that, due to the simplicity of the proposal, such information is not necessary for or applicable to the Planning Board's decision pursuant to this section.

3.10.07 Standards

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

- A. Roadways: The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or by the applicant.
- B. Number of Parking Spaces: The Applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be

computed using the requirements of Section IV. The Planning Board may allow a reduction of the required number of spaces by up to twenty-five percent (25%) if it can be demonstrated that two (2) or more uses within a single development can share parking spaces. In determining the appropriate reduction, if any, the Planning Board may give consideration to the hours of operation and/or usage of the proposed uses within the development, the opinions of merchants, residents and municipal officials as to the adequacy or inadequacy of parking spaces within the surrounding area, as well as other relevant information.

- C. Commercial Vehicles: Commercial vehicles owned or operated by owners or tenants of the MCP, or their agents, servants, licensees, suppliers and invitees shall be parked inside a garage, or a suitably screened or designated area, except for delivery or service vehicles in the active service of receiving and delivering goods and services.
- D. Parking Areas: All parking areas shall be screened from view from adjacent residentially zoned or occupied premises located outside the site, including public ways, by a landscaped border at least six (6) feet in width. Parking lots shall be located to the rear or side of all buildings and shall not be located in front setbacks or in buffer areas; provided, however, that the Planning Board may waive these provisions for existing parking lots and/or existing buildings. Parking lot layouts shall be planned to permit landscaping, buffers, or screening to prevent direct views of parked vehicles from adjacent streets. The use of traditional picket fencing, hedges, walls, or landscape berms to define parking areas is encouraged. In parking areas of thirty or more parking stalls, at least one shade tree of two-inch or greater caliper complemented by shrubs and other planting material shall be planted for every ten (10) parking spaces. Adequate tree wells and irrigation shall be provided for all parking lot landscaping. Pedestrian access is to be taken into consideration in parking lot design. The use of separate walkways is encouraged.

- E. Paving: Paving shall be textured or of different materials at pedestrian crossings and walkways. The use of stone, brick or cultured stone pavers for entrance walkway borders is encouraged. The use of textured materials for walkway borders is encouraged.
- F. Paths: The Planning Board may require paths which shall be attractively designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to the various amenities and facilities on the site and to pathways or sidewalks to adjacent sites.
- G. Loading: Loading areas may be required by the Planning Board where deemed necessary for the efficient operation of the MCP. Loading areas must be at least 20 x 9 feet, and have a minimum overhead clearance of ten (10) feet.
- H. Screening: Exposed storage areas, garbage dumpsters, service areas, truckloading areas, utility buildings and structures shall be screened from the view of abutting properties and streets using plantings, fences and other methods compatible with the goals of this regulation.
- I. Utilities: All electric, gas, telecommunications, and water distribution lines shall be placed underground, except upon a demonstration of exceptional circumstances.
- J. Emergency Systems: The MCP shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and/or other tenants. There shall be sufficient site access for public safety vehicles. The Dudley Fire Department shall approve a plan for the emergency evacuation of residents and/or other tenants with emphasis on ensuring the safety of those with physical impairments.
- K. Lighting: Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not

create so much light overspill onto adjacent premises that it casts observable shadows, and so that it does not create glare from unshielded light sources.

L. Affordable Dwelling Units: For a period not less than thirty (30) years, a minimum of ten (10%) of the total number of dwelling units shall be restricted to persons qualifying as low or moderate income in accordance with the Massachusetts Department of Housing and Community Development definitions of low and moderate income. The following additional criteria shall apply:

1. Affordable units shall be integrated into the overall development of the MCP so as to prevent the physical segregation of such units.
2. Town Counsel shall approve the use restriction or re-sale controls as to form. The restriction or re-sale controls shall adequately specify material provisions for affordability, monitoring and enforcement. A right of first refusal upon the transfer of such restricted units shall be granted to the Dudley Housing Authority for a period not less than one hundred-twenty (120) days after notice thereof.
3. If no federal or state subsidy is used to fund the creation of the affordable units, the Planning Board may require the applicant to submit an application to the Local Initiatives Program so that the units can be added to the Chapter 40B Subsidized Housing Inventory maintained by the Massachusetts Department of Housing and Community Development (DHCD).

M. Expansion of Existing Building(s) and/or Construction of New Building(s): Existing building(s) may be expanded and/or new building(s) constructed subject to site plan review and approval by the Planning Board.

3.10.08 Number of Dwelling Units

The Planning Board shall approve the number of proposed dwelling units upon consideration of the following:

- A. Proposed method and efficacy of wastewater disposal;
- B. Availability of public water;
- C. Trip generation, traffic safety and internal site traffic;
- D. Number of affordable units, beyond the minimum required, proposed by the applicant;
- E. Development Impact Statement; and
- F. Reports from the technical consultants of the Planning Board and reviewing departments, boards and commissions.

3.10.09 Number of Bedrooms

The Planning Board may ensure the diversification of dwelling units within a MCP by establishing the number of dwelling units with one (1), two (2), or three (3) bedrooms. Not more than ten percent (10%) of the dwelling units in any MCP shall consist of three (3) bedrooms.

3.10.10 Action by the Planning Board

The Planning Board must act on the special permit application within ninety (90) days of submittal of the completed application. A four-fifths (4/5) vote of the Planning Board shall be required to grant the special permit. The Planning Board may grant a special permit for a Mill Conversion Project if it determines that the proposed project complies with the requirements of this Bylaw. The Planning Board shall consider the following when making its determination:

- Degree to which the proposed project complies with the goals of the *Dudley, Massachusetts Master Plan*;

- Suitability of the site for the proposed use(s);
- Social, economic or community needs which are served by the proposal;
- Impact on traffic and pedestrian flow and safety;
- Adequacy of utilities and other public services;
- Impact on the neighborhood visual character;
- Impact on the natural environment; and
- Potential fiscal impact; including impact on Town services, tax base and employment.

3.10.11 Conditions

The Planning Board may impose conditions in the grant of any special permit, including, but not limited to, the following:

- A. That all construction or infrastructure and improvements shall be completed within a specific time period;
- B. That all aspects of the MCP, including authorized uses, building occupancy, and intensity of use, shall remain in substantial conformance with the plans and other documents submitted to the Planning Board as part of the special permit proceeding unless modification of the special permit is authorized, after public hearing, by the Planning Board.

3.11.00 SCENIC ROADS (Added 11/05/07)

The Planning Board may adopt reasonable rules and regulations for administration of locally designated Scenic Roads as provided in MGL Chapter 40, Section 15C.

Trees and stone walls within the public taking along roads or sections of roads having been designated scenic by vote at a town meeting will be protected and will not be altered except after notification of

abutters within 100 feet including those across roads by certified mail return receipt requested to be paid for by the applicant, submittal of six (6) copies of the work plan, completion of Form S “Application for Work Along a Designated Scenic Road” and an advertised public hearing paid for and advertised in the manner of a Definitive Plan public hearing at which the Planning Board shall consider the work project based on the following:

- The degree to which the proposed work would adversely affect the scenic and aesthetic values upon which the scenic road designation was originally based, and/or
- The necessity for the proposed work in terms of public safety, welfare, and/or convenience, and/or
- Compensatory action proposed such as replacement of trees or walls, and/or
- Availability of reasonable alternatives to the proposed work which could reduce or eliminate anticipated damage to trees or stone walls, and/or
- Whether the proposed work would compromise or harm other environmental or historical values, and/or
- Consistency of the proposed action with previously adopted Town plans and policies.

As authorized by MGL Chapter 40, Section 15C each violation thereof shall be punished by a fine of \$300.00; each tree cut or removed shall constitute a separate violation; fines to inure to the use of the Town.

3.12.00 LARGE SCALE SOLAR PHOTOVOLTAIC (Added 5/21/12, Awaiting A/G Approval)

3.12.01 Purpose

The purpose of this bylaw is to reasonably regulate large-scale ground-mounted solar photovoltaic installations by providing standards for the placement, design, construction, operation, monitoring, modification, and removal of such installations that address public safety, minimize impacts on scenic, natural, and historic resources, and to provide adequate financial assurance for the eventual decommissioning of such installations.

3.12.02 Applicability

This bylaw applies to large-scale ground-mounted solar photovoltaic installations, as defined herein, proposed to be constructed after the effective date of this bylaw. This bylaw also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment as determined by the Building Inspector or their designee.

This bylaw is not intended to regulate systems of less than 250 kW or roof-mounted systems. It is not intended to regulate systems that are consumptive power systems where all power that is generated is utilized to power onsite operations.

3.12.03 Definitions

Building Permit: A permit issued by the Building Inspector allowing for the construction of a large-scale ground-mounted solar photovoltaic installation consistent with the state and federal building codes and the zoning bylaws of the town of Dudley, Massachusetts.

Large-Scale Ground-Mounted Solar Photovoltaic Installation (LGSPI): A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, has a minimum nameplate capacity of 250 kW DC, and generates power a part of which is utilized off-site.

Rated Nameplate Capacity: The maximum rated output of electric power production of the photovoltaic system in direct current (DC).

3.12.04 General Requirements for All Large-Scale Solar Power Generation

Installations

The following requirements are common to all LGSPI.

- A. Compliance With Laws, Ordinances, and Regulations

The construction and operation of all LGSPI shall be consistent with all applicable local, state, and federal requirements, including, but not limited to all applicable safety, construction, electrical, and

communications requirements. All buildings and fixtures forming part of a solar photovoltaic installation shall be constructed in accordance with the State Building Code.

B. Building Permit

No LGSPI shall be constructed, installed, or modified except pursuant to a building permit. The building permit application for an LGSPI must be accompanied by the required fee.

C. Site Plan Review

No LGSPI shall be constructed, installed, or modified except in conformity with a site plan approved by the Planning Board in accordance with the zoning bylaw of Dudley, Massachusetts. The Planning Board shall consider and apply the requirements set forth in this section of the bylaw, section 3.12.00, in reviewing and making a decision upon an application for site plan approval. Upon receipt of an application for site plan approval of an LGSPI, the Planning Board may engage at the applicant's cost professional and technical consultants including legal counsel to assist with its review of the application in accordance with the requirements of Section 53G of Chapter 44 of the Massachusetts General Laws. The Planning Board may direct the applicant to deposit funds with the Planning Board for such review at the time the application is accepted and to add additional funds as needed upon notice. Failure to comply with this section shall be grounds for denying the application. Upon one month after the 21-day appeal period of the Planning Board's approval of the LGSPI application any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the applicant per their written request.

D. Site Control

The project proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed solar photovoltaic installation.

E. Operations and Maintenance Plan

The project proponents shall submit a plan for the operation and maintenance of the LGSPI which shall include measures for maintaining safe access to the installation, storm water controls, and general procedures for operational maintenance of the installation.

F. Utility Notification

No LGSPI shall be constructed until evidence has been given 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 solar photovoltaic installation owner or operator's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

G. Design Standards

1. Setbacks and Screening

Front, side, and rear yards for LGSPI shall be as follows regardless of the zone:

- (a) Front yard: The front yard depth shall be at least 100 feet.
- (b) Side yard: Each side yard shall have a depth of at least 50 feet.
- (c) Rear yard: The rear yard depth shall be at least 50 feet.
- (d) Every abutting property shall be visually screened from the LGSPI through any one or a combination of the following: location, distance, plantings, existing vegetation, and/or fencing (the fencing may not exceed six (6) feet in height).

2. Appurtenant Structures

All appurtenant structures to a LGSPI shall be subject to the same regulations that pertain to primary structures as set forth in the zoning bylaw.

3. Landscaping

The project proponent shall submit a landscape plan detailing all proposed changes to the landscape of the site, including temporary or permanent roads or driveways, grading, vegetation clearing, planting, screening vegetation, and/or fences/walls, and lighting.

4. Land Clearing and Grading, Soil Erosion, and Habitat Impacts

Clearing of natural vegetation shall be limited to what is necessary for the construction, operation, and maintenance of the LGSPI or otherwise prescribed by applicable laws, regulations, and bylaws. Land clearing and grading plans shall avoid practices that cause erosion and shall minimize habitat disruption.

5. Lighting

Lighting of the LGSPI, including appurtenant structures, shall be consistent with local, state, and federal law, and otherwise shall be limited to that required for safety and operational purposes. It shall be designed to minimize glare on abutting properties and be directed downward with full cut-off fixtures to reduce light pollution.

6. Signage

Signs on LGSPI shall comply with all applicable legal requirements, including the zoning bylaw. One sign consistent with the zoning bylaw shall be required to identify the owner and provide a 24-hour emergency contact phone number.

Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.

7. Utility Connections

Reasonable efforts, as determined by the Planning Board or their designee, shall be made to place all utility connections from the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.

H. Monitoring and Maintenance

1. Solar Photovoltaic Installation Conditions

The owner or operator of the LGSPI 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 level acceptable to the Fire Chief and local 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 by the town as a public way.

2. Emergency Services

Prior to issuance of a building permit, the LGSPI owner or operator shall provide a project summary, electrical schematic, and approved site plan to the town's local safety officials, including the Police Chief, Fire Chief, and Building Inspector. Upon request the owner or operator shall cooperate with local safety officials in developing an emergency response plan, which may

include ensuring that emergency personnel have immediate, 24-hour access to the facility. 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 and shall provide a mailing address and telephone number for such person(s).

I. Modifications

All material modifications to a LGSPI made after issuance of the required building permit shall require approval by the Planning Board through Site Plan Review as noted earlier in this chapter. Modifications may be considered minor or major.

J. Discontinuance and Removal

1. Decommission

Any LGSPI, or any substantial part thereof, not used for a period of one continuous year or more as determined by the Building Inspector without written permission from the Planning Board, or that has reached the end of its useful life, shall be considered discontinued, and shall be removed. Upon written request from the Building Inspector addressed to the contact address provided and maintained by the owner or operator as required above, the owner or operator shall provide evidence to the Building Inspector demonstrating continued use of the LGSPI. Failure to provide such evidence within thirty days of such written request shall be conclusive evidence that the installation has been discontinued. Anyone intending to decommission and/or remove such an installation shall notify the Planning Board and Building Inspector by certified mail of the proposed date of discontinued operations and plans for removal.

The owner or operator shall physically remove the installation no more than 150 days after the date of discontinued operations. Removal shall consist of:

- (a) Physical removal of all parts of and appurtenances to the LGSPI, including structures, equipment, security barriers, and transmission lines from the site; and
- (b) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations; and
- (c) Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation and/or habitat; and
- (d) Gravel or ground cover if removal is deemed by the Planning Board to make the area more consistent with the landscape.

2. Financial Surety

Proponents seeking to construct and operate an LGSPI shall provide, prior to construction, 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 LGSPI and remediate the landscape. The amount and form of such surety shall be determined by the Planning Board. Such surety will not be required for municipally- or state-owned facilities. The project proponent shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer licensed in Massachusetts. The proponent shall pay for review of this estimate by the Planning Board's peer review designee. The amount of the estimate provided by the proponent shall include a mechanism for calculating increased removal costs due to inflation.

A. Lot Requirements

All LGSPIs proposed in a residential zone must be on a lot which contains an area of not less than four acres and meets the setbacks and other Design Standard requirements under Section 3.12.04.G.

B. Special Permit

The construction and use of LGSPIs in Residential Districts shall require a special permit issued by the Planning Board, in accordance with the procedures outlined in Section 5.01.04 of the Zoning Bylaws of the Town of Dudley, prior to their construction, installation or modification.

SECTION IV

GENERAL REGULATIONS

4.01.00 PARKING STANDARDS

Adequate off-street parking shall be provided within a reasonable distance to serve all parking demand created by new construction, whether by new structures or by additions/modification to existing structures.

4.01.01 Requirements

Off-street parking provisions shall be either on the same property as the activity it services, or within 600 feet of the activity. Each such facility may be jointly used with other premises for this purpose, however, each parking space shall only be counted once in determining compliance with the off-street parking requirements of this bylaw.

Each parking space shall measure not less than nine (9) feet in width and twenty (20) feet in length, exclusive of drives and maneuvering spaces.

All open space off-street parking areas for more than four cars located within or adjacent to a residential district of use shall be visually screened from all adjoining lots either zoned or in use for residential purposes by a barrier of vegetation, metal or wood between four to six feet in height. Said barrier must be maintained in a reasonable manner.

4.01.02 Parking Standards Catalog

The following standards shall apply within the Town of Dudley. All uses must comply with these provisions.

<u>Activity</u>	<u>Unit of Measurement</u>	<u>Standards</u>	<u>Parking Space</u>
<u>Residential</u>			
One and two-family Dwelling	each structure		2.0
Multiple family	per dwelling		1.5
Hotel, Motel	per sleeping room		1 .0
<u>Commercial Office</u>	per 1,000 sq. ft. (gross floor area)		3.3
<u>Retail</u>	per 1,000 sq. ft. (gross floor area)		4.0
<u>Restaurant, theater or auditorium</u>	per seat		0.3
<u>Bowling alley</u>	per alley	4.0	
<u>Industrial all uses</u>	per employee		0.6
<u>Institutional</u>			
Church	per seat		0.3
College, university	per student		0.5*

Others individually determined by the Planning Board.

*With auto access only (.02 with good transit access)

4.01.03 Requirement of .05 Bicycle Parking Space [Approved 5/23/2012]

.05 bicycle parking space is required for every motor vehicle parking space required in Section 4.01.02, with a minimum of 1 and a maximum of 20. Any property owner required to have bicycle parking may elect to establish a shared bicycle parking facility with any other property owner within the same block and within 600 feet of the entrance to meet these requirements.

4.01.04 Conversion of Automobile Parking Spaces

For properties having 50 automobile parking spaces or more, one automobile parking space as required by the preceding sections of this Parking Regulation may be converted to bicycle parking for up to 15 bicycles. For every 50 automobile parking spaces or portion thereof, one automobile parking space may be converted to bicycle parking and yet shall still be counted as a parking space for the purpose of meeting the requirement of Section 4.01.02 Parking Standards Catalog.

4.01.05 Placement and Access

Bicycle parking shall be situated near the primary entrances(s) of the property. Bicycle parking apparatus shall not be installed in a manner which will cause obstruction of pedestrian or motor vehicle traffic. Bicycle Parking shall be situated in such a way that normal snow removal activities and snow storage do not impact the bicycle parking facility.

4.01.06 Security

Bicycle parking apparatus shall be a high-security design to which the frame and wheel of a parked bicycle may be attached. Bicycle parking shall be installed in a visible location so as to deter vandalism and theft. Bicycle parking shall be permanently mounted to the ground or to a building or other immovable structure.

4.01.07 Dimensional Regulation

Each bicycle parking space shall be sufficient to accommodate a bicycle 7 feet in length and 2 feet in width. Inverted U frame or other racks approved by the Planning Board that support the bicycle at two or more points above the center of gravity are required.

4.01.08 Exemptions

The following facilities are exempt from bicycle parking requirements: private residences of one, two, three and four family dwellings. (Bike Rack language added 5/21/2012, Awaiting A/G Approval)

4.02.00 LOADING STANDARDS

Adequate off-street loading space shall be provided to serve all loading space demand created by new construction, whether by new structures or by addition/modification to existing structures.

4.02.01 Requirements

Off-street loading space provisions shall be located on the same or directly adjacent property as the activity services. Each facility may be jointly used with other premises for this purpose; however, each loading space shall only be counted once in determining compliance with the off-street loading space requirement of this bylaw.

Each loading space shall measure not less than twelve (12) feet in width and four (4) feet in length for single unit trucks or fifty (50) feet in length for semi trailer trucks, exclusive of drives and maneuvering space.

All off-street loading facilities located within or adjacent to a residential district or use shall be visually screened from all adjoining lots either zoned or in use for residential purposes by a barrier of vegetation, metal or wood between four and six feet in height. Said barrier must be maintained in a reasonable manner.

4.02.02 Loading Standards Catalog

The following standards shall apply within the Town of Dudley. All uses must comply with these provisions.

LOADING SPACE REQUIREMENTS

<u>ACTIVITY</u>	<u>(GROSS FLOOR AREA IN THOUSANDS OF FEET)</u>	
	First Loading Space	Second Loading Space
Residential	20-30	80-113
Hotel, Motel	20-30	80-113
Office Rental	20-30	80-113
Industrial	7-10	27-35
Institutional	12-15	75-80

4.03.00 SIGN STANDARDS (11/7/05)

No sign or advertising devices of any kind or nature shall be erected on any premises or fixed to the outside of any structure in Dudley except as specifically permitted in this Section.

4.03.01 Residential Sign Standards

The following signs or advertising devices in residential zoning districts are allowed without the issuance of a sign permit.

- a. One sign displaying the street number or name of the occupant of the premises, or both, not exceeding one (1) square foot in area, Such sign may be attached to a building or may be on a rod or post not more than ten (10) feet high and not less than three (3) feet from the street line. Such sign may include identification of an accessory studio or professional office in the dwelling or on the premises, or may identify other permitted accessory uses, including customary home occupations.

- b. "For Sale" or "For Rent" signs, whose total area does not exceed six (6) square feet in signboard area and advertising only premises on which the sign is located.
- c. One (1) building contractor's sign on a building or lot while actually under construction or renovation, not exceeding six (6) square feet in signboard area.
- d. Temporary signs advertising an event or election. The following signs or advertising devices in residential zoning districts shall require a permit from the Building Inspector.
- e. One (1) bulletin board or identification sign a permitted non-residential building or use, not more than six (6) square feet signboard area. For church or institution sign shall not be more than forty-five (45) square feet signboard area. No such sign shall be located nearer a street than one-half the required front yard depth.
- f. Refer to section 3.03.00 for Home Occupation signage limitations. (6/19/06)

4.03.02 Commercial and Industrial Sign Standards

Signs shall regulate to the premises on which they are located and shall only identify the occupant of such premises or advertise the articles or services within said premises. Unless indicated otherwise no sign in a commercial or industrial zoning district shall be erected without a permit from the Building Inspector.

- a. On each lot there are permitted two (2) signs affixed to the exterior of a building for each occupant. The top edge of each sign shall not be higher than the roof ridge of the building, or the highest point of the roof, if no ridge, pole, nor higher than the plate of a flat roof.
- b. One (1) freestanding sign is permitted per lot where the buildings are set back the minimum front yard setback or more for their zone (5/24/10). The top edge of any such freestanding sign shall not be higher than twenty (20) feet vertical measure above the average level of the ground between the supports of such sign. Any such freestanding sign may be located within the front yard space, if any on such lot, but not nearer than twelve (12) feet to any roadway, side or rear lot lines, or on any public right of way. For traffic safety, no freestanding sign shall obstruct sight (5/24/10) line views at intersections, or be located closer than fifteen (15) feet to any street intersection with any other street,

private way or driveway. No freestanding sign shall have signboard area (or display area if no signboard) exceeding one hundred (100) square feet in gross area, measured from the tip of the topmost display elements, to the bottom of the lowest display elements, and from the exterior side to exterior side of display elements, and including in such measurements any blank space between display elements. No display or signboard dimension shall exceed sixteen (16) feet for a freestanding sign. One (1) freestanding sign is permitted per minimum lot frontage requirement.

- c. The following signs are permitted in commercial and industrial districts without a sign permit:
 1. Sign permitted in Section 4.03.01 a, b, c, and d.
 2. One (1) building contractor sign on a building or lot while actually under construction or renovation, not exceeding fifteen (15) square feet signboard area.

4.03.03 Illumination and Motion Regulations

Illuminated signs are permitted, subject to the following conditions:

- a. No sign shall be intermittently illuminated, nor of a traveling light, animated or flashing light type, nor shall any sign contain any visible moving or movable parts.
- b. No sign advertising device in any residential district shall be of neon or illuminated tube type.
- c. Each steady illuminated sign in a commercial or industrial district shall not exceed one hundred (100) square feet gross display area.
- d. No sign or advertising device for commercial or industrial use shall be illuminated while that use is not open to the public.
- e. Lighting for signs shall be placed and hooded so as to prevent light from shining onto any street or adjacent property, nor shall the light source itself be visible at any point beyond the lot lines of the premises.

4.03.04 Sign Permits

Unless indicated otherwise, no sign shall be erected in the Town without the issuance of a sign permit by the Building Inspector.

4.03.05 Special Permits as Relating to Signs

The Zoning Board of Appeals may grant a special permit to exceed the maximum number of signs per occupant, exceed the minimum street line setback, or allow two off-premises signs per business for directional purposes only. However, no special permit may be granted which would permit more than one (1) freestanding sign per lot, a street line set back less than five (5) feet, a freestanding sign closer than fifteen (15) feet to any intersection of a street or way, or an off-premises sign exceeding four (4) square feet signboard area and without written notarized approval of the property owner. Special permits shall be granted in accordance with Section 5.01.00.

4.03.06 Nonconforming Signs or Advertising Devices

Signs or advertising devices, which do not conform to the requirements of this Section and legally erected prior to its effective date, may continue to be maintained. However, such signs shall conform to the requirements of this bylaw if such sign is reworded, redesigned or altered in any way. Non-conforming signs designed for the use of interchangeable letters may be reworded without conforming to the provisions of this Section.

SECTION V

ADMINISTRATIVE PROVISIONS

5.01.00 ZONING BOARD OF APPEALS

There is hereby established a Board of Appeals for zoning matters which shall consist of five (5) members and two (2) associate members, who shall be appointed by the Board of Selectmen and shall act in all matters under this bylaw, in accordance with Chapters 40A and 41 of the Massachusetts General Laws.

5.01.01 Power of the Zoning Board of Appeals

As provided through the Massachusetts General Law, Chapters 40A and 41, the Zoning Board of Appeals is empowered to act on the following zoning matters.

- a. To hear and decide appeals by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A, The Central Massachusetts Regional Planning Commission or by any person including an officer of a Board of the Town or of an abutting City or Town, aggrieved by an order or decision of the Building Inspector, or other administrative official in violation of any provision of Chapter 40A or of this bylaw.
- b. To hear and decide applications for special permits as provided for in this bylaw, subject to any general or specific rules therein contained and subject to any appropriate conditions and safeguards imposed by the Board.
- c. To grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of dimension of the density requirements of this bylaw where the Zoning Board of Appeals specifically finds that owing to unique circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the Zoning District in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship, financial or otherwise, but not of a personal nature, to the petitioner or applicant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this bylaw.

5.01.02 Applicant Procedures

All appeals, petitions or applications to the Zoning Board of Appeals shall be submitted to the Town Clerk by the petitioner in writing with an original and seven (7) copies including seven (7) copies of the plan to be discussed. (6/19/06)

Any appeal to a permit granting authority shall be taken within thirty (30) days from the date of the order or decision which is being appealed. The petitioner shall file a notice of appeal specifying the grounds thereof, with the Town Clerk and a copy of said notice, including the date and time of filing certified by the Town Clerk, shall be filed forthwith by the petitioner with the officer or board whose order or decision is being appealed and to the permit granting authority, specifying in the notice grounds for such appeal. Such officer or board shall forthwith transmit to the Board of Appeals or Zoning Administrator all documents and papers constituting the record of the case in which the appeal is taken.

Any appeal to the Board of Appeals from the order or decision of the Zoning Administrator, if any, appointed in accordance with section thirteen (Chapter 40A) shall be taken within thirty (30) days of the date of such order or decision or within thirty (30) days from the date on which the appeal, application or petition in question shall have been deemed denied in accordance with said section thirteen, as the case may be, by having the petitioner file a notice of appeal, specifying the grounds thereof with the administrator and in the case of an appeal under section eight (Chapter 40A) with the officer whose decision was the subject of the initial appeal to said Zoning Administrator. The Zoning Administrator shall forthwith transmit to the Board of Appeals all documents and papers constituting the record of the case in which the appeal is taken. An application for a special permit or petition for variance over which the Board of Appeals or the Zoning Administrator as the case may be, exercise original jurisdiction shall be filed by the petitioner with the Town Clerk and a copy of said appeal, application or petition, including the date and time of filing certified by the Town Clerk, shall be transmitted forthwith by the petitioner to the Board of Appeals or to said Zoning Administrator.

Meetings of the Zoning Board of Appeals shall be held at the call of the chairman or when called in such other manner as the Board shall determine in its rules. The Board of appeals shall hold a hearing on any appeal, application, or petition within sixty-five (65) days from the receipt of notice by the board of such appeal, application of petition. The Board shall cause notice of such hearing to be published and sent to parties in interest as provided in section eleven (Chapter 40A). The chairman, or in his absence the acting chairman, may administer oaths, summon witnesses, and call for production of papers.

Upon receipt of any filed documents, the Town Clerk shall transmit one copy of each appeal, application or petition to the Building Inspector, and Planning Board, and three (3) copies to the Zoning

Board of Appeals not more than three (3) days after the date of filing of such appeal, application or petition, and the last one received by the Town Clerk and returned to the petitioner.

Meetings of the Zoning Board of Appeals shall be held at the call of the Chairman or when called in such other manner as the Zoning Board of Appeals shall determine in its rules. The Chairman, or in his absence the acting chairman, may administer oaths, summon witnesses and call for the production of documents.

All meetings shall be public hearings and notice of such shall be given by publication in a newspaper of general circulation in the City once in each of two (2) successive weeks; the first publication to be not less than fourteen (14) days before the day of the hearing and by posting such notice in a conspicuous place in Town Hall for a period of not less than fourteen (14) days before the day of such hearing. In all cases notice to individuals or specific boards or other agencies shall be sent by certified mail postage prepaid. "Parties of interest" as used in the section shall mean the petitioner or applicant, abutters, owners of land directly opposite on any public or private street or way, and owners of land within three hundred (300) feet of the property line all as they appear on the most recent applicable tax list, notwithstanding that the land of any such owners is located in another city or town, the Planning Board of every abutting town. The required publications and notices shall contain the name of the petitioner, a description of the area or premises, street address, or other adequate identification of the petition, the date and place of the public hearing, the subject matter of the hearing, and the nature of action or relief requested, in accordance with Massachusetts General Laws Chapter 40A, Section 11.

5.01.03 Decision Criteria, Appeals

At the public hearing, the Zoning Board of Appeals may reverse, modify or affirm any order or decision by an administrative officer or board against whom the appeal is taken and may order such appropriate action as necessary.

The Zoning Board of Appeals shall consider the nature of the appeal in regards to the expressed provisions of this bylaw. It shall require three (3) votes in the affirmative to deny, approve or modify an appeals request.

5.01.04 Decision Criteria, Special Permits

Special permits may only be issued following a public hearing by the Zoning Board of Appeals held within sixty-five (65) days following the filing of such request, in conformance with the aforementioned provisions. In considering the application, petition or appeal submitted to the Board for a special permit, due consideration shall be given to the following required findings.

1. That the use is in harmony with the general purpose of this bylaw.
2. That the use complies with the general and specific provisions enumerated in this bylaw.

In cases of special permits to allow for the extension, alteration or change to pre-existing nonconforming uses or structures, the following required finding shall apply:

- That the extension, alteration or change shall not be substantially more detrimental to the neighborhood than the existing nonconforming use or structures.

When considering a special permit, the Zoning Board of Appeals must request opinions from other involved Town Boards, Commissions or Officials of their choosing. In addition, conditions, safeguards and limitations on time and use may be imposed by the Zoning Board of Appeals when issuing a special permit. It shall require four (4) votes in the affirmative to issue a special permit. Such decision must be completed within ninety (90) days after the public hearing.

5.01.05 Decision Criteria, Variances

Variances may be granted following a public hearing by the Zoning Board of Appeals held within sixty-five (65) days following the filing of such request and that the following statutory findings are met. In considering the petition submitted to the Board for a variance, due consideration shall be given to all of the following required findings.

1. That there are unique circumstances relating to the soil, shape or topography which especially affect the land in question, but which do not generally affect the zoning district in which the subject parcel is located.
2. That due to the unique circumstances, literal enforcement of the provisions of the bylaw would involve a substantial hardship, financial or otherwise, to the petitioner.

3. That the desired relief may be granted without nullifying or substantially derogating from the purpose of this bylaw.
4. That the desired relief may be granted without substantial detriment to the public good.

The Zoning Board of Appeals may not grant a variance unless all of the aforementioned criteria have been proven. The Zoning Board of Appeals may request opinions from other Town boards, Commissions or Officials of their choosing considering the granting of any requested relief. In addition, any conditions, safeguards and limitations on time and use maybe imposed by the Zoning Board of Appeals in granting the variance. It shall require four (4) votes in the affirmative to grant a variance. Such decision shall be completed within seventy-five (75) days after the petitioner files the variance request with the Dudley Town Clerk.

5.01.06 Applicability

No appeal, special permit or variance shall take effect until a copy of the decision is recorded at the Town Clerk's office or the Registry of Deeds, as is appropriate, at the applicant's expense.

The decision must bear a certification by the Town Clerk that twenty (20) days have elapsed after the decision was filed with the Clerk and that no appeal has been filed, or if an appeal has been filed, that it has been dismissed or denied.

The rights authorized by a special permit shall lapse after two (2) years of such decision if a substantial use has not commenced as allowed by the special permit. The rights of a variance will lapse if they are not exercised within one (1) year after the granting of such request.

The Zoning Board of Appeals shall maintain a detailed record of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and setting forth clearly the reason or reasons for its decisions, and of its other official actions, copies of all of which shall be filed within fourteen (14) days of its decision in the office of the Town Clerk and shall be a public record, and notice of decisions shall be mailed forthwith to parties in interest, to the Planning Board, and to every person at the hearing who requests that notice be sent and stated the address to which notice is to be sent.

5.02.00 REPETITIVE PETITIONS

No appeal, application or petition which has been unfavorably and finally acted upon by the Zoning Board of Appeals shall be acted favorably upon within two (2) years after the date of final unfavorable action unless said Zoning Board of Appeals finds by a unanimous vote of the Zoning Board of Appeals.

Any petition for a variance or application for a special permit which has been transmitted to the Zoning Board of Appeals may be withdrawn, without prejudice by the petitioner prior to the publication of the notice of public hearing thereon, but thereafter be withdrawn without prejudice only with the approval of the Board.

5.03.00 PLANNING BOARD ASSOCIATE MEMBER

Pursuant to the provisions of M.G.L. C 40A, sec.9, the Planning Board ("Board"), may appoint an associate member to sit on the Board for the purpose of acting on a special permit application in the case of absence, inability to act or conflict of interest on the part of any member of the Board. Such associate member shall serve for a term of one (1) year. (Appointment Procedure deleted 5/27/04)

5.04.00 SITE PLAN REVIEW (Added 11/17/03)

5.04.01 Purpose and Intent

The purpose of the Site Plan Review Bylaw hereby established is to protect the safety, public health, convenience and general welfare of the inhabitants of the town by ensuring that the design and layout of certain developments permitted by right or by special permit will constitute suitable developments and will not be a detriment to the neighborhood or the environment.

5.04.02 Scope – Projects Requiring Site Plan Review

- A. Projects Requiring Minor Site Plan Review
 - 1. The construction or exterior expansion of any nonresidential building or structure or change of use from residential to commercial/industrial in any district where such

construction will exceed a total gross floor area of three thousand (3,000) square feet, but less than five thousand (5,000) square feet, within any five (5) year period.

2. The construction or exterior expansion of any residential building or structure or change of use from commercial/industrial to residential in any district where such construction will exceed two (2) apartment units, but fewer than (7) apartment units.
3. The construction or renovation of parking facilities involving five (5) but fewer than ten (10) additional parking spaces, with the exception of normal maintenance.

B. Projects Requiring Major Site Plan Review

1. The construction or exterior expansion of any non-residential building or structure or change of use from residential to commercial/industrial in any district where such construction will exceed a total gross floor area of five thousand (5,000) square feet per building within any ten (10) year period.
2. The construction or exterior expansion of any residential building or structure or change of use from commercial/industrial to residential in any district where such construction will exceed seven (7) apartment units.
3. The construction or renovation of parking facilities involving ten (10) or more additional parking spaces, with the exception of normal maintenance.
4. A site plan shall be submitted to the Planning Board for all uses identified with the symbol “SPR” in Section 2.03.02, Table of Uses.

5.04.03 Application Procedure

A. Pre-Application Procedure

If an applicant so desires, the Planning Board strongly encourages a pre-application meeting to be held with the Planning Board, at one of its regularly scheduled meetings, to present and discuss the general development concept for a site plan. The applicant may present as many or as few of the submission materials listed in Section 5.04.04 (Site Plan Contents and Submission Materials) as desired, with no requirements or limits for number or types of details presented for discussion.

B. Preliminary Site Plan

A Preliminary Plan may be submitted to the Planning Board and, upon written request of the applicant, waivers concerning the required content, where the project involves a relatively simple development plan, or constitutes a minor site plan, may be requested at this time. The Planning Board shall act on any waiver requests submitted with the Preliminary Plan within thirty (30) days. Minor site plans shall set forth all of the information required by this bylaw; provided, however, the Planning Board may, upon written request of the applicant, waive any of the technical requirements contained in Section 5.04.04 (Site Plan Contents and Submission Materials). The scale of a minor site plan may be 1"=40', and the plan may depict topographical contours at intervals available on maps provided by the United States Geological Survey. (11/05/07)

C. Submittal of Site Plan

1. An applicant for a site plan review under this section shall file with the Planning Board thirteen (13) copies of the site plan (drawn at a scale of 1" = 20') accompanied by a completed Site Plan Review Application. The Planning Board shall acknowledge receipt of these plans by endorsing them by signature and the date of receipt. One copy of the endorsed site plan shall be given by the applicant to the Town Clerk to be kept on file. The date of the receipt by the Town Clerk shall be the official filing date.
2. The Planning Board shall distribute copies of the plan to the following municipal departments, boards and commissions for review and comment: Building Inspector, Highway Superintendent, Water Department, Sewer Department, Board of Health, Conservation Commission, Board of Selectmen, Zoning Board of Appeals, Fire Department, and Police Department.
3. Said departments, boards and commissions shall have forty (40) days to submit recommendations/comments in writing to the Planning Board for Major Site Plan Review and thirty-five (35) days for Minor Site Plan Review. Failure to report within the allotted time shall be interpreted as approval of the submitted site plan by that Board.

4. The Planning Board is authorized to retain a registered professional engineer or other professional consultant(s) to be paid from the applicant's Engineer Review Fees to advise the Planning Board on any or all aspects of the site plan including inspections during construction and as a final inspection to ensure that the work was performed as depicted in the plans. (11/5/07)
5. Site Plan applicants shall submit application, a non-refundable filing fee and a professional review fee in accordance with the Planning Board Fee Schedule. The unexpended balance of the professional review fee shall be returned to the applicant within thirty (30) days from issuance of approval or disapproval. To the extent that the professional review fee paid upon filing of the site plan shall prove insufficient to pay for the evaluation and review of the site plan by independent consultants hired by the Planning Board, and/or pay for clerical, publication, and all other related costs, the charges, if any, shall be billed to the applicant. The applicant shall pay all invoices submitted to him by the Planning Board within thirty (30) days.
6. Site plans depicting roadways, utilities, bridges, culverts, or drainage shall be prepared by a registered professional engineer licensed in Massachusetts. A waiver may be granted from this requirement when deemed appropriate.
7. A public hearing is not required for a minor site plan review, but may, at the request of the Planning Board, be required and shall be paid for and advertised in the manner of a Definitive Plan public hearing except that abutters need not be notified. (11/5/07)
8. A public hearing is required for a major site plan review. The major site plan review public hearing shall be paid for and advertised in the manner of a Definitive Plan public hearing including certified notification of abutters within three-hundred (300) feet.
(11/5/07)

D. Planning Board Final Action:

The Planning Board shall, within forty-five (45) days from receipt of a Major Site Plan, hold a public hearing and shall take final action within sixty-five (65) days from the time of the filing of the receipt by the Town Clerk for Plan Review. The Planning Board shall, within

fifty-five (55) days from receipt of a Minor Site Plan by the Town Clerk, take final action.

Time limits may be extended by written agreement between the applicant and the Planning Board. The Planning Board final action, rendered in writing, shall consist of either:

1. Approval of the site plan based upon determination that the proposed plan will constitute a suitable development and is in compliance with the standards set forth in this bylaw; or
2. Disapproval of the site plan based upon a determination that the proposed plan does not meet the standards set forth in this bylaw; or
3. Approval of the site plan subject to any condition, modification or restriction required by the Planning Board which will ensure that the project meets the standards set forth in this bylaw.

Failure of the Planning Board to take final action upon an application for site plan review within the time specified above shall be deemed approval of said application. Upon issuance by the Town Clerk of an appropriate certification that the allowed time has passed without Planning Board action, the required building permits may be issued.

In cases where a development requires site plan review by the Planning Board and a special permit from the Board of Appeals, the applicant shall file site plan and special permit applications concurrently with the appropriate Board(s). Application and public hearing fees shall be paid to the Board of Appeals and professional review fees shall be paid to the Planning Board. The Planning Board shall review and take action on the site plan and shall submit a report with recommendations to the Board of Appeals within forty-five (45) days of the receipt of the application. The Board of Appeals shall incorporate the Planning Board's recommendations and conditions in its special permit decision, or shall state in the decision the reasons why such recommendations or conditions were not followed.

5.04.04 Site Plan Contents and Submission Materials

- A. The purpose of this plan is to provide general information on the site, its existing conditions, and to illustrate and fully explain the proposed changes taking place within the site. All submitted site plans shall depict the following information:

1. Names, addresses, and telephone numbers of the owner, applicant, and person(s) or firm(s) preparing the plan. If other than the owner, a notarized statement authorizing the applicant to act on the owner's behalf and disclosing his interest shall be submitted.
2. Name of project, property address, Assessor Map-Block-Lot Number, the date, a north arrow, names and street numbers of abutters, names and street numbers of parcels across any ways, and scale. (Approved 10/27/2008)
3. A vicinity sketch (locus map) showing the location of the land/site in relation to the surrounding public street system and other pertinent location features within a distance of one thousand (1,000) feet.
4. Natural features including watercourses, water bodies, and wetlands, tree lines, significant trees, and other significant vegetative cover, topographic features, soil properties, and any other environmental features of the landscape that are important to the site design process.
5. Existing and proposed contours at intervals of two (2) feet with spot elevations provided when needed.
6. Surveyed property lines including angles and bearings, distances, monument locations, and size of the entire parcel. A professional land surveyor licensed in Massachusetts must attest to said plan.
7. Lines of existing abutting streets and driveway locations within two hundred (200) feet of the site.
8. Location, elevation, and layout of existing and proposed storm drainage systems including catch basins and other surface drainage features.
9. Shape, size, height, location, and use of all existing and proposed structures on the site including first floor plan(s), building elevation(s), rendering of the proposed structure(s), and approximate location of structures within two hundred (200) feet.
10. Location of all existing and proposed easements, rights-of-way and other encumbrances.
11. All floodplain information, including the contours of the one-hundred (100) year flood elevation based upon the most recent Flood Insurance Rate Map for Dudley, or as calculated by a professional engineer for unmapped areas.

12. Location, flow and timing patterns of existing and proposed traffic.
13. Location, width, curbing, and paving of all existing and proposed streets, rights-of-way, easements, alleys, driveways, sidewalks, and other public ways.
14. Location, size and layout of all existing and proposed off-street parking, including loading zones. The plan shall indicate the calculations used to determine the number of parking spaces required and provided.
15. Size and location of all existing and proposed public and private utilities, including but not limited to: water lines, sewage disposal facilities, gas lines, power lines, telephone lines, cable lines, fire alarm connection, and other utilities.
16. Location, types and size of all existing and proposed landscaping, screening and open space areas.
17. Location and type of all existing and proposed on-site lighting including the cone(s) of illumination to a measurement of 0.5 foot-candle.
18. Location, size and exterior design of all existing and proposed signs to be located on-site.
19. Type and location of all existing and proposed solid waste disposal facilities and accompanying screening.
20. Location of all existing and proposed on-site snow storage areas.
21. Project impacts and proposed mitigation.
22. A signature block consisting of five (5) signature lines for Planning Board approval.
23. Written review from the Chief of Police and the Fire Chief or their designees must be submitted with the plan(s). (11/5/07)

B. Additional Submission Materials:

1. The applicant shall submit such material as may be required to ensure the proposed development will not pollute surface or ground water, cause soil erosion, increase runoff, change ground water levels, nor increase flooding during or after construction.
2. The applicant shall submit such materials as may be required regarding design features intended to integrate the proposed new development into the existing landscape, to enhance aesthetic assets, and to screen objectionable features from neighbors. The applicant shall also

provide a general description of the surrounding neighborhood including heights of surrounding buildings. Photographs and other visual materials are highly encouraged.

3. The applicant shall submit such materials as may be required regarding the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and the impact of this traffic upon existing abutting public and private ways in relation to existing road capacities.
4. The applicant shall submit such materials as may be required regarding existing and expected post-development environmental conditions, including air quality, noise levels, harmful or noxious emissions, and the visual environment. Smoke, odors, vibration and electromagnetic radiation shall also be identified and addressed.
5. The applicant shall submit such materials as may be required regarding the existing and projected demand for municipal services, revenues to the Town and fiscal or economic impacts.
6. The applicant and/or owner of any proposed building—commercial, residential, retail, or any other usage—of one building with more than 20,000 square feet under roof as determined by the Building Official, shall meet with the Town Planner or Planning Board designee prior to submission of the site plan review materials to review design issues regarding the site. The following may be requirements to ensure a building that is an asset functionally, economically and aesthetically to the Town of Dudley and it is strongly recommended that the designer consider and include these features at the earliest stage of design:
 - Arcaded walkways
 - “Traditional” roofline treatment (not just a flat roof)
 - Windows permitting a view from outside into the building
 - Planting of native species from Appendix B herein along the street of frontage and within parking lot planting areas
 - Guarantee of removal of construction debris prior to receipt of occupancy permit
(Item 6 Approved at Town Meeting 5/19/08)

Should the Planning Board determine that some or all of the Additional Submission Materials are to be required, the applicant will be notified in writing within ten (10) days of the meeting at which the determination was made.

5.04.05 Site Plan Design Standards

All site plan review applicants shall adhere to the following general principles when designing a site plan for land within the Town of Dudley.

- A. Preservation of Landscape: The landscape shall be preserved in its natural state, insofar as practicable by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of the neighboring developed areas. Where tree coverage does not exist or has been removed, new planting may be required. Finished site contours shall depart only minimally from the character of the natural site and the surrounding properties.
- B. Relation of Building to Environment: Proposed development shall be related harmoniously to the terrain and to use, scale and siting of existing buildings in the vicinity that have functional or visual relationship to the proposed buildings. All buildings and other structures shall be sited to minimize disruption of the topography. Strict attention shall be given to proper functional, visual and spatial relationship of all structures, landscaped elements and paved areas.
- C. Open Space: All open space (landscaped and usable) shall be so designed as to add to the visual amenities of the vicinity by maximizing its visibility to persons passing the site or overlooking it from nearby properties.
- D. Surface Water Drainage: Special attention shall be given to proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties of the public storm drainage system, nor obstruct the flow of vehicular or pedestrian traffic and will not create puddles in paved areas. All surface water drained from roofs, streets, parking lots and other site features shall be disposed of in a safe and efficient manner, which shall not create problems of water runoff or erosion on the site in question, or on other sites.

Insofar as possible, natural drainage courses, swales properly stabilized with plant material or paving when necessary, and drainage impounding areas, shall be utilized to dispose of water on the site through natural percolation, to a degree equivalent to that prior to development.

Also, appropriate control measures shall be employed which include maximum slope requirements, and slope stabilization measures including seeding of exposed areas to replace vegetative cover.

- E. Ground Water Recharge and Quality Preservation: Ground Water Recharge shall be maximized and ground water quality shall be protected. Various techniques may be required to maximize recharge, such as perforated drainpipes, pervious pavement, reduction of paved areas, reduction of building area, or reduction of building coverage, etc.; or to improve quality, such as installing grease traps or gas/oil separators.

Where ground water elevation is close to the surface, extra site grading precautions may be required to maintain the protective function of the over burden.

- F. Utilities: The placement of electric, telephone, or other utility lines and equipment, such as water or sewer shall be underground; and so located as to provide no adverse impact on the ground water levels, and to be coordinated with other utilities. The proposed method of sanitary sewage disposal and solid waste disposal from all buildings shall be indicated precisely on the plans.

- G. Advertising: All signs and outdoor advertising features shall be reviewed as an integral element in the design and planning of all development on the site. As a minimum, all signs and advertising devices shall be in conformance with Section 4.03.00 SIGN STANDARDS.

- H. Landscaping Within the Setbacks: Site plan applicants are required to landscape the setbacks as part of the site plan approval process. Site plan applicants are expected to maintain the landscaping approved for the site and replace any landscaping that has not fully established itself within two (2) growing seasons, after which all failed landscaping shall be replaced.

Front yard setback landscaping shall consist of street trees and low-level plantings.

Landscaping within twenty (20) feet of a driveway shall consist solely of low-level plantings such that vehicular and pedestrian sight lines are not restricted.

- I. **Circulation:** With respect to vehicular and pedestrian circulation, including entrances, ramps, walkways, drives and parking, special attention shall be given to location and number of access points to the public streets (especially in relation to existing traffic controls), width of interior drives, and access points, general interior circulation, separation of pedestrian and vehicular traffic, access to community facilities and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the use and enjoyment of proposed buildings and structures and the neighboring properties. Insofar as practicable, parking should be located on the side or the rear of buildings.

To minimize turning movements onto adjacent public ways, developers are encouraged to provide internal circulation systems (service roads) that connect to adjacent development (parking area to parking area). Site plans that propose service roads and/or connection of parking areas shall show on the plan how the connection of parking areas will be achieved.

All parking and loading areas shall be striped and marked on the ground as a condition of site plan approval. All off-street parking and loading spaces shall be provided with safe and convenient access and shall not be located within a public right-of-way or within required setbacks. Access locations shall be designed to encourage unimpeded traffic flow with controlled turning movements and minimum hazards to vehicular and pedestrian traffic.

Parking and loading shall be in conformance with Section 4.01.00 PARKING STANDARDS and Section 4.02.00 LOADING STANDARDS.

- J. **Shared Parking:** The Planning Board may allow a reduction of the required number of spaces by up to twenty-five percent (25%) if it can be demonstrated that two (2) or more uses within a single development can share parking areas due to different hours of normal activity. When two (2) or more adjacent property owners agree in writing to share parking, the required number of parking spaces may be reduced by as much as twenty-five percent (25%) for each business.
- K. **Parking Area Landscaping:** Site plans involving more than thirty (30) parking spaces shall provide interior landscaping covering not less than five percent (5%) of the total area of the parking area. In total, there shall be provided one (1) shade tree placed within the parking lot

for every ten (10) spaces and complemented by shrubs and other planting material. Such trees shall be at least two (2) inches in trunk diameter at the time of planting, and shall be located in planting beds at least six feet (6') in width or diameter. Snow removal activities should be considered when planning for parking area landscaping. In case it can be shown to the Planning Board that the planting of trees is impractical, the Planning Board may authorize plantings and shrubbery instead of trees.

- L. Interior Walkways and Pedestrian Paths: Site plans involving more than thirty (30) parking spaces shall provide walkways and pedestrian paths that safely connect the parking areas to the principal uses they will serve. Such walkways shall be constructed with brick, decorative pavers, or other materials, and may be bordered with fencing or shrubbery to clearly separate pedestrians from automobile traffic. Facilities and access routes for deliveries, service and maintenance shall be separated, where practical, from public access routes and parking areas. Car stops shall be provided to prevent parked cars from damaging trees, shrubs and curbing, and shall not disrupt pedestrian walkways.
- M. Stormwater Management (Grading and Drainage): All site plan applicants must submit drainage calculations to show compliance with DEP (Department of Environmental Protection) Stormwater Guidelines.
- N. Outdoor Lighting: All exterior lights shall be designed and installed in such a manner as to prevent objectionable light at (and glare across) the property lines. Externally lit signs, display, building and aesthetic lighting must be lit from the top and shine downward. Each outdoor luminaire shall be a full cutoff luminaire, and the use of decorative luminaires with full cutoff optics is desired. A full cutoff luminaire is an outdoor light fixture shielded in such a manner that all light emitted by the fixture, either directly from the lamp or indirectly from the fixture is projected below the horizontal plane. Developments shall eliminate glare onto adjacent properties through the use of lighting shields, earthen berms, or retention of existing natural vegetation. All outdoor lighting fixtures, including display lighting, shall be turned off within one hour after close-of-business, unless needed for safety or security, in which case the lighting shall be reduced to the minimum level necessary.

- O. Other Site Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be designed with such setbacks, screen plantings, or other screening methods to prevent their being a hazard or being incongruous with the existing or contemplated environment and the surrounding properties. With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and to maximize accessibility by fire, police and other emergency personnel and equipment.

5.04.06 Decision of the Planning Board

In reviewing a site plan application, the Planning Board shall take the following into consideration:

- A. Compliance with all applicable provisions of the Zoning Bylaw of the Town of Dudley Massachusetts and Town of Dudley Rules and Regulations Governing the Subdivision of Land.
- B. Traffic safety and ease of access at street and highway entrances and exits, taking into account grades, sight distances, distance between such exits and entrances, and the proximity of existing street and driveway entrances.
- C. Safety and adequacy of driveway layout and pedestrian walkways; off-street parking areas; off-street loading areas for materials and products; adequate access for service and emergency vehicles such as electricity, gas, fuel, telephone, laundry, rubbish removal, water, sewage, fire, police, ambulance and other routine emergency vehicles.
- D. Safe and adequate means of disposal of sewage, garbage and rubbish.
- E. Safe and adequate water supply and distribution, including sufficient water and facilities for fire fighting on the site.
- F. Safe and adequate storm drainage consistent with building and surface coverage, grades, slopes, soils and water table which shall result in zero increase in the rate of runoff from the site, as measured by the two (2) year (twenty-four (24) hour) and ten (10) year (twenty-four

(24)-hour) Storm Event Standards; and there will be no negative impacts to downstream property-owners in a one hundred (100) year (twenty-four (24)-hour) storm event.

- G. Prevention of soil erosion during and after construction; provisions for an increase in the volume of runoff of surface water from the site and the protection of adjacent areas against detrimental or offensive uses on the site by the provision of adequate buffers against light, sight, sound, dust and vibrations.
- H. Open space provisions and landscaping, including the maximum retention of on-site natural features.
- I. Placement of underground utilities, night lighting and signs.
- J. Compatibility of soil and subsoils to type and intensity of development.

5.04.07 Modification of an Approved Site Plan

Once the Planning Board has approved a site plan, said plan shall not be changed, amended or modified without approval of the Planning Board. There shall be only one final site plan in effect for a parcel of land at a time.

5.04.08 Construction of an Approved Site Plan

- A. An approved site plan shall be valid for a period of two (2) years from the date of approval. Site plan approval may be extended at the discretion of the Planning Board after receipt of a written request from the applicant, showing good cause. All work proposed in the site plan or required by conditions to which the approval was subject, shall be completed within two (2) years from the date of approval of the site plan unless a longer period is expressly given in writing at the time of site plan approval. This time period shall not include delays resulting from litigation. In the case of plans which call for development over a period of years, a schedule showing the proposed times within which each section of the development may be started shall be submitted.

- B. No permit to build, alter or expand any building or structure, or change of use requiring Site Plan Review under this bylaw shall be issued by the Building Inspector before a written statement of Final Approval has been issued by the Planning Board.
- C. The Building Inspector reserves the right to inspect a site under construction for compliance with the approved site plan.

5.04.09 Enforcement of an Approved Site Plan

- A. It shall be the duty of the Building Inspector to enforce the conditions of the site plan approval.
- B. The Planning Board may suspend site plan approval when work is not performed as required by the approved site plan.
- C. “As Built” plans, certified by a registered professional and noting any change from the approved plan, shall be filed with the Building Inspector and the Planning Board before a Certificate of Completion shall be issued.
- D. The Building Inspector shall issue a Certificate of Completion when all construction has been performed and all other requirements have been met in compliance with the approved site plan. A copy of the Certificate of Completion will be filed with the Planning Board.
- E. No Certificate of Occupancy shall be issued for any structure or use subject to site plan review unless a Certificate of Completion has been issued. The Building Inspector may issue a Temporary Certificate of Occupancy, under extenuating circumstances, for a period of six (6) months if the required construction has been substantially completed and the permitted uses of the development can be carried on in a safe and convenient manner.
- F. The appeal of any decision of the Planning Board hereunder shall be made in accordance with the provisions of Mass. Gen. L. ch. 40A, &17 except when a disapproval by the Planning Board is based upon non-compliance with the Dudley Zoning By-Law, in which case an appeal can be taken to the Zoning Board of Appeals.
- G. In the case where there is a suspension of site plan approval or a cease and desist order issued by the Planning Board, work must cease immediately until the Board issues a new start work

order. In the event that work continues despite issuance of a cease and desist order, the Planning Board will issue a fine of one hundred dollars (\$100) per day, per violation.

5.04.10 Planning Board Rules and Regulations

- A. The Planning Board may adopt such rules and regulations for carrying out its duties under this section. The Planning Board may, where such action is allowed by law, is in the public interest and is not inconsistent with the purpose and intent of this bylaw, waive strict compliance with any requirement of this site plan review bylaw or its rules and regulations.
- B. The Planning Board may periodically add or amend rules and regulations relating to the procedures and administration of this site plan review bylaw, by majority vote of the Planning Board, after conducting a public hearing to receive comments on any proposed revisions.

SECTION VI

DEFINITIONS

6.01.00 PURPOSE

In this bylaw the following terms shall have the meanings or definitions of meaning as herein defined, explained or assigned.

6.01.01 Definitions Listing

Abutting property owner -- a person or entity owning a property bordering on a way sharing a parcel boundary. (F06)

Accessory Structure or Use – An accessory structure or use is one which is subordinate or incidental to the main use or building on a lot. The term “accessory structure” when used in connection with a farm shall include all structures customarily used for farm purposes and they shall not be limited in size.

Adult Entertainment Establishment - Any building, stage, structure, prop, vehicle or trailer that is utilized for the substantial purpose(s) of depicting or describing sexual conduct or offering sexual excitement, each as defined in MGL, Chapter 272, Section 31. Such establishments shall include adult bookstores, adult video stores, adult paraphernalia stores, establishments that display live nudity for their patrons, and adult motion picture theaters as defined by MGL, Chapter 40A, Section 9A.

Age-Restricted Dwelling - A dwelling under any form of ownership or management which limits residents to at least one (1) occupant who is fifty-five (55) years of age or older; and no more than

one (1) additional occupant who may be less than fifty-five (55) years of age. Such dwellings shall have this age restriction as part of a deed restriction, covenant, lease condition, and/or occupancy agreement.

Agriculture / Farm – The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, or goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all of such animals; bees and apiary products; fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral ornamental and greenhouse products; or land devoted to a soil conservation or forestry management program.

Amusement / Recreation Services – Establishments engaged in providing amusement or entertainment for a fee or admission charge include such activities as dance halls; studios; theatrical producers; bands, orchestras, and other musical entertainment; bowling alleys and billiard and pool establishments; commercial sports such as arenas, rings, racetracks, public golf courses and coin-operated devices; amusements parks; membership sports and recreation clubs; amusement and bathing beaches; swimming pools; riding academies; carnival operations; expositions; game parlors and horse shows.

Animal Kennel or Hospital – A structure used for the harboring, care and or hospitalization of more than three dogs, cats or other animals that are more than six months old, operated for commercial purposes (Changed 5/24/10).

Apartment Building – A free standing building exclusively for residential use with three (3) or more apartment units.

Apartment Unit – Any room or suite of rooms comprising one complete housekeeping unit, with its own cooking and food storage equipment and facilities and its own bathing and toilet facilities wholly within such room or suite of rooms.

Assisted Living Facility - A profit or non-profit entity which is designed and operated to provide three or more elderly residents with a broad range of services to meet primarily the needs of residents of the facility, including independent or assisted living in single or multi-unit dwellings and some or all of the following: meals, personal care services, organized social and recreational activities, transportation services, and assistance with medications.

Boarding House – Dwelling or part thereof with not more than five (5) rooms where lodging and meals are provided by the proprietor for compensation.

Buffer Strip – Land area used to visibly separate one use from another or to shield or block noise, lights, or other nuisances.

Building – Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any individual, animal, process, equipment, goods or materials of any kind or nature.

Building Inspector – That individual designated by the appointing authority to enforce the provisions of the building code and zoning bylaw.

Bulk Storage – Storage of material in large quantities.

Business Services – Establishments primarily engaged in rendering services to business establishments on a fee or contract basis, such as advertising and mailing, building maintenance;

employment service; management and consulting services; protective service; equipment rental and leasing.

Campground – A plot of ground upon which two or more campsites are located, established or maintained for occupancy by camping units of the general public as temporary living quarters for recreation, education or vacation purposes.

Church – A building or structure, or groups of buildings or structures which by design and construction are primarily intended for the conducting of organized religious services and accessory uses associated therewith.

Club – A group of people organized for a common purpose to pursue common goals, interests or activities and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and constitution and bylaw.

Cluster – A development design technique that concentrates buildings in specific areas on the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive features.

Contractor's Yard – A lot on which a contractor would store materials or vehicles, but on which he does not reside.

Customary Home Occupation – Any use customarily incidental to the principal use of a residential dwelling and carried on by the inhabitants thereof, which use is secondary to the use of the dwelling for residential purposes and does not change the character thereof.

Driveway -- Privately owned access to and from a way. (F06)

Family – One or more individuals occupying a dwelling unit and living as a single household unit.

Farm Stand – A booth or stall located on a farm from which produce and farm products are sold to the general public.

Front Yard – An open space extending the entire width of a lot from lot sideline to a lot sideline and extending in depth at a right angle from the street boundary of such lot to such depth as may be specified.

Frontage – The boundary of a parcel abutting a way as approved by the Planning Board and from which access must be made. (11/7/05)

Garage Private – A detached or attached accessory building for the parking or storage of vehicles.

Greenhouse – A building whose roof and sides are made largely of glass or other transparent or translucent material and in which the temperature and humidity can be regulated for the cultivation of delicate or out-of-season plants for subsequent sale or for personal enjoyment.

Habitable Space – Those areas within the exterior wall of a dwelling which have headroom of not less than seven (7) feet four (4) inches at the center of the habitable space measure vertically upward from the top of the finished floor, but excluding basement areas and excluding areas in any accessory structure attached to any dwelling. That portion of a building area beneath a sloping roof and in which there are less than five (5) feet vertically between the top of the floor and intersection of the bottoms of the rafters with the interior faces of the walls.

Hotel or Motel – A building or group of attached or detached buildings containing ten (10) or more rental sleeping rooms per building (with or without cooking facilities) each rental unit having its own private bathroom and its own separate outside entrance.

Interior Lot - Interior lots shall be defined as any lot that does not meet the minimum lot frontage requirement but whose interior land exceeds the minimum lot size required by the current zoning district.

Licensed Residential Animal Kennel – A structure used for the harboring of more than three dogs, cats or other animals that are more than six months old operated for pleasure purposes (Added 5/24/10).

Loading Space – An off-street space or berth used for the loading or unloading of commercial vehicles.

Lot – An area of land in one ownership, or one leasehold with ascertainable boundaries established by deed or deeds of record of a segment of land ownership defined by lot boundary lines on a land division plan duly approved by the Planning Board under the subdivision control statute.

Lot Coverage - The percentage of the total lot area that is covered by all principal and accessory buildings and structures.

Lot Front – On any lot bounded on more than one side by a street, the street boundary that is to be the lot “Front” shall be so designated in any application for a permit to build on such lot.

Lot Frontage – A continuous lot boundary line which abuts:

- a. a public way or a way which the Town Clerk certifies is maintained and used as a public way;
- b. a way shown on a plan approved and endorsed in accordance with the Sub-division Control Law;
- c. a way in existence when the Sub-division Control Law became effective in the Town, having in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for need of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings to be erected thereon.

Lot Width – The width of any lot shall be measured wholly within such lot at the front yard depth along a line parallel to a straight line connecting the intersections of the street front lot boundary with the side lines of such lot.

Multiple Family House / Apartment Building – A dwelling containing three or more dwelling units.

Nonconforming Structure, Lot or Use – A structure or lot the size, dimensions or location of which, or use which, was lawful prior to the adoption, revision or amendment to a zoning ordinance, but which fails by reason of such adoption, revision or amendment, to conform to the present requirement of the zoning district.

Office – A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government

Off-street Parking Space – A Temporary storage area for a motor vehicle that is directly accessible to an access aisle, and which is not located on a dedicated street right-of-way.

One-Family Dwelling – A free standing building exclusively for residential use by one family. Also called “Single Family.”

Public Way – a way laid out by a public agency, or dedicated to public use or laid out for public use or used and maintained as a public way.

Rear Yard – An open space extending the entire width of a lot from sideline to sideline and extending at a right angle from the rear line of such lot to such depth as may be specified.

Restaurant – An establishment where food and drink is prepared, served and consumed primarily with the principal building.

Retail Trade – Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods.

Right-of-Way – (1) A strip of land acquired by reservation, dedication, forced dedication, prescription or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer and other similar uses; (2) Generally, the right of one to pass over the property of another.

Roadside Stand – A stand or shelter for the sale of produce. Roadside stands will be allowed in residential districts for the sale of products principally produced on the premises on which the stand is situated.

Sign – Any object, device, display or structure, or part thereof, situated outdoors or indoors, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illumination or projected images.

Side Yard – An open space extending along a sideline of a lot (between the front yard and the rear yard on such lot) and extending at a right angle from the sideline of such lot to such depths as may be specified.

Site Plan – The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including; topography, vegetation, drainage, floodplains, marshes and waterway; open spaces, walkways, means of ingress and egress, utility services, landscaping, structures, and signs, lighting, and screening devices; and other information that reasonably may be required in order that an informed decision can be made by the approving authority.

Solar Energy System – A complete design or assembly consisting of a solar energy collector, an energy storage facility (where used), and components for the distribution of transformed energy.

Story – That portion of a building contained between any floor and the floor or roof next above is, but not including any portion so contained if more than one-half of such portion vertically is below the average finished grade of the ground adjoining such building.

Street – A public way, or a private way on record at the Registry of Deeds, or a way shown on a subdivision plan duly approved by the Planning Board under the subdivision control statute.

Structure – A combination of material to form a construction for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

Structure Alteration – Any change in, or addition to, the structural or supporting members of a structure such as bearing walls, column, beams or girders.

Swimming Pool / Permanent – A pool, in ground or above ground that is not dismantled each year.

Theater – A building or part of a building devoted to showing motion pictures, or for dramatic, musical or live performances.

Tourist Home – A structure of residential character, offering lodging, with or without meals, to transients for compensation.

Two-family / Duplex Home – A free standing building exclusively for residential use by two families, but not more than two families.

Upland – Land being free of wetlands. (F06)

Wholesale Trade – Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

SECTION VII

DRIVEWAY CURB CUTS

7.01.00 DRIVEWAY / CURB CUT PERMIT

I. Definitions (for the purpose of this bylaw only).

Abutting property owner: a person or entity owning a property bordering on a way.

Driveway: privately owned access to and from a way.

Public Way: a way laid out by a public agency, or dedicated to public use or laid out for public use or used and maintained as a public way.

Way: any public way which is not subject to G.L. Ch. 81, S.21 (state curb cut permit) and is not a limited access highway.

II. Purposes:

- A. To provide maximum protection to the public through the orderly control of traffic moving onto and from a way;
- B. To provide a uniform practice in the design and construction of entrances and exits;
- C. To provide the necessary drainage, to insure that any surface water drainage caused by the driveway or way is properly dispose of.

III. Applications

Any abutting owner desiring to gain access to a way shall do so only in accordance with the provisions of a permit issued by the Highway Department Superintendent or DPW if appropriate.

A. Procedures:

Before beginning construction, the abutting property owner shall make written application to the Highway Department Superintendent, including a plan showing:

1. Any driveway that is to be created, altered or closed.
2. Details on drainage. The Highway Superintendent may require the owner of property to obtain drainage impact calculations certified by a registered engineer, together with sufficient written detail to determine the projected impact of surface water drainage from the project on the existing drainage system that services the land, if any, and the projected impact of the surface water drainage on land of the Town of Dudley and abutting properties.

IV. Design Requirements

- A. The Highway Department Superintendent shall consider the requirements of the State DPW manual on Uniform Traffic Control Devices, but shall modify these to accord with:
 1. Local conditions;
 2. Compatibility with local road design;
 3. Size of the proposed project.
- B. Driveways shall be located to the best advantage with regard to alignment with the way, profile, sight distance conditions and the like. Unless conditions require it, a driveway shall not be located at the extreme edge of a property, and at no time less than two (2) feet parallel to any property lot line.
- C. No more than two driveways shall normally be allowed for any one property unless there is a clear necessity for more. Leasing of the portion of the property does not affect this requirement. If a number of establishments will be constructed on one parcel, a service road may be required to connect with an allowable exit and entrance with the approval of the Planning Board.
- D. A channelizing island may be required for an entrance to a high volume traffic generator, such as but not limited to a shopping center. Acceleration and deceleration

lanes may also be required for driveways to such projects with the approval of the Planning Board. The Highway Department Superintendent may require a bond to guarantee the satisfactory construction of such driveways in an amount not to exceed the estimated cost.

- E. Driveways shall not normally be approved at intersections, particularly intersections with signals because of the potential safety hazard which arises when a driver enters a road from a corner driveway and is not faced with a direct signal indication. Access directly into a rotary is also discouraged.
 - F. One driveway can be used for two (2) houses. Only by a special permit from the Board of Appeals can more than two houses use the same driveway.
 - G. At no time shall any water be diverted by natural or mechanical means on to any public way. At no time shall construction modify existing street drainage.
 - H. The Driveway/curb cut permit shall be issued and approved by the Highway Department Superintendent before a building permit can be issued.
 - I. Driveways shall be no less than ten (10) feet in width and not more than twenty feet in width, and shall be of compact gravel, hot top, or similar materials that will not erode or cause unnecessary dust.
 - J. Driveways shall not exceed a 6% grade ascending from the curb cut through the first 50 (fifty) feet or the end, whichever comes first.
- V. Exceptions
- A. Driveways already in existence, except for significant alterations;
 - B. Driveways reviewed by municipal boards under other existing bylaws (e.g. Scenic Roads bylaws, Subdivision Approval, and site Plan review).
 - C. The Massachusetts Department of Public Works.

SECTION VIII

CENTRAL SEWERAGE PLANTS

8.01.00 This prohibits the installation of central sewer treatment plants for multiple houses by private developers unless approved by the Dudley Sewer Commissioners.

SECTION IX

UPLAND REQUIREMENTS

9.01.00 No parcel of land shall be considered a buildable lot unless it has upland acreage totals of at least seventy-five percent (75%) of the minimum lot size for the zoning district in which it is located. Upland is to be defined as having no wetlands. Wetlands are to be determined by M.G.L., Chapter 131, Section 40. To insure compliance with this regulation, the applicant for a building permit will show credible evidence satisfactory to the Building Inspector that this zoning requirement has been satisfied.

SECTION X

GROUNDWATER (AQUIFER) PROTECTION DISTRICT

10.01.00 PURPOSE OF GROUNDWATER PROTECTION DISTRICT

The purpose of this Groundwater Protection District is:

- a. 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 of the Town of Dudley.
- b. to preserve and protect existing and potential sources of drinking water supplies;
- c. to conserve the natural resources of the town; and
- d. to prevent temporary and permanent contamination of the environment.

10.02.00 SCOPE OF AUTHORITY

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

For the purposes of this section, the following words and phrases shall have the following meanings:

10.03.00 DEFINITIONS

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

Groundwater Protection District - The zoning district defined to overlay other zoning districts in the Town of Dudley. The Groundwater Protection District may include specifically designated recharge areas.

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

Mining - The removal or relocation of geologic materials such as top soil, sand gravel, metallic or bedrock.

Recharge Areas - Areas that collect precipitation or surface water and carry it to aquifers. Recharge areas may include areas designated as Zone I, Zone II, Zone III.

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

10.04.00 ESTABLISHMENT AND DELINEATION OF GROUNDWATER PROTECTION

DISTRICT

For the purposes of this district, there are hereby established within the town certain groundwater protection areas, consisting of aquifers or recharge areas which are delineated on a map. This map is at a scale of 1 inch to 1000 feet and is entitled "Groundwater Protection District, Town of Dudley", dated March 1992. This map is hereby made a part of the town zoning bylaw and is on file in the Office of the Town Clerk.

10.05.00 DISTRICT BOUNDARY DISPUTES

If the location of the District boundary in relation to a particular parcel is in doubt, resolution to boundary disputes shall be through a Special Permit application to the Special Permit granting Authority (SPGA). Any application for a special permit for this purpose shall be accompanied by adequate documentation.

The burden of proof shall be upon the owner(s) of the land in question to show where the bounds should properly be located. At the request of the owner(s), the town may engage a professional engineer (civil or sanitary), hydrologist, geologist, or soil scientist to determine more accurately the boundaries of the district with respect to individual parcels of land, and may charge the owner(s) for all or part of the cost of the investigation.

10.06.00 USE REGULATION

In the Ground Water Protection District the following regulations shall apply:

A. Permitted Uses

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

- i. conservation of soil, water, plants, and wildlife;

- ii. outdoor recreation, nature study, boating, fishing, and hunting where otherwise legally permitted;
- iii. foot, bicycle and /or horse paths, and bridges;
- iv. normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply and conservation devices;
- v. maintenance, repair, and enlargement of any existing structure, subject to Section B (prohibited uses) and Section C (special permitted uses);
- vi. residential development, subject to Section B (prohibited uses) and Section C (special permitted uses);
- vii. farming, gardening, nursery, conservation, forestry, harvesting, and grazing, subject to Section B (prohibited uses) and Section C (special permitted uses);
- viii. construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels. Underground storage tanks related to these activities are not categorically permitted.

B. Prohibited Uses

The following uses are prohibited:

- i. landfills and open dumps as defined in 310 CMR 19.006;
- ii. storage of liquid petroleum products, except the following:
 - a. normal household use, outdoor maintenance, and heating of a structure;
 - b. waste oil retention facilities required by statute, rule, or regulation;
 - c. emergency generator required by statute, rule, or regulation;
 - d. treatment works approved under 314 CMR 5.00 for treatment of ground or surface waters; provided that storage, listed in items a. through d. above, is in free-standing containers within buildings or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity.
- iii. landfilling of sludge or septage as defined in 310CMR 32.05;

- iv. storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.3.1;
- v. individual sewage disposal systems that are designed in accordance with 310 CMR 15.00 to receive more than 110 gallons of sewage per quarter acre under one ownership per day, or 440 gallons of sewage on any one acre under one ownership per day, whichever is greater, except the replacement or repair of any existing system that will not result in an increase in design capacity above the original design;
- vi. storage of deicing chemicals unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;
- vii. storage of animal manure unless covered or contained;
- viii. earth removal, consisting of the removal of soil, loam, sand, gravel, or any other earth material (including mining activities) to within 6 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads, or utility works;
- ix. facilities that generate, treat, store, or dispose of hazardous waste subject to MGL 21C and 310 CMR 30.00;
 - a. very small quantity generators as defined under 310 CMR 30.00;
 - b. household hazardous waste collection centers and events under 310 CMR 30.390;
 - c. waste oil retention facilities required by MGL C 21, s. 52A;
 - d. water remediation treatment works approved under 314 CMR 5.00;
- x. automobile graveyards and junkyards, as defined in MGL c. 140B, s.1;
- xi. treatment works that are subject to 314 CMR 5.00 including privately owned sewage treatment facilities, except the following;

- a. the replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;
 - b. the replacement of existing subsurface sewage disposal system(s) with wastewater treatment works that will not result in a design capacity greater than the design capacity of the existing system(s);
 - c. treatment works approved by the Massachusetts Department of Environmental Protection designed for the treatment of contamination groundwater;
- xii. storage of liquid hazardous materials, as defined in MGL x.21E, unless in a free standing container within a building or above ground with secondary containment adequate to contain a spill the size of the container's total storage capacity;
 - xiii. industrial and commercial uses which discharge process wastewater on-site;
 - xiv. stockpiling and disposal of snow and ice containing deicing chemicals if brought in from outside the district;
 - xv. storage of commercial fertilizers and soil conditioners, as defined in MGL c.128.s. 64, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;
 - xvi. the use of septic system cleaners which contain toxic or hazardous chemicals;

C. Uses and Activities Requiring a Special Permit

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

- i. enlargement or alteration of existing uses that do not conform to the Groundwater Protection District;
- ii. the application of pesticides, including herbicides, insecticides, fungicides, and rodenticides, for non-domestic or non-agricultural uses

in accordance with state and federal standards. The special permit shall be granted if such standards are met. If application of compliance with a Yearly Operating Plan (YOP) for vegetation management operations under 333 CMR 11.00 or a Department of Food and Agriculture approved Pesticide Management Plan or Integrated Pest Management (IPM) program under 333 CMR 12.00;

- iii. the application of fertilizers for non-domestic or non-agricultural uses. Such applications shall be made in a manner so as to minimize adverse impacts on groundwater due to nutrient transport, deposition, and sedimentation;
- iv. those activities that involve the handling of toxic or hazardous materials in quantities greater than those associated with normal household use, permitted in the underlying zoning (except as prohibited under Section B). Such activities shall require a special permit to prevent contamination of groundwater;
- v. the construction of dams or other water control devices, ponds, pools, or other changes in water bodies or courses, created for swimming, fishing, or other recreational uses, agricultural uses, or adversely affect water quality or quantity;
- vi. any use that will render impervious more than 15% or 2,500 square feet of any lot, whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge shall be by storm water infiltration basins or similar system covered with natural vegetation, and dry wells shall be used only where other methods are infeasible, for all non-residential uses, all such basins and wells shall be preceded by oil, grease, and sediment traps to facilitate removal of contamination. Any and all

recharge areas shall be permanently maintained in full working order by the owner.

- vii. Installing subsurface or above grade tanks to be used for storage, dispensing, or sale of any petroleum product once a grandfathered tank has been removed from the parcel for anything more than replacement of said tank, or for six months, whichever is long, as determined by the Dudley Fire Department or their representative. (Added 5/23/2011)

10.07.00 PROCEDURES FOR ISSUANCE OF GROUNDWATER PROTECTION DISTRICT

SPECIAL PERMIT

- A. The Special Permit Granting Authority (SPGA) under this bylaw shall be the Dudley Water Commissioners. Such special permit shall be granted if the SPGA determines, in conjunction with the Board of Health, the Conservation Commission, Department of Public Works; such as the Water Department, Sewer Department, and the Highway Department, and Planning Board that the intent of this bylaw, as well as its specific criteria, are met. The SPGA shall not grant a special permit under this section unless the SPECIAL PERMIT petitioner's application materials include, in the SPGA's opinion, sufficiently detailed, definite, and credible information to support positive findings in relation to the standards given in this section. The SPGA shall document the basis for any departures from the recommendations of the other town boards or agencies in its commendations of the other town boards or agencies in its decision.
- B. Upon receipt of the special permit application, the SPGA shall transmit one copy to the Planning Board, Board of Health, the Conservation Commission, and the departments of Public Works: such as the Water Department, Sewer Department, and Highway Department, for their written recommendations. Failure to respond in writing within 35 days of receipt by the Board shall indicate approval or no desire to comment by said agency. The necessary number of copies of the application shall be furnished by the applicant.

- C. The SPGA may grant the required special permit only upon finding that the proposed use meets the following standards, those specified in Section 6 of this bylaw, and any regulations or guidelines adopted by the SPGA. The proposed use must:
1. in no way, during construction or thereafter, adversely affect the existing potential quality or quantity of water that is available in the Ground water Protection District; and
 2. be designed to avoid substantial disturbance of the soils, topography, drainage, vegetation and other water-related natural characteristics of the site to be developed.
- D. The SPGA may adopt regulations to govern design features of projects. Such regulations shall be consistent with subdivision regulations adopted by the municipality.
- E. The applicant shall file 6 copies of a site plan and attachments. The site plan shall be drawn at proper scale as determined by a professional engineer. All additional submittals shall be prepared by qualified professionals. The site plan and its attachments shall at a minimum include the following information where pertinent:
1. a complete list of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use;
 2. for those activities using or storing such hazardous materials, a hazardous materials management plan shall be prepared and filed with the Hazardous Materials Coordinator, Fire Chief, and Board of Health. The plan shall include:
 - a. provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and clean-up procedures;
 - b. provisions for indoor secured storage of hazardous materials and wastes with impervious floor surfaces;
 - c. evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30.00, including obtaining an

EPA identification number from the Massachusetts Department of Environmental Protection.

3. proposed down-gradient location(s) for ground water monitoring well(s), should the SPGA deem the activity a potential groundwater threat.
- F. The SPGA shall hold a hearing, in conformity with the provision of MGL Ch. 40A, s.9, within 65 days after the filing of the application and after the review by the Town Boards, Departments, and Commissions. Notice of the public hearing shall be given by publication and posting and by first-class mailings to parties of interest” as defined in MGL Ch. 40A, s.11. The decision of the SPGA and any extension, modification, or renewal thereof shall be filed with the SPGA and Town Clerk within 90 days following the closing of the public hearing. Failure of the SPGA to act within 90 days shall be deemed as a granting of the permit. However, no work shall commence until a certification is recorded as required by said s.11.
- G. Written notice of any violations of this Section shall be given by the Building Inspector to the responsible person as soon as possible after detection of a violation or a continuing violation. Notice to the assessed owner of the property shall be deemed notice to the responsible person. Such notice shall specify the requirement or restriction violated and the nature of the violation, and may also identify the actions necessary to remove or remedy the violations and preventive measures required for avoiding future violations and a schedule of compliance. A copy of such notice shall be submitted to the Building Inspector, the Board of Health, Conservation Commission, Departments of Public Works; Sewer, Highway, and Water Departments. The cost of containment, clean-up, or other action of compliance shall be borne by the owner and operator of the premises.

For situations that require remedial action to prevent adverse impact to the water resources within the Groundwater Protection District, the Town of Dudley, the Building Inspector, the Board of Health, or any of their agents may order the owner or operator of the premises to remedy the violation. If said owner and/or operator does not comply with said order, the Town of Dudley, the Building Inspector, the Board of Health, or any of their agents, if authorized to enter upon such

premises under the terms of the special permit or otherwise, may act to remedy the violation. The remediation cost shall be the responsibility of the owner and operator of the premises.

10.08.00 SEVERABILITY

A determination that any portion or provision of this overlay protection district is invalid shall not invalidate any other portion or provision thereof, nor shall it invalidate any special permit previously issued thereunder.

NOTE: This bylaw has been designed to conform to the minimum local control standards specified by the Department of Environmental Protection in 310 CMR 22.21 (2).

SECTION XI

PERSONAL WIRELESS SERVICE FACILITIES (PWSF)

(The numbering of this section was changed by vote at Town Meeting 11/5/2007, and that vote was rescinded at Town Meeting 5/19/08)

11.00.00 PWFS ZONING REGULATIONS

11.00.01 PWSF PURPOSE AND INTENT

It is the express purpose of this Bylaw to minimize the visual and environmental impacts of personal wireless service facilities. The Bylaw enables the review and approval of personal wireless service facilities, consistent with the provisions of Section 253 and 704 of the Federal Telecommunication Act of 1996. The Bylaw enables the review and approval of personal wireless service facilities by the Planning Board and Building Inspector through a Special Permit Process in keeping with existing Bylaws and historic development patterns. It sets standards which are intended to preserve the safety, character, appearance, property values, natural resources and historic sites of the Town; mitigate any adverse visual effect through proper design, location and screening of structures; and to encourage co-location of antennas where feasible in order to minimize the total number of sites required.

11.01.00 PWSF SCOPE

Section XI, Personal Wireless Service Facilities, shall apply to all commercial wireless telecommunication antennas, towers, fixtures, and related equipment and structures, including modifications to any of the preceding. Individual, non-commercial “ham” radio antennas which are not defined as a Personal Wireless Service Facility by the Federal Communications Commission (FCC) are not subject to the regulations of this section of the Zoning Bylaw.

11.02.00 PWSF REQUIRED APPROVALS

11.02.01 Use Regulations

A personal wireless service facility shall require, in all cases, a special permit from the Planning Board and a Building Permit from the Building Department.

11.03.00 PWSF DISTRICT REGULATIONS

11.03.01 Location

Applicants seeking approval for personal wireless service facilities shall comply with the following:

a. **Single Residence Districts**

Personal wireless service facilities may be located in Single Residence Districts provided the facility is mounted on an existing structure, subject to the dimensional requirements set forth in Section 11.2 (a) below.

New personal wireless service facility structures (monopoles) may be located in Single Residential Districts provided the structure is located not less than five hundred (500) feet measured in the horizontal plane from an existing residence, school or licensed child care facility to the outermost dimension of the structure’s base.

b. **Agricultural – Residential Districts**

Personal wireless service facilities may be located in Agricultural – Residential Districts provided the facility is mounted on an existing structure, subject to the dimensional requirements set forth in Section 1.5(a) below.

New personal wireless service facility structures (monopoles) may be located in Agricultural – Residential Districts provided the structure is located not less than five hundred (500) feet measured in the horizontal plane from an existing residence, school or licensed child care facility to the outermost dimension of the structure's base.

c. General Business Districts

Personal wireless service facility structures may be located in General Business Districts provided the facility is mounted on an existing structure, subject to the dimensional requirements set forth in Section 1.5(a) below.

New personal wireless service facility structures (monopoles) are not permitted.

d. Commercial and Industrial Districts

Personal wireless service facility structures may be located in Commercial and Industrial Districts provided the facility is mounted on an existing structure, subject to the dimensional requirements set forth in Section 1.5(a) below

New personal wireless service facility structures (monopoles) may be located in Industrial Districts.

e. Flood Plain Districts

Personal wireless service facility structures may be located in Flood Plain Districts provided the facility is mounted on an existing structure, subject to the dimensional requirements set forth in Section 1.5(a) below.

New personal wireless service facility structures (monopoles) are not permitted.

f. Recreational Districts

Personal wireless service facility structures may be located in Recreational Districts provided the facility is mounted on an existing structure, subject to the dimensional requirements set forth in Section 1.5(a) below. New personal wireless service facility structures (monopoles) are not permitted.

11.04.00 USE OF EXISTING STRUCTURES

- a. If feasible, personal wireless service facilities shall be located on existing structures, including but not limited to buildings, steeples, water towers, telecommunication towers, utility poles, and related facilities, provided that such installation preserves the character and integrity of those structures. The applicant shall have the burden of proving and formally documenting that there are no feasible existing structures upon which to locate.
- b. The Applicant shall submit documentation of the legal right to install and use the proposed facility mount at the time of application.
- c. It is the intent of the Bylaw not to permit extensions to the height of existing personal wireless service facility structures, which already meet the maximum height of ninety (90) feet.

11.05.00 DIMENSIONAL REQUIREMENTS

Personal wireless service facilities shall comply with the following requirements:

- a. Height, Existing Structures (Buildings). Personal wireless service facilities may be located on existing buildings provided that the facilities do not project above the existing building height by more than ten (10) feet, and are completely camouflaged.
- b. Height, Existing Structures (Towers). Personal wireless service facilities may be located (mounted) on existing structures (towers) provided that:

1. Mounting on existing water towers will be subject to approval of the proposed attachment methods and maintenance procedures by the Water Department and Board of Health.
 2. There is a maximum height increase of ten (10) feet above the existing structure (tower) as a result of the installation of a personal wireless service facility.
- c. Height, Existing Structures (Utility). Personal wireless service facilities may be located (mounted) on existing electric transmission and distribution towers, telephone poles or similar existing utility structures provided that they do not increase the height of the structure by more than ten (10) feet, and are not permitted in Historic Districts or designated scenic view sheds.
- d. Height, New Personal Wireless Service Facility Structures. New ground mounted structures shall be limited to “monopole” type only and shall not exceed ninety (90) feet in total height above the adjacent ground level (AGL). Special Permit may be issued by the Planning Board to waive height restrictions; Special Permit not to exceed 180’ in total height above the adjacent ground level.
- e. Setbacks. All personal wireless service facilities and their equipment shelters shall comply with the building setback (from a property line) provisions of the Zoning District in which the facility is located. In addition, the following setbacks shall be adhered to:
1. The minimum distance from the outermost dimension of the base of any ground-mounted personal wireless service facility structure (monopole) to any property line or public way shall be the total height of the tower plus 25 feet.

2. In the event that an existing structure is proposed as a mount for a personal wireless service facility, the setback provisions of the zoning district shall apply.
- f. Intensity. New personal wireless service facility structures (monopoles) shall not be located such that they are spaced closer than one and one half (1.5) miles, measured in the horizontal plane, to an existing stand alone personal wireless service facility structure and shall be limited to one (1) structure per subject property boundaries.

11.06.00 PWSF SITE PLAN REVIEW PROCESS

11.06.01 PWFS DESIGN STANDARDS

11.06.01A New Structures

New ground mounted personal wireless service facility structures (towers) shall be limited to “monopole” type structures only.

11.06.01B Visibility/Camouflage

Personal wireless service facilities shall be camouflaged as follows:

- a. Camouflage by Existing Buildings or Structures.

When a personal wireless service facility extends above the roof height of an existing building on which it is mounted, it shall be completely concealed by the facility itself or behind architectural features to conceal its visibility from public ways. Personal wireless service facilities mounted on a roof shall be stepped back from the building’s facade in order to limit their impact on the building’s silhouette. Personal wireless service facilities, which are side mounted, shall blend with the existing building’s architecture and, if over five (5) square feet,

shall be appointed or shielded with material which is consistent with the design features and materials of the building.

- b. Camouflage by Vegetation: If personal wireless service facilities cannot be camouflaged by existing buildings or structures, the facility shall be surrounded by buffers of dense tree growth and under-story vegetation in all directions to create an effective year-round visual buffer. Ground-mounted personal wireless service facilities shall provide a vegetated buffer of sufficient height and depth to effectively screen the facility. Trees and vegetation may exist on the subject property or installed as part of the proposed facility or a combination of both. The Planning Board and the Building Inspector shall determine the types of trees and plant materials and the quantities and depth of the needed buffer based on the facility's on-site conditions.
- c. Color
 1. Personal wireless service facilities, which are side-mounted on buildings, shall be painted and/or constructed of materials to match the color of the building material directly behind them.
 2. To the extent that any personal wireless service facilities extend above the height of the vegetation immediately surrounding them, they shall be painted in a light gray or light blue hue, which blends with sky and clouds.

11.06.01C Equipment Shelters

Equipment shelters for personal wireless service facilities shall be designed consistent with one of the following design standards:

- a. Equipment shelters shall be located in underground vaults; or

- b. Equipment shelters shall be designed consistent with the architectural styles, materials, and roof design typical of the district in which the facility is located and sided with wood clapboard or wood shingle siding.

11.06.0D Lighting and Signage

- a. Personal wireless service facilities shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties.
- b. Signs shall be limited to those needed to identify the property and the owner and warn of any danger, shall provide one or more 24-hour emergency telephone numbers, and shall be subject to the approval of the Planning Board and the Building Inspector.

11.06.01E Historic Buildings and Districts

- a. Personal wireless service facilities located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the structure.
- b. Any alteration made to an historic structure to accommodate a personal wireless service facility shall be fully reversible.
- c. Personal wireless service facilities within an historic district shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas within the district.

11.06.01F Scenic Landscapes and Vistas

- a. Personal wireless service facilities (towers or equipment shelters) shall not be located within open areas that are visible from public roads, recreational areas or

residential developments. As required in Section 11.2 (Visibility/Camouflage) above, all ground-mounted personal wireless service facilities, which are not camouflaged by existing buildings or structures, shall be surrounded by a buffer of dense tree growth.

- b. Any personal wireless service facility that is located within five hundred (500) feet of a scenic vista, scenic landscape or scenic road as designated by the Town shall be completely camouflaged from the view of a scenic vista, scenic landscape or scenic road.

11.06.02 ENVIRONMENTAL STANDARDS

- a. Personal wireless service facilities shall not be located in an area of wetlands. Locating of wireless facilities in wetland buffer zone areas shall be avoided whenever possible. The disturbance to wetland buffer areas shall be minimized and shall be subject to approval of the Conservation Commission.
- b. No hazardous waste shall be discharged on the site of any personal wireless service facility. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on the site.
- c. Methods for Storm-water run-off shall be contained on-site as approved by the Planning Board and the Building Inspector.
- d. The Applicant shall provide documentation listing the existing and maximum future projected measurements of noise generated from the proposed personal wireless service facilities, which noise levels shall be in compliance with the Zoning Bylaws.

11.06.03 SAFETY STANDARDS

- a. Radio-frequency Radiation (RFR) Standards. All equipment proposed for a personal wireless service facility shall be authorized per the Federal Communications Commission (FCC) Guidelines for Evaluating the Environmental Effects of Radio-frequency Radiation.
- b. All ground-mounted personal wireless service facilities shall be surrounded by a security barrier. The security barrier shall be a minimum of eight (8) feet in height and constructed of material as approved by the Planning Board and the Building Inspector.

11.06.04 SERVICE UTILITIES

All utilities, which will service the proposed personal wireless service facility, shall be located below ground from the facility's property line.

11.07.00 APPLICATION PROCEDURES

11.07.01 Application Filing Requirements

Eight (8) complete copies of the following information in the form of engineered drawings, calculations, photographs, brochures, maps, etc., shall be included with an application for all proposed personal wireless service facilities, including facilities, which are mounted on or within existing structures. All attendant fees and materials, as requested in the following sections, will be processed and forwarded by the Planning Board and Building Inspector.

11.07.02 General Filing Requirements

- a. Name, address and telephone number of Applicants and any Co-Applicants as well as any agents for the Applicant or Co-Applicants.

- b. Co-Applicants may include the landowner of the subject property, licensed carriers and tenants for the personal wireless service facility.
- c. A licensed carrier shall either be an Applicant or a Co-Applicant.
- d. Original signatures for the Applicant and all Co-Applicants applying for approval of a personal wireless facility are required. If the Applicant or Co-Applicant will be represented by an agent, an original signature authorizing the agent to represent the Applicant and/or Co-Applicant is required. Photographic reproductions will not be accepted.
- e. All engineered or architectural drawings, plans, and calculations etc., submitted with the application shall be stamped by a Professional Engineer, Landscape Architect, or Architect, as appropriate, registered in Massachusetts.

11.07.03 Site Location Filing Requirements

- a. Identify the subject property by including the Town as well as the name of the locality, name of the nearest road or roads, and street address, if any.
- b. Tax map and parcel number of subject property.
- c. Zoning district designation for the subject parcel (Submit copy of Town zoning map with parcel identified).
- d. A current plan drawn to scale showing the property lines of the subject property and the location of buildings and residences of all abutting property within five hundred (500) feet from the proposed site.
- e. A plan drawn to scale showing the locations of all existing and future personal wireless service facilities located or to be located within the Town, for each carrier that will be attached to the proposed personal wireless service facility.

11.07.04 Site Engineering Filing Requirements

- a. A “one inch equals forty feet” (1” = 40’) vicinity plan clearly indicating the following:
1. Property lines for subject property.
 2. Proposed location of antenna, mount and equipment shelter(s).
 3. Proposed security barrier, indicating type and extent as well as point of controlled entry
 4. Location of all roads, public and private, on the subject property which will serve the personal wireless service facility.
 5. Proposed personal wireless service facilities not mounted on or within an existing structure shall be serviced by one (1) access driveway with a minimum width of twelve (12) feet and grade not exceeding ten (10) percent when located any permissible zone. These access driveways shall be capable of allowing emergency vehicle access in all weather conditions.
 6. Distances shall be labeled on the vicinity plan indicating the distance from the proposed personal wireless service facilities outermost base structure to each habitable structure on the vicinity plan.
 7. Contours at two (2) foot intervals for the subject property and adjacent properties within seven hundred and fifty (750) feet of the subject’s property line. Contours depicting the elevations of the subject property shall be developed by a topographic survey completed within two (2) years of the application submittal date. The topographic survey shall be completed by a Registered Land Surveyor or Engineer registered in Massachusetts. The Applicant may use other recent topographic surveys or available survey information to develop the necessary contours depicting the elevations off the subject property.

8. All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent access roads and driveways.
 9. All proposed mounts, antennas, equipment shelters, buried utility conduit cable runs, parking areas and any other construction or development serving the personal wireless service facility.
- b. Sight Lines and Photographs
1. Sight line elevations, or views at grade from the north, south, east and west for a twenty five hundred (2500) foot radius around a proposed personal wireless service facility structure, not completely camouflaged within an existing building, preferably drawn to represent the view from existing public and private roads that will serve the subject property. Elevations shall be drawn to scale adequate to indicate the following:
 - I. Antennas, mounts and equipment shelter(s), with total elevation dimensions measured from the above ground level (AGL).
 - II. Security barrier. If the security barrier will block views of the personal wireless service facility, the barrier drawing shall be prepared showing a cut away section to show the view behind the barrier.
 - III. All structures on the subject property.
 - IV. Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
 - V. Grade changes, or cuts to fill, to be shown as original grade and new grade line, at two (2) foot contours.
 2. Existing (pre-construction) photographs. Each sight line elevation shall be illustrated by one (1) eight and one half inch by eleven inch (8 ½ x 11”) color photographs.

3. Proposed (post-construction). Each of the existing condition photographs shall have the proposed personal wireless service facility including antennas mounts, equipment shelters and security barriers superimposed on it to show what will be seen from public and private roads if the proposed personal wireless service facility is constructed.

11.07.05 Structure Design Filing Requirements

- a. Equipment brochures for the proposed personal wireless service facility such as manufacturer's specifications or trade journal reprints shall be provided for the antennas, mounts, and equipment shelters, as appropriate.
- b. Materials of the proposed personal wireless service facility specified by the generic type and specific treatment (e.g. anodized aluminum, stained wood, painted fiberglass, etc.) the antennas, mounts, equipment shelters, and security barrier, as appropriate.
- c. Colors of the proposed personal wireless service facility represented by a color board showing actual colors proposed. Colors shall be provided for the antennas, mounts, equipment shelters and security barrier, as appropriate.
- d. Dimensions of the personal wireless service facility specified for all three (3) dimensions; height, width and breadth. These shall be provided for the antennas, mounts, equipment shelters and security barrier.

11.07.06 Site Landscape

- a. If the personal wireless service facility is to be camouflaged by adding vegetation to the facility, the Applicant shall provide a landscape plan, one inch equals forty feet (1" = 40') including existing trees and shrubs and those proposed to be

added, identified by size of specimen at installation and species. The plan shall be stamped by a Landscape Architect registered in Massachusetts.

11.07.07 Site Lighting

- a. If ground lighting of the site is proposed, the Applicant shall submit a manufacturer's computer-generated point to point printout stamped by a Professional Electrical Engineer registered in Massachusetts, indicating the horizontal foot candle levels at grade, within the property to be developed and twenty five (25) feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.

11.07.08 Balloon/Crane Visual Test

- a. Within twenty-eight (28) days of filing an application for a personal wireless service facility not to be installed completely within an existing structure, the Applicant shall arrange for a balloon or crane test at the proposed site to illustrate the height of the proposed facility. The date, time and location of such test shall be advertised in a newspaper of general circulation in the Town at least fourteen (14) days, but not more than twenty-one (21) days prior to the test. The balloon or crane test shall remain at the site for a minimum of seventy-two (72) hours not including a Massachusetts recognized holiday weekend. The dates of the balloon or crane test shall be subject to the approval of the Planning Board and the Building Inspector.

11.07.09 Radio-Frequency Radiation (RFR) Filing Requirements

- a. The Applicant shall provide a statement listing the existing and maximum future projected measurements of RFR generated from the proposed personal wireless service facility, for the following situations:
 1. Existing or ambient: the measurements of existing RFR.
 2. Existing plus proposed personal wireless service facilities: estimate of maximum RFR generated from the proposed personal wireless service facility plus the existing RFR environment.
 3. Certification, signed by an independent Radio Frequency Engineer (RF), stating that RFR measurements are accurate and meet Federal Communication Commission (FCC) Guidelines.

11.07.10 Federal Environmental Filing Requirements

- a. The National Environmental Policy Act (NEPA) applies to all applications for personal wireless service facilities. NEPA is administered by the FCC via procedures adopted as Subpart 1, Section 1.1301 et seq. (47 CFR Ch. I). The FCC requires that an Environmental Assessment (EA) be filed with the FCC prior to beginning operations for any personal wireless service facility proposed in or involving any of the following:
 1. Wilderness areas.
 2. Wildlife preserves.
 3. Endangered species habitat.
 4. Historical site.
 5. Indian religious site.
 6. Flood plain.
 7. Wetlands.
 8. High intensity white lights in residential neighborhoods.

9. Excessive radio frequency radiation exposure.
- b. If the FCC regulations require an EA, the Applicant must submit eight (8) copies of such document at the time of filing the application.
- c. The Applicant shall list location, type and amount (including trace elements) of any materials proposed for use within the personal wireless service facility that are considered hazardous by the federal, state or local government.

11.08.00 WAIVERS OF APPLICATION REQUIREMENTS

- a. The Planning Board and Building Inspector may waive one or more of the application filing requirements of this Bylaw if it finds that such information is not needed for a thorough review of a proposed personal wireless service facility. The Planning Board and Building Inspector may require information in addition to the application filing requirements of this Bylaw if it finds that such information is reasonably necessary for a thorough review of a proposed personal wireless service facility.

11.09.00 APPLICATION FEES

- a. The Applicant shall deliver to the Building Inspector, on behalf of the Town, with the application a non-refundable application fee in the amount of \$750.00 for the incursion of costs related to the processing of the application. In addition, the Applicant shall be responsible for all independent consultant review costs associated with the application. The Applicant shall deliver the sum of \$1,500.00 to the Planning Board, on behalf of the Town, with the application to pay for such consultant fees. If the consultant fees are higher than the established \$1,500.00 fee, the Applicant shall reimburse the Town for all costs of consultants

incurred by the Town to review the application. If the consultant fees are less than \$1,500.00 the Town will reimburse the Applicant the balance.

- b. Co-applicants/tandem carriers shall deliver to the Building Inspector on behalf of the Town a co-application fee of \$750.00.

11.10.00 CO-LOCATION OF PERSONAL WIRELESS SERVICE FACILITIES

11.10.01 Co-Location

- a. Licensed carriers shall share personal wireless service facilities where feasible and appropriate, thereby reducing the number of personal wireless service facilities that are stand-alone facilities. All Applicants for a personal wireless service facility shall demonstrate and provide the documentation of a good faith effort to co-locate with other carriers. Such good faith effort includes:
 1. A survey of all existing structures that may be feasible sites for co-locating personal wireless service facilities;
 2. Contact with all the other licensed carriers for commercial mobile communications services operating in the Town; and
 3. Provide information necessary to determine if co-location is feasible under the design configuration most accommodating to co-location.

11.10.02 Written Statement of Infeasibility

- a. In the event that co-location is found to be NOT feasible, a written statement of the reasons for the infeasibility shall be submitted to the Planning Board and Building Inspector. The Town may retain a technical expert in the field of RF engineering to verify if co-location at the site is not feasible or is feasible given the design configuration most accommodating to co-location. The cost for such a technical expert will be at the expense of the Applicant. The Town may deny

approval to an Applicant that has not demonstrated a good faith effort to provide for co-location.

11.11.0 DRAWING OF FULL BUILD-OUT

The Applicant shall submit drawings and studies, which show the ultimate appearance and operation of the personal wireless service facility(s) at full build-out within the Town of Dudley and all directly abutting Towns.

11.12.00 MODIFICATION TO PERSONAL WIRELESS SERVICE FACILITY

11.12.01 Modification

- a. A modification of an existing personal wireless service facility will be considered equivalent to an application for a new personal wireless service facility and will require an application submittal for the following:
 1. The Applicant and/or Co-Applicant want to alter the existing personal wireless service facility in one or more of the following ways:
 - I. Change in the number of licensed carriers permitted on the site;
 - II. Change in technology used for the personal wireless service facility.
 - III. Additional equipment shelter.
 2. The Applicant and/or Co-Applicant want to add any equipment or additional height not specified in the original application.

11.13.00 MONITORING AND MAINTENANCE

11.13.01 Submittal of Radio Frequency Radiation Monitoring

- a. Within thirty (30) days of the beginning of operations of the personal wireless service facility and biannually thereafter, the Applicant shall submit three (3) copies to the Board of Health of measurements of the Radio Frequency Radiation

(RFR) generated from the personal wireless service facility, summarized in a report. Such measurements/report shall be signed and certified by an independent professional Radio Frequency or Electrical Engineer registered in Massachusetts stating that RFT measurements are accurate and meet FCC Guidelines.

11.13.02 Maintenance

- a. The Applicant and Co-Applicant shall maintain the personal wireless service facility in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier and maintenance of the buffer area, landscaping, and providing twenty-four hour emergency vehicle access.

- b. In addition, the Applicant and Co-Applicant shall arrange for a Professional Structural Engineer registered in Massachusetts to review the personal wireless service facility on an annual basis and certify that the structure is in sound condition. A report of the engineer's findings shall be filed with the Building Inspector's Office within thirty (30) days of the inspection. All costs for the inspection shall be borne by the Applicant.

11.13.03 PENALTIES

- a. In the event that the RFR measurements from a personal wireless service facility exceed FCC Guidelines, if the RFR measurements from the personal wireless service facility are not brought within FCC Guidelines within thirty (30) days, the Planning Board shall impose a \$300 per day fine and shall require the

personal wireless service facility to cease operations until brought into compliance.

- b. Nothing herein shall limit the authority or rights of the Planning Board, Building Inspector, Board of Health, Town citizens or any other entity from seeking an immediate cessation of operations or other relief in the event that a personal wireless service facility poses an immediate health or safety risk.

11.14.00 TERM OF USE, ABANDONMENT, REMOVAL, REPLACEMENT AND HEARING

11.14.01 Abandonment or Discontinuation of Use

- a. At such time that a licensed carrier anticipates they will abandon or discontinue operation of a personal wireless service facility, the Applicant shall notify the Planning Board and Building Inspector by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. Such notice shall be given no less than (30) days prior to abandonment or discontinuation of operations. In the event that the Applicant fails to give such notice, and if the subject licensed carrier is the only licensed carrier utilizing the facility, the personal wireless service facility shall be considered abandoned upon such discontinuation of operations.
- b. Upon abandonment or discontinuation of use, the Applicant shall physically remove the personal wireless service facility within ninety (90) days from the

date of abandonment or discontinuation of use. “Physically remove” shall include, but not be limited to:

1. Removal of all antennas, mounts, equipment shelters and security barriers including all foundations from the subject property.
 2. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
 3. Restoring the location of the personal wireless service facility to its natural condition, except that any landscaping and grading shall remain in the after-condition.
 4. If the Applicant fails to remove a personal wireless service facility in accordance with this Bylaw, the Town shall have the authority to enter the subject property and physically remove the facility.
- c. The Applicant, upon receiving approval to construct a personal wireless service facility and prior to construction of same, shall post a bond in favor of the Town in form acceptable to the Town in a dollar amount equal to the projected removal costs of the facility at the end of the bond term of the approval for the facility. The dollar amount established for the Town should be developed by a qualified independent Engineer Registered in Massachusetts and shall be subject to approval by the Planning Board and Building Inspector.

11.14.02 Reconstruction or Replacement of Existing Towers and Monopoles

- a. Reconstruction, additions, extensions or replacement of a personal wireless service facility or any aspect thereof shall require a new application be submitted to the Planning Board and Building Inspector in accordance with this Bylaw.

11.14.03 Terms of Approval of Applications

Approval issued for any personal wireless service facility shall be valid for ten (10) years. At the end of that time period, the Applicant shall completely remove the personal wireless service facility or a new application shall be prepared by the Applicant and submitted to the Planning Board and Building Inspector.

11.14.04 Public Hearing Required

All applications for a personal wireless facility will require a public hearing.

11.15.00 PRE-APPLICATION MEETING

- A. At least fourteen (14) days prior to applying for approval, the Applicant and Co-Applicant shall meet with the Planning Board and Building Inspector at a public meeting to discuss the proposed personal wireless service facility in general terms and to clarify the filing requirements. The Planning Board and Building Inspector shall meet with the Applicant under this regulation within thirty (30) days following a written request submitted to the Planning Board and Building Inspector. If the Planning Board and Building Inspector fails to meet with an Applicant who has requested such a meeting within thirty (30) days of said request and said meeting has not been postponed due to mutual agreement, the Applicant may proceed with the application.
- B. The purpose of the conference is to inform the Planning Board and Building Inspector as to the preliminary nature of the proposed personal wireless service facility. As such, no formal filings are required for the pre-application conference. However, the Applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the

Planning Board and Building Inspector of the location of the proposed facility, as well as its scale and overall general design.

11.16.00 PERSONAL WIRELESS SERVICE FACILITIES BYLAWS DEFINITIONS

Above Ground Level (AGL). A measurement of height from the natural grade of a site to the highest point of a structure.

Antenna. The surface from which wireless radio signals are sent and received by a personal wireless service facility.

Camouflaged. A personal wireless service facility that is disguised, hidden, part of an existing or proposed structure or placed within an existing or proposed structure is considered “camouflaged.”

Carrier. A company that provides wireless services.

Co-location. The use of a single mount on the ground by more than one carrier (vertical co-location) and/or several mounts on an existing building or structure by more than one carrier.

Elevation. The measurement of height above mean sea level.

Environmental Assessment (EA). An EA is the document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a personal wireless service facility is placed in certain designated areas.

Equipment Shelter. An enclosed structure, cabinet, shed or box at the base of the mount within which are housed batteries and electrical equipment.

Licensed Carrier. A company authorized by the FCC to construct and operate a commercial mobile radio services system.

Monopole. The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top. The only type of ground mounted tower allowed in the town is the monopole type.

Mount. The structure or surface upon which antennas are mounted, including the following four types of mounts:

- a. Roof-mounted. Mounted on the roof of a building.
- b. Side-mounted. Mounted on the side of a building.
- c. Ground-mounted. Mounted on the ground.
- d. Structure-mounted. Mounted on a structure other than a building.

Personal Wireless Service Facility. Facility for the provision of personal wireless services, as defined by the Telecommunications Act.

Radio-frequency (RFF) Engineer. An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Radio-frequency Radiation (RFR). The emissions from personal wireless service facilities.

Security Barrier. A locked, impenetrable wall, fence or berm that completely seals an area from unauthorized entry or trespass.

A P P E N D I X A

Table of Zoning Amendments

Town Meeting Date	Article #	Description of Change	Action	Action by Attorney General and D
10/28/02	30	Amend 2.03.02 Chart, under Residential Activity or Use, Apartment Buildings, in Zoning District RES 10 and BUS 15, by changing P to P-SPR.	Approved as amended	Approved 2/5/03
10/28/02	31	Amend 7.01.00 Paragraph IV by adding Letter J, which provides that Driveways shall not exceed a 6% grade ascending from the curb cut through the first 50 feet or the end.	Approved as written	Approved 2/5/03
10/28/02	34	Amend 2.03.01, Use Regulations Catalog, Letter SP-SPR to read "a permissible use requiring a Special Use Permit from the Zoning Board of Appeals and contingent upon Site Plan review and approval by the Planning Board.	Approved as amended	Approved 2/5/03
5/19/03	14	Amend 2.03.02 Chart, under Commercial Activity or Use, add Adult Entertainment Establishments, RES-10 RES-15 RES-25 RES-43 BUS-15 IND-43 LI-43 LI-87 NP, a prohibited use, IND-130 SP-SPR ¹² . Footnote #12 reads: "The IND-130 District situated west of Rout 31 and east of Route 131."	Approved as recommended by the Attorney General	9/19/03
5/19/03	15	Amend 2.03.02 Chart, change the activity or use for 1) Residential Single Family Home in IND-43 and IND-130 to NP, a prohibited use; 2) Residential Two Family Home in IND-43 and IND-130 to NP, a prohibited use; 3) Residential Boarding or Rooming House in IND-43 and IND-130 to NP, a prohibited use.	Approved as written	Approved 9/19/03

Town Meeting Date	Article #	Description of Change	Action	Action by Attorney General and D
5/19/03	21	Amend Section VI, Definitions, by adding a definition for Adult Entertainment Establishments: Any building, stage, structure, prop, vehicle or trailer that is utilized for the substantial purpose(s) of depicting or describing sexual conduct or offering sexual excitement, each as defined in MGL, Chapter 272, Section 31. Such establishments shall include adult bookstores, adult video stores, adult paraphernalia stores, establishments that display live nudity for their patrons, and adult motion picture theaters as defined by MGL, Chapter 40A, Section 9A.	Approved as written	Approved 9/19/03
11/03/03	37	Amend Section 2.01.01, Establishment of Districts, Section 2.03.02, Chart, and Section 2.04.02, Density Requirement Table, to create RES-87 District and eliminate reference to the BUS-43 District.	Approved as written	Approved 1/29/04
11/03/03	38	Amend Zoning Map to rezone to RES-87 that portion of the RES-43 District bound to the north by the Charlton town line; to the east by an existing RES-25 District and RES-15 District; to the southeast by an existing IND-130 District, RES-15 District and the Connecticut state line; to the south by an existing IND-43 District and RES-25 District; and to the west by the Quinebaug River, an existing IND-43 District and the Southbridge town line.	Approved as written	Approved 1/29/04
11/17/03	39	Amend Zoning Map to rezone to RES-43 that portion of the RES-25 District bound to the north by the Charlton town line; to the east by an existing RES-43 District and CON District; to the south by an existing RES-15 District and CON District; and to the west by an existing RES-43 District.	Approved as written	Approved 1/29/04
11/17/03	40	Amend Section 2.03.02, Chart, by adding additional text to footnote #12.	Approved as written	Approved 1/29/04
11/17/03	41	Amend Zoning Map to depict Adult Entertainment Overlay District.	Approved as written	Approved 1/29/04

Town Meeting Date	Article #	Description of Change	Action	Action by Attorney General and D
11/17/03	42	Amend Section VIII, Central Sewerage Plants, by adding the phrase "unless approved by the Dudley Sewer Commissioners".	Approved as written	Approved 1/29/04
11/17/03	43	Amend Section VI, Definitions, to include definition for Age-Restricted Dwelling.	Approved as written	Approved 1/29/04
11/17/03	44	Amend Section III, by replacing 3.05.00, CLUSTER DEVELOPMENT, with Section 3.05.00, OPEN SPACE RESIDENTIAL DEVELOPMENT.	Approved as amended	Approved 1/29/04
11/17/03	45	Insert Section 5.04.00, SITE PLAN REVIEW.	Approved as written	Approved 1/29/04
11/17/03	46	Insert Section 3.10.00, MILL CONVERSION OVERLAY DISTRICT	Approved as written.	Approved 1/29/04

11/17/03	47	Amend Zoning Map to depict Mill Conversion Overlay District.	Approved as written.	Approved 1/29/04
5/27/04	13	Amend Section 2.01.01, Establishment of Districts, Section 2.03.02, Chart, and Section 2.04.02, Density Requirement Table, to create RES-30 District and eliminate reference to the RES-25 District.	Approved as written.	Approved 8/23/04
5/27/04	14	Amend Section 3.05.02, APPLICABILITY, to add RES-30 District and eliminate reference RES-25 District.	Approved as amended.	Approved 8/23/04
5/27/04	15	Amend Section 3.05.04, Subsection C, to add RES-30 District and eliminate reference RES-25 District.	Approved as written.	Approved 8/23/04
5/27/04	16	Amend Zoning Map to rezone to RES-30 that portion of the RES-43 District bound to the north by an existing LI-43 District and RES-10 District; to the east by an existing LI-43 District and BUS-15 District; to the south by the Connecticut state line; and to the west by an existing RES-25 District and TRD District.	Approved as written.	Approved 8/23/04
5/27/04	17	Amend Zoning Map to rezone to RES-30 that portion of the RES-25 District bound to the north by an existing TRD District; to the north and east by an existing RES-43 District; to the south by the Connecticut state line; and to the west by an existing RES-15 District.	Approved as written.	Approved 8/23/04

Town Meeting Date	Article #	Description of Change	Action	Action by Attorney General and D
5/27/04	18	Amend Zoning Map to rezone to RES-30 that portion of RES-15 District bound to north by existing BUS-15 District & TRD District; to east by existing RES-25 District; to south by Connecticut state line; and to west distance of five hundred feet (500') parallel to westerly line of Lyon Hall Road.	Approved as written.	Approved 8/23/04
5/27/04	19	Amend Zoning Map to rezone to LI-43 that portion of RES-15 District bound to north by Route 197 also known as West Main Street & existing IND-43 District, to east distance of five hundred feet (500') parallel to westerly line of Lyon Hall Road; to south by Connecticut state line; and to west by existing RES-87 District	Approved as written.	Approved 8/23/04
5/27/04	20	Amend Zoning Map to rezone to RES-30 that portion of RES-25 District bound to north by existing RES-87 District; to east by existing IND-43 District; to south by Connecticut state line; and to west by existing IND-130 District.	Approved as written.	Approved 8/23/04
5/27/04	21	Amend Zoning Map to rezone to RES-43 that portion of IND-43 District bound to north by existing IND-130 District; to northeast by existing RES-87 District; to southeast by existing RES-43 District; to southwest	Approved as written.	Approved 8/23/04

5/27/04	22	by eastern side of Route 131 also known as Southbridge Road; and to northwest by southern side of West Dudley Road. Amend Zoning Map to rezone to RES-87 that portion of RES-43 District bound to north by Oxford town line; to east by Oxford town line, an existing LI-87 District and existing LI-43 District; to south by existing RES-10 District; and to west by existing RES-15 District, RES-43 District, and CON District	Approved as written.	Approved 8/23/04
5/27/04	23	Amend Section 2.03.02, Chart, AGRICULTURAL, by adding text for salesroom or farm stand and eliminating text for Retail Sales and Roadside Produce Stand.	Approved as amended.	Approved 8/23/04

Town Meeting Date	Article #	Description of Change	Action	Action by Attorney General and D
5/27/04	24	Amend Section 2.04.02 DENSITY REQUIREMENT TABLE to strike land space requirements for residential uses in the IND-43, BUS-43, and IND-130 Districts.	Approved as written.	Approved 8/23/04
5/27/04	25	Amend Section 2.04.02, DENSITY REQUIREMENT TABLE, footnote 1, by replacing 2,500 square feet with 6,000 square feet.	Approved as written.	Approved 8/23/04
5/27/04	26	Amend Section 5.03.00 PLANNING BOARD ASSOCIATE MEMBER, by striking the procedure for appointment.	Approved as written.	Approved 8/23/04
10/25/04	23	Amend Section 2.03.02 "Chart" by deleting the original chart in its entirety and replacing it.	Approved as written.	Approved 3/14/05
10/25/04	24	Amend Section 2.02.00 NONCONFORMING USES AND STRUCTURES to add/ delete text in paragraph #3. Change from Non-conforming one and two family structures may be altered... to read instead: Lawful, dimensionally non-conforming one and two family structures may be repaired, reconstructed... provided that the following conditions are met: A, frontage and/or area, B, dimensionally non-conforming buildings...	Approved as written	Approved 3/14/05
10/25/04	26	Amend the Dudley Zoning Bylaw, Section 6.01.01 "Definitions Listing", by adding the following definition: "Assisted Living Facility"	Approved as written	Approved 3/14/05
10/25/04	27	Amend Section 2.03.02 "Chart" by adding the following Institutional activity or use: "Assisted Living Facility"	Approved as written	Approved 3/14/05
10/25/04	28	Amend Section 3.10.05 "Permitted Uses" by adding the following bolded text - "Within a MCP, residential use or assisted living facility shall be permitted in conjunction with one or more of the following specified non-residential uses"	Approved as written	Approved 3/14/05

Town Meeting Date	Article #	Description of Change	Action
4/13/05	14 (4/8/02)	Time-Limitation Expired on 2.04.00, which read, " For a period of time not to exceed four years from the date of adoption of this bylaw or until the Planning Board is finished with the Master Plan Rezoning for the town, that any parcel of land which is to be subdivided into buildable lots can only be so divided if the lots are to contain a minimum of one (1) acre of lot area and one hundred fifty (150) feet of lot frontage."	Approved as written
11/07/05	9	Amend Section 1.02.01 "Enforcement" by adding the following: Whoever violates any provision of the bylaws the violation of which is subject to a specific penalty, may be penalized by a non-criminal method of disposition as provided in General Laws, Chapter 40, SS 41D, the non-criminal method of disposition may also be used for violations of any rule or regulation of any municipal office, board or department, which is subject to a specific penalty. Each day on which any violation exists shall be deemed to be a separate offense. Zoning Bylaws (All Violations of Zoning Bylaws) Penalty: 1 st Offense \$100 fine, 2 nd & subsequent offenses \$200 fines. Enforcing Agent: Building Inspector.	Approved as amended on floor.
11/07/05	11	Amend Zoning Map as follows: rezone to RES-30 the existing LI-87 district that begins at the intersection of Cemetery Road & Oxford Ave. thence cont. northerly along the centerline of Oxford Ave. 2,791 ft +/- thence cont. westerly 252 ft +/-, thence northerly 184 ft +/-, thence westerly 141 ft +/-, continuing westerly 755 ft +/-, cont. westerly 140 ft +/-, thence northerly 38 ft +/-, thence westerly 704 ft +/-, thence southerly 512 ft +/-, thence easterly 904 ft +/-, thence northeasterly 91 ft +/-, thence northerly 13 ft +/-, thence southeasterly 165 ft +/-, thence easterly 528 ft +/-, thence southerly 674 ft +/-, thence westerly 142 ft +/-, thence southwesterly 582 ft +/-, thence southerly 309 ft +/-, thence southeasterly 315 ft +/-, thence easterly 625 ft +/- to the centerline of Oxford Avenue at the point of beginning as seen on Town of Dudley Tax Map #11 lots 69-87, 89, 89-3, and 89-4.	Approved as amended on floor.
11/07/05	12	Amend Zoning Map as follows: rezone to RES-30 the existing LI-87 district that begins at the intersection of Cemetery Road & Oxford Ave. continuing northerly along the centerline of Oxford Ave 1,823 ft +/-, thence cont. westerly 132 ft +/-, thence southerly 156 ft +/-, thence westerly 280 ft +/-, thence southerly 707 ft +/-, thence westerly 142 ft +/-, thence southerly 582 ft +/-, continuing southerly 309 ft +/-, thence southeasterly 315 ft +/-, thence easterly 625 ft +/- to the centerline at intersection of Cemetery Rd & Oxford Ave at the point of beginning as seen on Town of Dudley Tax Map #11 lots 69-87.	Approved as amended on floor.

Town Meeting Date	Article #	Description of Change	Action
11/07/05	13	Amend Zoning Map as follows: rezone to RES-30 the existing IND-43 district that begins at the intersection of Route 131 and Laura Way, continuing northwesterly along the centerline of Route 131 260 ft +/- to the eastern boundary of parcel 134, thence cont. northeasterly 119 ft +/-, thence north westerly 222 ft +/-, thence southwesterly 53 ft +/- to the centerline of Route 131 for 185 ft +/- to the western boundary of parcel 79 thence southwesterly 319 ft +/-, thence across Laura Way 55 ft +/-, cont. southwesterly 134 ft +/-, thence westerly 20 ft +/-, thence southerly 375 ft +/-, thence southeasterly 651 ft +/-, thence northeasterly 159 ft +/-, thence northeasterly 499 ft +/-, thence to the centerline of Route 131 near the intersection of Laura Way at point of beginning as seen on Town of Dudley Tax Map #17 lots 129, 79, and 134.	Approved as written.
11/07/05	14	Amend Section VI, Definitions by adding the following new definition: Frontage—the boundary of a parcel abutting a way as approved by the Planning Board and from which access must be made.	Approved as written
06/19/06	21	Amend Section 3.09.00 Interior Lots as follows: The following statement must appear on the plan when submitted for approval to the Office of the Planning Board. The statement must appear within the bounds shown for every interior lot, “THIS LOT MAY BE SUBDIVIDED IN THE FUTURE <u>ONLY</u> AS PART OF AN APPROVED SUBDIVISION INCLUDING ROAD FRONTAGE APPLICABLE TO THE ZONING OF THIS LOT. THIS INTERIOR LOT SHALL NEVER BE SUBDIVIDED FURTHER WITHOUT PLANNING BOARD APPROVAL.”	Approved as amended on floor
06/19/06	22	Amend Section 2.04.03 Build Factor by adding: “The Build Factor for lots containing two (2) acres and having frontage of 150-feet shall be 24.5 or less.”	Approved as written
06/19/06	23	Amend Section 3.03.00 Home Occupations by deleting “...not exceeding one (1) square foot in area...” and replace it with “...not exceeding three (3) square feet in area...”	Approved as written
06/19/06	24	Amend Section 4.03.01 Residential Sign Standards by adding: “f. Refer to section 3.03.00 for Home Occupation signage limitations.	Approved as written

Town Meeting Date	Article #	Description of Change	Action
06/19/06	25	Amend Section 5.01.02 Applicant Procedure [for filing with the ZBA] the following bolded text: ...shall be submitted to the Town Clerk by the petitioner in writing with an original and seven (7) copies of the plan to be discussed.	Approved as written.
10/30/06		No changes to Zoning Bylaws	
05/21/07		No changes to Zoning Bylaws	
11/05/07 (11/07/07)	36	Amend Section Zoning Bylaws of the Town of Dudley Massachusetts 3.05.02 Applicability [Of Open Space Residential Subdivisions] by adding the following bolded text immediately after the first sentence: Any tract of land located within the RES-15, RES-30, RES-43, or RES-87 Districts and being proposed for development as age-restricted dwellings as defined in 6.01.01 may be eligible for OSRD development if it is less than ten (10) acres in size with a majority vote of the Planning Board.	Approved as read.
11/05/07	37	Amend Section III Special Use Regulations by adding a new subsection "Scenic Roads."	Approved as amended to include "within the public taking"
11/05/07	38	Amend Section V Administrative Provisions, Subsection .04 Site Plan Review, Subsection .03 Application Procedures, B. Preliminary Site Plan by deleting the last sentence "The public hearing process may be a requirement for minor site plan review."	Approved as written.
11/05/07	39	Amend Section V Administrative Provisions, Subsection .04 Site Plan Review, Subsection .03 Application Procedures, C. Submittal of Site Plan by deleting paragraph 4 and replacing it with the new paragraph: The Planning Board is authorized to retain a registered professional engineer or other professional consultant(s) to be paid from the applicant's Engineer Review Fees to advise the Planning Board on any or all aspects of the site plan including inspections during construction and as a final inspection to ensure that the work was performed as depicted in the plans.	Approved as written.

Town Meeting Date	Article #	Description of Change	Action
11/05/07	40	Amend Section V Administrative Provisions, Subsection .04 Site Plan Review, Subsection .03 Application Procedures, C. Submittal of Site Plan by adding new paragraphs 7 and 8 stating in general: 7. Public hearing not required for minor site plan review, 8. Public hearing is required for major site plan review.	Approved as read.
11/05/07	41	Amend Section V Administrative Provisions, Subsection .04 Site Plan Review, Subsection .04 Site Plan Contents and Submission Materials, Paragraph A by adding clause 23: 23. Written review from the Chief of Police and the Fire Chief or their designees must be submitted with the plan(s).	Approved as written.
11/05/07	42	Correct the following typographical errors: 6.01.01 "Site Yard" to "Side Yard;" 10.07.00 and associated Table of Contents Entry title to "Procedures For Issuance of Groundwater Protection District Special Permit;" and XI Personal Wireless Service Facilities to correct numbering of headings and subheadings.	Approved as written.
5/19/08	24	Appendix B, "Native Species" added	Unanimously Approved
5/19/08	26	Rescind Article 42 C as approved at ATM 11/5/08	Unanimously Approved
5/19/08	27	Add 5.04.04, B, 6. Design recommendations for buildings proposed to be greater than 20,000 square feet undergoing Major Site Plan Review.	Unanimously Approved
5/19/08	31	Amend Section 2.04.02, last statement under footnotes, deleting "The same land space measurements as for Residential 10, General Residential District" and replacing it with "The same land space measurements for Residential 15, Single Family District."	Approved by Majority

Town Meeting Date	Article #	Description of Change	Action
5/19/08	32	Amend Official Zoning Map to change sixteen parcels from IND-130 to RES-43 in the area roughly bounded by Old Southbridge Road, Roberts Road and Cortis Road—not every lot, though, so check exact phrasing.	Unanimously Approved
10/27/08	26	2.02.01 The Building Inspector or designee determines whether or not a nonconforming use, structure or lot may be altered.	Approved 2/3 Majority at Town Meeting 10/27/08
10/27/08	27	5.04.04 Site Plan Review submissions must include the street addresses of all abutters, and abutters must be shown even if they are across the street.	Approved Unanimously at Town Meeting 10/27/08
10/27/08	28	2.04.02 A footnote was added to the density chart stating that nonconforming residences in Industrial and Light Industrial zones will follow the dimensions of the Residential 15 zone.	Approved Unanimously at Town Meeting 10/27/08
10/27/08	29	2.03.03 Commercial retail sales/rental/storage of portable toilets is limited to Industrial and Light Industrial zones.	Approved Unanimously at Town Meeting 10/27/08
10/27/08	34	2.03.02 Food service establishments may have drive-through windows and outdoor seating after a site plan review only in Business, Industrial, and Light Industrial zones. They are not permitted in other zones.	Approved 2/3 Majority at Town Meeting 10/27/08
10/27/08	35	2.03.02 Establishments such as banks with ATMs, dry cleaners and pharmacies, etc., may have drive-through windows after a site plan review only in Business, Industrial, and Light Industrial zones. They are not permitted in other zones.	Approved Unanimously at Town Meeting 10/27/08
10/27/08	36	Map: One block on the north side of West Main Street (Route 197) between Nelco Avenue and Aldea Avenue was rezoned from Residential 15 to Business 15, 250 feet deep, to match the rest of that side of the street.	Approved 2/3 Majority at Town Meeting 10/27/08
5/24/10	23	Section 2.03.02, Use Chart by District, under “Industrial” heading, the use “Other Manufacturer Processing & Research,” change “NP” to “P” in Business 15 District.	Approved Unanimously at Town Meeting 5/24/10
5/24/10	24	Section 2.03.03, Use Chart by District, Footnote 4, add these words to the beginning: “In cases where the front of the structure is less than 100’ from the public way from which frontage is derived” provided that...	Approved Unanimously at Town Meeting 5/24/10
5/24/10	25	Section 2.04.02, Density Requirement Table, Footnote 3, Change frontage requirement shall apply to each street of a corner lot by adding “with 60% of the zone’s frontage requirement on one street in non-residentially zoned corner lots.”	Approved Unanimously at Town Meeting 5/24/10

Town Meeting Date	Article #	Description of Change	Action
5/24/10	26	Section 4.03.02 b., Change the typo “sign line views” to “sight line views.”	Approved Unanimously at Town Meeting 5/24/10
5/24/10	27	Section 3.02.00, Flood Plain District, by inserting the words “Flood Plain” or “Flood Plain District” in the headings of sections 3.02.01, 3.02.02, 3.02.04, 3.02.05, and 3.02.06.	Approved Unanimously at Town Meeting 5/24/10
5/24/10	28	Section 3.03.00, Home Occupations, bulleted sentences received the following changes: 1) no non-residents are allowing <i>when the home occupation is in a dwelling</i> ; 2) there shall be no change in the outside appearance of the dwelling unit <i>or accessory building</i> , or other...; 3) no home occupation shall be conducted in any accessory building <i>without a letter of special permit issued by the Zoning Board of Appeals based on unique circumstances</i> .	Approved Unanimously at Town Meeting 5/24/10
5/24/10	29	Section 4.03.02 b., Commercial and Industrial Sign Standards, Change so that one freestanding sign is permitted per lot where the buildings are set back <i>the minimum front yard setback or more for their zone</i> instead of “forty (40) feet or more.	Approved Unanimously at Town Meeting 5/24/10
5/24/10	30	Section 2.03.02, Use Chart by District, by adding under the heading “Residential” the use “Licensed Residential Animal Kennel,” permitted with a Special Permit required for Residential zones 10, 15, 30, 43, 87 and Light Industrial zones 43 and 87; and permitted by right in Business 15; and permitted by right in Industrial 43; and permitted by right in Industrial 130.	Approved Unanimously at Town Meeting 5/24/10
5/24/10	30	Section 6.01.01, Definitions, Change the definition of “Animal Kennel or Hospital” by removing the words shown as struck out “ Animal Kennel or Hospital – A structure used for the... six months old, whether operated for commercial or pleasure purposes.	Approved Unanimously at Town Meeting 5/24/10
5/24/10	30	Section 6.01.01, Definitions, Add the following definition, “ <u>Licensed Residential Animal Kennel</u> – A structure used for the harboring of more than three dogs, cats or other animals that are more than six months old operated for pleasure purposes.	Approved Unanimously at Town Meeting 5/24/10
5/23/2011	20	Section 10.06.00 Groundwater (Aquifer) Protection District, Use Regulation, C. Special Permit, vii. Install an in- or above-ground tank for petroleum once grandfathered tank has been removed.	Approved Unanimously at Town Meeting 5/23/11
5/23/2011	21	Section 2.03.03 Use by District Chart, Add Footnote 13 relating to Licensed Residential Animal Kennels and consistency with G.L. c. 40A, §3.	Approved Unanimously at Town Meeting 5/23/11

Town Meeting Date	Article #	Description of Change	Action
5/23/2011	23	Section 3.02.01 Flood Plain District Delineation, Delete and replace per FEMA, now naming specific Flood Insurance Rate Maps (FIRMs)	Approved Unanimously at Town Meeting 5/23/11
5/23/2011	24	Section 3.02.02 Flood Plain Use Regulations, Wetlands Protection Act wording added per FEMA.	Approved Unanimously at Town Meeting 5/23/11
5/23/2011	25	Section 3.02.04 A., Conservation Commission Flood Plain District Duties, Delete who to notify when a river or stream is relocated and replace it with FEMA's wording.	Approved Unanimously at Town Meeting 5/23/11
5/23/2011	26	Section 3.02.06, Massachusetts State Building Code in the Flood Plain District, Delete it in its entirety and replace it with FEMA's section for "Reference to Existing Flood Plain Regulations"	Approved Unanimously at Town Meeting 5/23/11
5/23/2011	27	Section 3.02.05 Board of Appeals Rules and Regulations in the Flood Plain District, Delete section in its entirety and replace it with FEMA's wording that the ZBA cannot grant variances to state regulations.	Approved Unanimously at Town Meeting 5/23/11
5/23/2011	28	Amend Zoning Map to rezone to RES-10 five parcels more or less of LI-43 District around Progress Avenue (also referred to as "Progress Road" on some maps) as shown on Dudley Assessors' map number 119, lots 125, 126, 127, 128, and 129.	Approved Unanimously at Town Meeting 5/23/11
5/21/2012	23	Section 2.03.02 Use by District Chart, Add section "Renewable Energy Resources"	Approved Unanimously at Town Meeting 5/21/12
5/21/2012	24	Section 2.03.02 Use by District Chart, Add under the new "Renewable Energy Resources" heading "Small Solar Photovoltaic Installations" and "Large Ground-Mounted Solar Photovoltaic Installations" showing permitted zones.	Approved Unanimously at Town Meeting 5/21/12
5/21/2012	25	Add Section 3.12.00 "Large Scale Solar Photovoltaic" and related subsections.	Approved Unanimously at Town Meeting 5/21/12
5/21/2012	27	Add Section 4.01.03, 4.01.04, 4.01.05, 4.01.06, 4.01.07, 4.01.08, requiring bike racks on certain new construction.	Approved Unanimously at Town Meeting 5/21/12

Town Meeting Date	Article #	Description of Change	Action
5/19/2014	21	Re-zone a portion of Schofield Avenue currently zoned RES-10, RES-30, and LI-43 to BUS-15, running parallel to the west side of Schofield Avenue for 500' starting at Brandon Road to the north and ending at the southernmost boundary of the abandoned railroad tracks (aka Rail Trail).	Approved Unanimously At Town Meeting 5/19/2014
5/19/2014	22	Re-zone a portion of Schofield Avenue currently zoned LI-43 and RES-30 to IND-43. The new IND-43 zone will be predominately east of Schofield Avenue to the Town of Webster border with Chase Ave and Brandon Rd as the northern boundary and the intersection of Schofield Ave and Lower Perryville Road as the southern boundary, and cross over to the west side of Schofield Ave to include lots on Dudley Tax Map 236 lot #118, and map 124 lots #13 and #14.	Approved Unanimously At Town Meeting 5/19/2014
5/19/2014	23	Re-zone a portion of Schofield Ave currently zoned BUS-15 and LI-43 to BUS-15, east of Schofield Ave to the Town of Webster border with the intersection of Schofield Ave and Lower Perryville Rd as the northern boundary and the State of Connecticut border as the southern boundary.	Approved Unanimously At Town Meeting 5/19/2014
5/19/2014	24	Re-zone a portion of Schofield Ave currently zoned LI-43 to RES-30, running parallel to the west side of Schofield Ave for 250' starting at the northern boundary of lot #118 Dudley Tax Map 236 owned by the Town of Dudley to Carpenter Rd in the south.	Approved Unanimously At Town Meeting 5/19/2014
5/19/2014	25	Amend 2.03.02 Use by District Chart to permit large scale solar facilities in residential zones under special conditions, and add section 3.12.05 detailing lot requirements and requiring a special permit issued by the Planning Board for those solar facilities.	Approved Unanimously At Town Meeting 5/19/2014
10/27/2014	21	Re-zone a portion of Village Street from RES-10 to BUS-15 on the westerly side and shown on Assessors Map 117 lots #68, #69, #70, #71, and #72.	Approved Unanimously At Town Meeting 10/27/2014

APPENDIX B

Dudley Native Species

1. Native Species

The following species are native to Dudley and well-adapted to the area's climate. Many of the species also provide good wildlife habitat value.

Dudley Native Shade Trees

Botanical Name

Acer rubrum
Acer saccharum
Betula lenta
Betula alleghaniensis
Betul papyrifera
Carya ovata
Castanea dentate

Common Name

Red Maple
Sugar Maple
Sweet Birch
Yellow Birch
Paper Birch
Shagbark Hickory
American Chestnut

Fagus grandifolia
Fagus sylvatica 'Atropunicea' ('Purpura')
Fraxinus americana
Fraxinus pennsylvanica
Juglans cinerea
Liquidambar styraciflua
Liriodendron tulipifera
Nyssa sylvatica
Platanus occidentalis
Quercus alba
Quercus bicolor
Quercus coccinea
Quercus palustris
Quercus rubra
Salix nigra
Sassafras albidum
Tilia americana 'Redmond'
Ulmus americana, disease-resist. Var.

American Beech
 Copper Beech
 White Ash
 Green Ash
 Butternut
 Sweetgum
 Tulip Tree
 Black Tupelo
 American Sycamore
 White Oak
 Swamp White Oak
 Scarlet Oak
 Pin Oak
 Northern Red Oak
 Black Willow
 Common Sassafras
 Redmond Linden
 American Elm

Dudley Native Evergreen Trees

Botanical Name

Ilex opaca
Juniperus virginiana
Pinus rigida
Pinus strobus
Thuja occidentalis
Tsuga canadensis

Common Name

American Holly
 Eastern Red Cedar
 Pitch Pine
 Eastern White Pine
 American Arborvitae
 Canadian Hemlock

Dudley Native Ornamental Trees

Botanical Name

Alnus rugosa
Amelanchier canadensis
Amelanchier laevis
Betula nigra
Betula papyrifera
Carpinus caroliniana
Cercis canadensis
Cornus alternifolia
Cornus florida
Crataegus punctata
Hamamelis virginiana
Larix laricina
Larix decidua
Ostrya virginiana
Prunus pennsylvanica
Prunus virginiana
Salix discolor
Viburnum lentago

Common Name

Speckled Alder
 Shadblow Serviceberry
 Allegany Serviceberry
 River Birch
 Paper Birch
 American Hornbeam
 Eastern Redbud
 Pagoda Dogwood
 Flowering Dogwood
 Dotted Hawthorn
 Common Witchhazel
 American Larch
 European Larch
 Hop Hornbeam
 Pin Cherry
 Common Chokecherry
 Pussy Willow
 Nannyberry Viburnum

Dudley Native Deciduous Shrubs

Botanical Name

Arctostaphylos uva-ursi
Aronia melanocarpa
Clethra alnifolia
Comptonia peregrina

Common Name

Bearberry
 Black Chokeberry
 Summersewwt Clethra
 Sweetfern

Cornus alterniflora
Cornus amomum
Cornus racemosa
Cornus rugosa
Ilex verticillata
Lindera benzoin
Myrica pennsylvanica
Azalea nudiflorum
Rhododendron roseum
Rhododendron viscosum
Rhus glabra
Rhus typhina
Rosa carolina
Rubus odoratus
Sambucus canadensis
Vaccinium cormbosum
Viburnum acerifolium
Viburnum cassinoides

Pagoda Dogwood
 Silky Dogwood
 Gray Dogwood
 Redleaf Dogwood
 Common Winterberry
 Common Spicebush
Northern Bayberry
Early Deciduous Pink Azalea
 Roseshell Azalea
 Swamp Azalea
Smooth Sumac
Staghorn Sumac
 Carolina Rose
 Flowering Raspberry
American Elder
 Highbush Blueberry
Mapleleaf Viburnum
Witherod Viburnum

Dudley Native Deciduous Shrubs (cont'd)

<u>Botanical Name</u>	<u>Common Name</u>
Viburnum dentatum	Arrowwood Viburnum
Viburnum trilobum	American Cranberrybush Viburnum

Dudley Native Evergreen Shrubs

<u>Botanical Name</u>	<u>Common Name</u>
Juniperus communis 'Compressa'	Common Juniper
Kalmia angustifolia	Sheeplaurel
Kalmia latifolia	Mountainlaurel
Taxus canadensis	Canadian Yew

Dudley Native Ground Covers

<u>Botanical Name</u>	<u>Common Name</u>
Cornus canadensis	Bunchberry Dogwood
Gaultheria procumbens	Checkerberry Wintergreen
Mitchella repens	Partridgeberry

Vaccinium angustifolium

Vaccinium macrocarpum

Lowbush Blueberry

Cranberry

Dudley Native Meadow Grasses/Wildflowers

<u>Botanical Name</u>	<u>Common Name</u>
Festuca elatior	Tall Fescue
Lolium perenne	Palmer II Perr. Ryegrass
Sorghastrum nutans	Indian Grass
Panicum	Blackwell Switchgrass
Andropogon gerardii Vitman	Big Bluestem
Schizachrium scoparium	Little Bluestem
Calamagrostis canadensis	Blue Joint Reedgrass
Antennaria alpina	Alpine Pussy-Toes
Aristida dichotoma	Poverty Grass
Aster linariifolius	Bristly Aster
Eragrostis spectabilis	Purple Lovegrass
Houstonia caerulea	Bluets
Juncus bufonius	Toad Rush
Senecio aureus	Golden Ragwort

2. Dudley Native Salt Tolerant Species

These species are well-suited to roadsides and other locations that are likely to collect salty winter runoff.

Dudley Native Salt Tolerant Shade Trees

Botanical Name

Common Name

Acer campestre

Aesculus hippocastanum
Betula lenta
Betula alleghaniensis
Fraxinus americana
Gleditsia triacanthos inermis
Nyssa sylvatica
Quercus alba
Quercus macrocarpa
Quercus robur
Quercus rubra
Ulmus glabra
Ulmus pumila

Hedge Maple

Horse-chestnut
Sweet Birch
Yellow Birch
White Ash
Thornless Honeylocust
Black Tupelo
White Oak
Bur Oak
English Oak
Red Oak
Scotch Elm
Siberian Elm

Dudley Native Salt Tolerant Ornamental Trees

Botanical Name

Amelanchier canadensis
Betula papyrifera
Betula populifolia
Prunus pennsylvanica
Prunus virginiana
Pyrus calleryana
Pyrus calleryana 'Bradford'
Salix discolor

Common Name

Shadowblow Serviceberry
Paper Birch
Gray Birch
Pin Cherry
Common Chokecherry
Callery Pear
Bradford Pear
Pussy Willow

Dudley Native Salt Tolerant Evergreen Trees

Botanical Name

Juniperus virginiana
Picea pungens 'glauca'
Pinus nigra
Pinus ponderosa
Pinus rigida

Common Name

Eastern Red Cedar
Blue Colorado Spruce
Austrian Pine
Ponderosa Pine
Pitch pine

Dudley Native Salt Tolerant Deciduous Shrubs

Botanical Name

Arctostaphylos uva-ursi
Aronia melanocarpa
Aronia prunifolia
Hippophae rhamnoides
Lindera benzoin
Myrica pennsylvanica
Rhus glabra
Rhus typhina
Salix humilis

Common Name

Bearberry
Black Chokeberry
Purplefruit Chokeberry
Common Seabuckthorn
Common Spicebush
Northern Bayberry
Smooth Sumac
Staghorn Sumac
Prairie Willow

Dudley Native Salt Tolerant Deciduous Shrubs (cont'd)

Botanical Name

Salix lucida
Shepherdia argentea

Common Name

Shining Willow
Buffaloberry

Tamarix ramosissima
Vaccinium corymbosum
Viburnum cassinoides
Viburnum dentatum

Five Stamen Tamarisk
Highbush Blueberry
Witherod Viburnum
Arrowwood Viburnum

Dudley Native Salt Tolerant Evergreen Shrubs

Botanical Name

Pinus mugo
Taxus canadensis

Common Name

Mugo Pine
Canadian Yew

Dudley Native Salt Tolerant Groundcovers

Botanical Name

Vaccinium angustifolium
Vaccinium palladum

Common Name

Late Lowbush Blueberry
Early Lowbush Blueberry

3. Dudley Native Urban Tolerant Species

These species are suitable for planting in “high-stress” environments where there will be pavement within the tree’s drip line, high levels of pedestrian or vehicular traffic, vehicle exhaust and air pollution, or other urban stressors. For example, most of these species are generally well-suited to being planted in parking lot islands or other narrow landscaped areas.

Dudley Native Urban Tolerant Shade Trees

Botanical Name

Acer campestre
Acer rubrum
Acer saccharum
Carpinus betulus fastigiata
Celtis occidentalis
Cladastris lutea
Corylus colurna
Eucommia ulmoides
Fraxinus pennsylvanica
Ginkgo biloba
Gleditsia triacanthos inermis
Liquidambar styraciflua
Maclura pomifera inermis ‘Park’
Nyssa sylvatica
Platanus acerifolia
Sophora japonica
Tilia cordata
Zelkova serrata

Common Name

Hedge Maple
Red Maple
Sugar Maple
Pyramidal European Hornbeam
Hackberry
Yellowwood
Turkish Haselnut
Hardy Rubber Tree
Green Ash
Maidenhair Tree (female)
Thornless Honeylocust
Sweet Gum
Park Osage Orange
Black Tupelo
London Plane Tree
Scholartree
Littleleaf Linden
Japanese Zelkova

Dudley Native Urban Tolerant Ornamental Trees

Botanical Name

Betula nigra
Cercidiphllum japonicum
Chionanthus virginicum
Cornus kousa
Crataegus phaenopyrum

Common Name

River Birch
Katsuratree
White Fringetree
Kousa Dogwood
Washington Hawthorn

Magnolia stellata
Ostrya virginiana
Oxydendron arboreum
Prunus sargentii
Pyrus calleryana
Syringa reticulata

Star Magnolia
American Hophornbeam
Sourwood
Sargent Cherry
Callery Pear
Japanese Tree Lilac

Dudley Native Urban Tolerant Deciduous Shrubs

Botanical Name

Cornus sericea
Ilex verticillata
Ilex verticillata 'Nana'
Rhus aromatica 'Gro-low'
Spiraea bumalda varieties
Vaccinium angustifolium

Common Name

Red Osier Dogwood
Common Winterberry
Dwarf Winterberry
Dwarf Fragrant Sumac
Spirea
Lowbush Blueberry

Dudley Native Urban Tolerant Groundcovers

Botanical Name

Cotoneaster horizontalis
Hedera helix
Juniperus chinensis sargentii
Juniperus horizontalis varieties
Vinca minor
Pachysandra terminalis

Common Name

Rockspray Cotoneaster
English Ivy
Sargent Juniper
Creeping Juniper
Periwinkle
Japanese Pachysandra

4. Dudley Native Species for Erosion Control

These species can be used for stabilizing the ground and preventing erosion, and should be considered for planting in areas with steep slopes or unstable, erodible soils.

Botanical Name

Aegopodium podagraria 'Variegatum'
Celastrus scandens
Clematis paniculata
Cornus, shrubby types

Cornus, low types
Cytisus spp.
Erica spp.

Common Name

Variegated Snow-on-the-Mountain
American Bittersweet
Clematis
Dogwood (Silky, Gray-stemmed, Gray, Redleaf)
Cotoneaster
Scotch Broom
Heath

Dudley Native Species for Erosion Control (cont'd)

<u>Botanical Name</u>	<u>Common Name</u>
Euonymus fortunei 'Colorata' and cvs.	Wintercreeper
Forsythia suspensa and cvs.	Weeping Forsythia
Gneista x 'Lydia'	Genista lydia
Hedera helix and cvs.	English Ivy
Hemerocallis, all	Daylilly
Houtuynia cordata 'Chameleon'	Chaeleon Houtuynia
Itea spp.	Sweetspire
Juniperus, low types	Juniper
Ligustrum, all	Privet
Myrica pennsylvanica	Northern Bayberry
Parthenocissus spp.	Ivy
Polygonum aubertii	Silver-vine Fleeceflower
Rhus aromatica and cvs.	Fragrant Sumac
Rosa, most	Most roses
Salix purpurea	Purpleosier Willow
Stephanandra incisa	Cutleaf Stepanandra
Symphoricarpos x chenaultii 'Hancock'	Chenault Coralberry
Vinca minor and cvs.	Periwinkle
Yucca filamentosa	Yucca

5. **Dudley Native Wetland Species**

This list of species is generally well-suited for planting in constructed wetlands, set swales, and other stormwater management areas that will typically be wet. Plantings in each section of the wet area must be selected according to the hydrological conditions in that area. See figure 2-4 for a sample wetland planting layout.

Dudley Native Wetland Herbaceous Plants

<u>Botanical Name</u>	<u>Common Name</u>	<u>Water Depth (see note)</u>
Osmunda cinnamonmea	Cinnamon fern	Transitional
Osmunda regalis	Royal fern	Transitional
Symplocarpus foetidus	Skunk cabbage	Transitional
Scirus sperinus	Woolgrass	Shallow
Thelypteris palustri	Marsh fern	Shallow
Caltha leptosepala	Marsh Marigold	Shallow
Polygonum coccineum	Pennsylvania smartweed	Shallow
Lobelia cardinalis	Cardinal Flower	Shallow
Lobelia siphilitica	Great Lobelia	Shallow
Iris versicolor	Blue Flag Iris	Medium
Acorus calamus	Sweet flag	Medium
Calla palustris	Water arum	Medium
Sagittaria latifolia	Arrowhead	Medium

Dudley Native Wetland Herbaceous Plants (cont'd)

<u>Botanical Name</u>	<u>Common Name</u>	<u>Water Depth (see note)</u>
Ponetederia cordata	Pickerelweed	Medium
Sparganium eurycarpum	Burreed	Medium
Scirpus americanus	Three-square	Medium
Scirpus fluviatilis	River bulrush	Medium
Peltandra cordata	Arrow arum	Medium
Potamogeton pectinatus	Sago pondweed	Deep
Vallisneria americana	Tapegrass	Deep
Ranunculus flabellaris	Yellow water buttercup	Deep
Ranunculus aquatilis	White water buttercup	Deep
Scirpus validus	Bulrush	Deep
Nymphaea odorata	Fragrant white lily	Deep
Nuphar luteum	Spatterdock	Deep
Brasenia schrebrii	Watershield	Deep

NOTE: Depth Terminology Used Here:

Transitional: *seasonally flooded*; **Shallow:** *seasonally flooded to permanently flooded to 15 cm or about 6"*; **Medium:** *15 to 50-cm water depths, or about 6" to about 20"*; **Deep:** *50 to 200-cm water depths, or about 20" to about 78" or about 6-and-one-half feet.*

Dudley Native Wetland Shrubs

<u>Botanical Name</u>	<u>Common Name</u>
Clethra alnifolia	Summersweet Clethra
Cornus amomum	Silky Dogwood
Ilex verticillata	Winterberry
Kalmia angustifolia	Sheep Laurel
Lindera benzoin	Spicebush
Rhodendron viscosum	Swamp Azalea
Viburnum recognitum	Northern Arrowwood
Vaccinium corymbosum	Highbush Blueberry

Dudley Native Wetland Trees

<u>Botanical Name</u>	<u>Common Name</u>
Nyssa sylvatica	Black gum
Quercus bicolor	Swamp Oak
Fraxinus americana	White ash
Fraxinus pennsylvanica	Green Ash
Acer rubrum	Red Maple
Quercus bicolor	Swamp oak
Betula nigra	River Birch

Dudley Native Woody Wetland Plants

<u>Botanical Name</u>	<u>Common Name</u>
Salix nigra	Black Willow
Cephalanthus occidentalis	Buttonbush
Cornus stolonifera	Red-osier Dogwood
Sambucus canadensis	Elder
Vaccinium corymbosum	Blueberry
Chamaecyparis thyoides	Atlantic white cedar
Alnus rugosa	Spackled Alder
Nyssa sylvatica	Black gum
Ilex opaca	American Holly

6. **Dudley Native Moist Tolerant Species**

These species require significant moisture, and many are adaptable to survive periods of standing water. In general, these species should only be planted where local soil and topography produce moist conditions. Landscape designers should not rely upon irrigation to sustain these species.

Dudley Native Moist Tolerant Woody Plants

<u>Botanical Name</u>	<u>Common Name</u>
Acer negundo	Box Elder
Acer rubrum	Red Maple
Alnus rugosa	Speckled Alder
Amelanchier	Serviceberry
Andromeda polifolia	Bog Rosemary
Aralia spinosa	Devil's Walkingstick
Aronia arbutifolia	Chokeberry
Azalea arborescens	Sweet Azalea
Azalea vaseyi	Pinkshell Azalea
Azalea viscosum	Swamp Azalea
Betula nigra	River Birch
Calluna vulgaris	Heather
Calycanthus floridus	Common Sweetshrub
Campsis radicans	Trumpet Creeper
Cephalanthus occidentalis	Buttonbush
Chamaecyparis thyoides	Atlantic White Cedar
Clethra acuminata	Mountain Pepperbush
Clethra alnifolia	Summersweet
Cornus spp.	Dogwood (Silky, Shrub, Gray)
Erica carnea	Heath
Gmnocladus sioicus	Kentucky Coffee Tree

Dudley Native Moist Tolerant Woody Plants (cont'd)

<u>Botanical Name</u>	<u>Common Name</u>
Halesia diptera	Two-winged Silverbell
Hamamelis virginiana	Witchhazel
Ilex spp.	Holly
Ilex verticillata	Winterberry
Kalmia latifolia	Mountain Laurel
Larix spp.	Larch
Leucothoe fontanesiana	Drooping Leucothoe
Lindera benzoin	Spicebush
Magnolia virginiana	Sweetbay Magnolia
Malus	Crabapple
Myrica pennsylvanica	Bayberry
Nyssa sylvatica	Black Gum
Rhododendron canadense	Rhodora (for bogs only)
Rhododendron maximum	Rosebay Rhododendron
Rhus aromatica	Fragrant Sumac
Salix	Willow
Sambucus canadensis	American Elder
Sassafras albidum	Common Sassafras
Vaccinium	Blueberry, Cranberry
Zenobia pulverulenta	Dusty Zenobia

Dudley Native Moist Tolerant Perennials

<u>Botanical Name</u>	<u>Common Name</u>
Aconitum carmichaelii	Monkshood
Amsonia hubrechtii	Star Flower
Aruncus dioicus	Goatsbeard
Clatha palustris	Marsh Marigold
Chelone lyonii	Turtlehead
Cimicifuga	Snakeroot
Epimedium	Bishops' Cap
Ferns	Ferns
Filipendula ulmaria	Meadowsweet
Gillenia trifoliata	Bowman's Root
Helleborus niger	Christmas Rose
Hemerocallis	Daylilly
Hibiscus moscheutos	Rosemallow
Iberis sempervirens	Candy Tuft
Iris ensata	Japanese Iris
Iris siberica	Siberian Iris
Kirengeshoma palmate	Yellow Waxbells
Liatris spicata	Gayfeather
Limonium latifolium	Sea Lavender (for salt marsh only)
Lobelia cardinalis	Cardinal Flower
Lobelia siphilitica	Big Blue Lobelia
Monarda didyma	Beebalm

Dudley Native Moist Tolerant Perennials (cont')

<u>Botanical Name</u>	<u>Common Name</u>
Petasites	Butterbur
Phlox divaricata	Woodland Phlox
Platycodonj grandiflorus	Balloon Flower
Polygonatum	Solomon's Seal
Tradescantia x andersonianan	Spiderwort

Trillium
Trollius

Wakerobin
Globeflower

Dudley Native Moist Tolerant Grasses

<u>Botanical Name</u>	<u>Common Name</u>
Carex muskingumensis	Palm Sedge
Miscanthus sacchariflorus giganteus	Giant Silver Banner Grass
Pennisetum alopecuroides	Fountain Grass
Sisyrinchium	Blue-eyed Grass
Typha angustifolia	Cattail

7. Dudley Native Drought Tolerant Species

These species require relatively little water, can survive longer periods without water, and/or are adapted to grow in well-drained soils. In the interest of minimizing the demand for irrigation water, these species should be considered in sunny areas with well-drained soil that are likely to experience dry conditions.

Dudley Native Drought Tolerant Woody Plants

<u>Botanical Name</u>	<u>Common Name</u>
Abies concolor	White Fir
Acer truncatum	Shantung Maple
Aesculus x carnea	Ruby Horsechestnut
Awsculus pavia	Devil's Walkingstick
Arctostaphylos uva-ursi	Bearberry
Buddleia alternifolia	Fountain buddleia
Calluna vulgaris	Heather
Campsis radicans	Trumpet Creeper
Caragana microphylla	Littleleaf Caragana
Carpinus betulus	European Hornbeam
Carpinus caroliniana	American Hornbeam
Caenomeles speciosa	Flowering Quince
Chamaecyparis thyoides	Atlantic White Cedar
Comptonia peregrina	Sweet Fern
Cornus racemosa	Gray Dogwood
Corylus colurna	Turkish Filbert
Cotinus coggygria	Smoke Tree
Crataegus crusgalli	Cockspur Hawthorn
Fraxinus pennsylvanica	Green Ash

Dudley Native Drought Tolerant Woody Plants (cont'd)

<u>Botanical Name</u>	<u>Common Name</u>
Gleditsia tricanthos inermis	Honeylocust
Gymnocladus dioicus	Kentucky Coffee Tree
Hamamelis	Witchhazel
Hybiscus syriacus	Rose-of-Sharon
Hydrangea	Hydrangea
Indigofera geradiana	Himalayan Indigo
Jasminum nudiflorum	Winter Jasmine
Juniperus	Juniper
Kerria japonica	Japanese Kerria
Koelreuteria paniculata	Golden Rain Tree
Kolkwitzia amabilis	Beautybush
Microbiata decussata	Siberian Carpet Cypress
Myrica pensylvanica	Northern Barberry
Pinus banksiana	Jack Pine
Pinus mugo	Mugo Pine
Pinus nigra austriaca	Austrian Pine
Pinus strobus	Eastern White Pine
Platanus x acerfolia	London Planetree
Potentilla fruticosa	Potentilla
Prunus maritima	Beach plum (especially back and scarlet)
Quercus	Oak
Rhus	Sumac
Rosa rugosa	Rugosa Rose
Salix	Willow
Samvucus canadensis	American Elder
Sassafras albidum	Common Sassafras
Shepherdia argentea	Buffalo Berry
Sophora japonica	Scholartree
Stephanandra incisa	Cutleaf Stephanandra
Vitex agnus-castus	Chastetree

Dudley Native Drought Tolerant Perennials

<u>Botanical Name</u>	<u>Common Name</u>
Anthemis tinctoria	Golden Marguerite
Artemisia	Wormwood
Armeria maritime	Thrift
Asclepias tuberosa	Butterfly Milkweed
Aubrieta deltoidea	False Rock Cress
Aurinia saxatilis	Basket-of-Gold
Callirhoe involucrata	Poppy Mallow
Campanula carpatica	Carpathian Bellflower
Centaurea Montana	Mountain Bluet

Dudley Native Drought Tolerant Perennials (cont'd)

<u>Botanical Name</u>	<u>Common Name</u>
Cerastium tomentosum	Snow-in-Summer
Echinacea purpurea	Coneflower
Echinops ritro	Globe Thistle
Eryngium planum	Sea Holly
Eupatorium	Hardy Ageratum
Gaillardia x grandiflora	Blanket Flower
Geranium dalmaticum	Cranesbill
Geranium macrorrhizum	Bigroot
Gypsophila	Baby's Breath
Helianthus grosse-serratus	Sawtooth Sunflower
Emerocallis fulva	Daylilly
Lamium maculatum	Spotted Dead Nettle
Lewisia cotyledon	Bitter Root
Nepera x faassenii	Persian Catmint
Oenothera	Evening Primrose
Opuntia humifusa	Prickly Pear
Papaver orientale	Poppy
Perovskia atriplicifolia	Russian Sage
Phlox subulata	Moss Pink
Polemonium caereum	Jacob's Ladder
Rudbeckia	Coneflower
Salvia verticillata	Purple Rain
Santolina chamaecyparissus	Lavender Cotton
Sedum	Stonecrop
Sempervivum	Houseleek
Stachys byzantina	Lamb's Ears
Stokesia laevis	Stoke's Aster
Thymus serpyllum	Mother-of-Thyme
Yucca	Desert Candle

Dudley Native Drought Tolerant Grasses

Bouteloua gracilis	Blue Gramma
Elymus arenarius	Glue Lyme Grass
Festuca cinerea	Blue Fescue
Schizachyrium scoparium	Little Bluestem

8. Habitat Creating Species

Habitat creating species provide food or home sites for birds and other animals. The following plants provide good habitat value for birds and animals.

Dudley Native Habitat Creating Trees

<u>Botanical Name</u>	<u>Common Name</u>
Acer rubrum	Red Maple
Aver saccharinum	Sugar Maple
Ameleanchier canadensis	Serviceberry
Betula nigra	River Birch
Betula papyrifera	White Birch
Celtic occidentalis	Hackberry
Cornus, most	Dogwoods
Crataegus, most	Hawthorn
Malus, most	Crabapple
Nyssa sylvatica	Black gum
Picea glauca	Blue Spruce
Pinus strobus	White Pine
Populus, most	Poplars
Quercus alba	White Oak
Quercus palustris	Pin Oak
Quercus rubra	Red Oak
Sorbus aucuparia	Mountain Ash
Tsuga canadensis and cvs.	Eastern Hemlock

Dudley Native Habitat Creating Shrubs

<u>Botanical Name</u>	<u>Common Name</u>
Amelanchier canadensis and cvs.	Serviceberry
Aralia spinosa	Devil's Walkingstick
Aronia spp. And cvs.	Chokeberry
Cornus, most	Dogwoods
Cotoneaster spp. And cvs.	Cotoneaster
Ilex glabra	Inkberry
Juniperus virginiana and cvs.	Eastern Red Cedar
Myrica pensylvanica	Bayberry
Rosa rugosa	Rugosa Rose
Salix discolor	Pussy Willow
Viburnum dentatum	Arrowwood

The following plant species provide persistent fruit that lasts into the late fall and winter, thus providing food for wildlife during the critical months when food is most difficult to find.

Dudley Native Habitat Creating Trees

<u>Botanical Name</u>	<u>Common Name</u>
Cornus mas	Cornelian Cherry Dogwood
Crataegus phaenopyrum	Washington Hawthorn
Malus spp., most	Crabapple

Dudley Native Habitat Creating Shrubs

<u>Botanical Name</u>	<u>Common Name</u>
Aronia arbutifolia	Red Chokeberry
Ilex glabra	Inkberry
Juniperus spp. And cvs.	Juniper
Myrica pennsylvanica	Bayberry
Pyracantha coccinea and cvs.	Firethorn
Rhodotypos scandens	Black Jetbead
Rhus spp.	Sumac
Rosa rugosa and cvs.	Rugosa Rose
Rosa wichuriana and cvs.	Memorial Rose
Viburnum dilatatum	Linden Viburnum
Viburnum setigerum	Tea Viburnum

9. Invasive Species

Invasive plants are introduced species that tend to spread into natural habitats and outcompete native species because of their superior reproductive ability, aggressive growth pattern or (most commonly) lack of native competitors, herbivores, parasites, or diseases. In terms of maintaining native biodiversity, invasive species are a serious threat because they compete with native species for limited land, water and sunlight. Dudley's policy prohibits the planting of invasive species that appear in the following list.

Dudley INVASIVE Shade Trees

<u>Botanical Name</u>	<u>Common Name</u>
Acer ginnala	Amur Maple
Acer platanoides	Norway Maple
Acer pseudoplatanus	Sycamore Maple
Populus alba	White Cottonwood
Robinia pseudoacacia	Black Locust

Dudley INVASIVE Deciduous Shrubs/Vines

<u>Botanical Name</u>	<u>Common Name</u>
Ampelopsis brevipedunculata	Porcelain Berry
Berberis thunbergii	Japanese Barberry
Berberis vulgaris	Common Barberry
Celastrus orbiculata	Oriental Bittersweet
Cynanchum louiseae	Black Swallow-wort
Elaeagnus umbellata	Autumn Olive
Elaeagnus angustifolia	Russian Olive
Euonymus alatus	Winged Euonymus
Euphorbia cyparissias	Cypress Spurge
Hesperis natonalis	Dame's Rocket
Ligustrum obtusifolium	Blunt-leaver Privet

Ligustrum vulgare
Lonicera japonica
Lonicera maackii
Lonicera morrowii
Lonicera tatarica
Lonicera xbella
Polygonum cuspidatum
Pueraria lobata
Rhamnus cathartica
Rhamnus frangula
Rosa multiflora

Privet
Japanese Honeysuckle
Amur Honeysuckle
Morrow's Honeysuckle
Tatarian Honeysuckle
Morrow's x Tatarian Honeysuckle
Japanese Knotweed
Kudzu
Common Buckthorn
Shining Buckthorn
Multiflora Rose

Meadow Grasses/Wildflowers

Botanical Name
Achillea millefolium var. millefolium
Aegopodium podagraria
Alliaria petiolata
Cabomba caroliniana
Centaurea maculosa
Cirsium canadense
Coreopsis lanceolata
Cytisus scoparius
Daucus carota
Egeria densa
Epilobium hirsutum
Euphorbia cyparissias
Galium mollugo
Glaucium flavum
Glechoma hederacea
Holcus lanatus
Hypericum perforatum
Iris pseudacorus
Linaria vulgaris
Lysimachia nummularia
Lythrum salicaria
Myosotis scorpioides
Myriophyllum heterophyllum
Myriophyllum spicatum
Najas minor
Nasturtium officinale
Phalaris arundinacea
Phragmites australis
Plantago lanceolata

Common Name
Common Yarrow
Goutweed
Garlic Mustard
Fanwort
Spotted Knapweed
Field or Canada Thistle
Lance-leaved Coreopsis (Tickseed)
Scotch Broom
Queen Anne's Lace
Giant Waterweed
Hairy Willow-herb
Cypress Spurge
Field Madder
Sea Poppy
Gill-over-the-ground (Ground Ivy)
Velvet Grass
Common St. John's Wort
Yellow Iris
Butter and Eggs
Moneywort
Purple Loosestrife
True Forget-me-not
Variable Water-milfoil
Spiked Water-milfoil
Lesser Naiad
Watercress
Reed Canary Grass
Phragmites
Ribgrass (Lance-leaved Plantain)

Meadow Grasses/Wildflowers

Botanical Name
Poa compressa
Potamogeton crispus
Ranunculus acris
Ranunculus bulbosus
Ranunculus repens
Ribes rubrum
Rumex acetosella
Rumex crispus

Common Name
Canada Bluegrass
Curly or Crisped Pondweed
Tall Buttercup
Bulbous Buttercup
Creeping Buttercup
Garden Red Currant
Sheep Sorrel
Curled Dock

Rumex obtusifolius
Solanum dulcamara
Trapa natans
Tussilago farfara
Verbascum thapsus

Bitter or Broad-leaved Dock
Bitterweet Nightshade
Water Chestnut
Coltsfoot
Flannel-leaved Mullein

Lawn Grasses

Botanical Name
Agrostis gigantea
Festuca longifolia
Festuca ovina

Common Name
Redtop, Upland Bentgrass
Hard Fescue
Sheep Fescue

NOTES: Common Name varieties only:

The following need extra care if planted in the fall season:

River Birch	Paper Birch	American Hornbeam	Pagoda
Dogwood			
Common Chokeberry	Sweet Birch	Yellow Birch	Gray Birch
Pin Cherry	Callery Pear	Pyramidal European Hornbeam	Sweet Gum
London Plane Tree	Japanese Zelkova	River Birch	Kousa
Dogwood			
Star Magnolia	Sourwood		

The following are recommended to be planted on portions of the site away from walks and roads:

White Oak	English Oak	Maidenhair Tree (female)
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The following species will tolerate flooding for more than 1 year:

Green Ash	Black Willow	Buttonbush	Red-osier
Dogwood			

The following species will tolerate flooding for one growing season:

White Ash	Red Maple	Elder	Blueberry
Atlantic white cedar	Spackled Alder		

The following species will tolerate flooding for less than 30 days during the growing season:

Swamp Oak	River Birch	Black gum	American Holly
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*PLEASE NOTE, AS OF THIS DATE,
2/25/2015, MAPS ARE BEING UPDATED
AND ARE EXPECTED TO BE ON THIS
WEBSITE IN ABOUT TWO WEEKS, OR
THE WEEK OF MARCH 16TH, 2015. IF YOU
HAVE QUESTIONS PLEASE CONTACT
THE PLANNING OFFICE AT 508-949-8014
EXT. 1.*

APPENDIX C: Dudley Maps

- 1. Dudley Zoning Map**
- 2. Dudley Street Map**