

Section 1: Purpose and Application

1. Purpose

This zoning by-law, enacted by a two-thirds vote of the Town Meeting of the Town of Danvers, provides for the division of the Town into districts, regulating the use of land and the location of structures therein. The purpose of this zoning by-law is to provide for the Town of Danvers all of the protections authorized under Massachusetts General Laws, Chapter 40A, as it may be amended including, but not specifically limited to, the protection and promotion of public health, safety and welfare by:

- A. Preventing overcrowding of land;
- B. Preventing undue concentration of population;
- C. Providing for adequate light and air;
- D. Encouraging the most appropriate use of land, including encouraging appropriate uses within applicable districts, and a balance of uses in the Town as a whole;
- E. Reducing hazards from fire, flood and other dangers;
- F. ~~Conserving the value of land and structures, including the e~~Conserving of open space, natural and cultural resources and the preventing of degradation of the environment;
- G. Facilitating the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements;
- H. Preventing increases in traffic congestion; and
- I. Encouraging housing for persons of all income levels.

Section 3: General Provisions

1. Nonconforming Uses, Structures, and Lots.

Except as hereinafter provided, this Zoning Bylaw shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public hearing on this by-law, but shall apply to any change or substantial extension of such use, to a building or special permit issued after the first notice of said public hearing, to any reconstruction, extension or structural change of such structure, and to any alteration of a structure begun after the first notice of said public hearing to provide for its use for a substantially different purpose where alteration, reconstruction, extension or structural change to single or two-family residential structures does not increase the nonconforming nature of said structures.

However, pursuant to M.G.L. c. 40A, s. 6., para 2, construction or operations under a building permit or special permit shall conform to any subsequent amendments to this

Bylaw, unless the use or construction is commenced within a period of not more than twelve (12) months after the issuance of the permit and in any case involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

The provisions of this section are intended to achieve the following purposes:

- A. Allow nonconforming situations to continue until they are discontinued or abandoned;
- B. Encourage change in nonconforming situations toward greater compliance with the provisions of this by-law and to reduce the degree of nonconformity. Where a nonconforming situation is proposed to be changed, to encourage greater conformity with all the provisions of the by-law and the objectives and purposes stated in this bylaw;
- C. To allow for the alteration, expansion or extension of a nonconforming use subject to the issuance of a Finding by the Zoning Board of Appeals. Nonconforming uses in residential zones shall be subject to more restrictive standards than those in nonresidential zones;
- D. To permit possible expansion of nonconforming buildings provided there are no demonstrable adverse impacts on adjoining properties;
- E. In the event of the involuntary destruction in whole or part of a nonconforming situation, to permit the reconstruction of the nonconforming situation so that the owner, and tenants if any, are not subjected to substantial economic loss while, at the same time, seeking to achieve greater conformity with the provisions of this by-law and to reduce any adverse impact on the surrounding area;
- F. To permit the treatment of nonconforming situations to be varied by the type of zoning district and the type of nonconformity, i.e. to have a different approach for uses, structures and parking lots.

2. Applicability

A. Nonconforming Situations: For the purposes of this by-law, nonconforming situations are those uses, buildings, structures, parking lots, parking spaces, loading bays, signs, landscaping and other activities that are now subject to the provisions of this by-law which were lawful before this by-law was adopted, or before amendments to this by-law which are applicable to the situation were adopted, and such situations do not now conform to the provisions of this by-law.

B. Noncomplying Situations: For purposes of this by-law, noncomplying situations are those uses, buildings, structures, lots, parking spaces, loading bays, signs, landscaping and other activities that are subject to the provisions of this by-law which were not lawfully created after this by-law was adopted or after amendments to this by-law which are applicable to those situations were adopted, are in violation of this by-law and may be called noncomplying situations.

C. Noncomplying Situations Six (6) Years or Older: In accordance with Massachusetts General Law (MGL), Chapter 40A, Section 7, any structure, or part thereof, which has been improved and used in accordance with the terms of a building permit issued by a duly authorized person, may not be the subject of an enforcement action by the Town to compel the removal, alteration or relocation of said structure, or the abandonment, limitation or modification of the use allowed by said permit unless enforcement action is commenced within six (6) years from the date of the alleged violation of law. Uses and structures in existence for six (6) years or more and which qualify under this section are considered to be nonconforming situations and are entitled to treatment as such, as provided in this section.

D. Noncomplying Structures Ten (10) Years or Older: In accordance with MGL, Chapter 40A, Section 7, any structure, or part thereof, which has not been in compliance with this by-law, or the conditions set forth in any Special Permit or variance affecting the structure, may not be the subject of an enforcement action by the Town unless enforcement action is commenced within ten (10) years from the date of the alleged violation of law. Structures in existence for ten (10) years or more and which qualify under this section are considered to be nonconforming situations and are entitled to treatment as such provided that any proposed change, alteration or extension will not affect the noncomplying condition. Any change, alteration or extension of the noncomplying condition shall be subject to the provisions of the by-law and require that form of relief which would otherwise be necessary to allow said change, alteration or expansion.

3. Limitations

A use, building, structure, lot, parking space, loading bay, sign, landscaping or any other activity which is nonconforming, but not noncomplying, may be continued but may not be increased, expanded or altered, except as may be specifically authorized by this section. If such nonconforming situation is abandoned or terminated, as set forth below, it may not be resumed except in compliance with this by-law.

4. Lawfully Created Situations

A use, building, structure, lot, parking area, loading bay, sign, landscaping or any other activity, is considered to be lawfully created with respect to zoning requirements if:

- A. it was in existence on June 19, 1946 when the zoning by-law was originally adopted, or,
- B. subsequent to June 19, 1946 it was permitted by the zoning by-law either by right or by Special Permit and was in existence prior to the effective date of any amendment which rendered it nonconforming.

5. Uses by Variance are Not Nonconforming

A use, building, structure, lot, parking space, loading bay, sign, landscaping or any other activity which is not otherwise permitted and does not comply with this by-law and exists due to the granting of a variance, is not a nonconforming situation, is not entitled to the

~~procedures treatments~~ afforded by this section, and is bound by the conditions of the variance, as granted.

6. Once in Conformity, or Closer to Conformity, Cannot Revert

Once a use, building, structure, lot, parking space, loading bay, sign, landscaping or any other activity which had been nonconforming, is brought into conformity with this by-law, it shall not be permitted to revert to nonconformity. Once a use, building, structure, lot, parking space, loading bay, sign, landscaping or any other activity which is nonconforming, is brought into closer conformity with this by-law, i.e. the amount or degree of nonconformity is reduced, it shall not be permitted by right to revert to nonconformity with the provisions of this by-law which is greater than the closest amount or degree of conformity which it has achieved.

7. Change in Lot that Results in Noncompliance

No lot upon which there is a building or for which a building permit is in force shall be subdivided or otherwise changed in area or shape, except through public acquisition, so as to result in a violation applicable to either the lot or the building. A lot already nonconforming shall not be changed in area or shape so as to increase the degree of nonconformity with the requirements of this by-law; however, a nonconforming lot may be changed in area or shape in order to move closer to conformity with the requirements of this by-law. Said change shall be allowed by right. No building permit, Special Permit, certificate of occupancy or approval of a subdivision plan under the Subdivision Control Law shall be issued with reference to said transferred land until both the lot retained and the newly created lot(s) meet the requirements of this by-law.

8. Nonconformity Resulting from Public Action

If, as a result of public acquisition, a use, building, structure, lot, parking space, loading bay, sign, landscaping or any other activity no longer complies with this by-law, it shall be considered to be nonconforming and entitled to the ~~procedures treatments~~ afforded by this section, provided it was in compliance or lawfully nonconforming at the time of the public acquisition.

9. Discontinuance, Abandonment

A. A nonconforming use or structure or other nonconforming situation is considered to be discontinued or abandoned whenever: 1) it is not used for a period of twenty-four (24) consecutive months, or, 2) it is abandoned.

B. Discontinuance or abandonment of a part of a nonconforming use, structure or situation shall not normally be considered to be evidence of discontinuance or abandonment of the whole, unless that part which is discontinued or abandoned is the part which causes the nonconformity.

C. The rights of a nonconforming use, structure, building, lot, parking space, loading bay, sign, landscaping or other situation are not affected by a change in ownership, tenancy or

management unless such ownership, tenancy or management is specifically a condition of the issuance of a permit.

Section 10 Nonconforming Uses.

The Zoning Board of Appeals (ZBA) may award a Finding by a simple majority vote of the Board as constituted to change a nonconforming use in accordance with this Section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood.

5.2.1 Permissible Changes. The following types of changes to nonconforming uses may be considered by the Zoning Board of Appeals (ZBA):

1. Change or substantial extension of the use.
2. Change from one nonconforming use to another, less detrimental, nonconforming use. When a Finding is granted under this subsection, no use variance shall be required with regard to use or dimensional aspects of the application.

~~A. One Family, Two Family Dwellings: An existing nonconforming one family or two family dwelling or structures accessory thereto which is nonconforming with respect to use may be enlarged or extended for use for the same purpose provided that a Finding is issued by the Zoning Board of Appeals. In reviewing a request for such a Finding, the Board shall determine that the extension or enlargement is not substantially more detrimental than the existing use to the neighborhood. Where said structure is also nonconforming dimensionally, the provisions of Section 3.11.A, Nonconforming Buildings, shall also apply.~~

~~B. Other than One Family, Two Family Dwellings: A nonconforming use may be continued to the same degree and for the same purpose. An existing nonconforming use may be altered, expanded or extended for use for the same purpose provided that a Finding is issued by the Zoning Board of Appeals, as specified below:~~

~~1) Residential Zones: The Zoning Board of Appeals may grant a Finding for alteration, expansion or extension of a non conforming use provided that the Board determines that the alteration, expansion or extension is not substantially more detrimental than the current use. The Board shall rely on the criteria stated in Section 30, Special Permits, in making such a determination;~~

~~2) Other than Residential Zones: The Zoning Board of Appeals may grant a Finding for alteration, expansion or extension of a nonconforming use provided that the Board determines that the alteration, expansion or extension is not substantially more detrimental than the current use. The Board shall rely on the criteria stated in Section 30, Special Permits, in making such a determination.~~

~~C. Substitution of Nonconforming Use: The Board of Appeals may issue a Finding to allow a new use, not otherwise permitted by right in the zoning district in which the~~

~~nonconforming use is located, to be substituted for the existing nonconforming use provided that the Board determines that the new use is not substantially more detrimental than the current use.~~

Section 11. Nonconforming Structures Buildings

The Zoning Board of Appeals (ZBA) may award a Finding by a simple majority vote of the Board as constituted to reconstruct, extend, alter, or change a nonconforming structure in accordance with this Section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

5.3.1 Permissible Changes. The following types of changes to nonconforming structures may be considered by the Zoning Board of Appeals (ZBA):

1. Reconstructed, extended or structurally changed.
2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

~~A. One-Family, Two-Family Dwellings: An existing nonconforming one-family or two-family dwelling or structures accessory thereto which are nonconforming with respect to a dimensional requirement, may be enlarged or extended in any other direction in compliance with this bylaw, by issuance of a building permit. That part of an existing nonconforming dwelling, which is nonconforming with respect to a dimensional requirement may be enlarged or extended in that direction, provided the Zoning Board of Appeals grants a Finding and all of the following conditions are met:~~

- ~~1) The existing or proposed degree of the nonconformity is not greater than fifty (50%) of the dimensional requirement of the bylaw;~~
- ~~2) The Board determines that the extension or enlargement is appropriate in scale and mass for the neighborhood, with particular consideration of abutting properties.~~

~~B. Other than One-Family, Two-Family Dwellings~~

~~1) An existing nonconforming building, other than a one-family or two-family dwelling, which is nonconforming with respect to a minimum setback may be enlarged or extended in any other direction in compliance with this by law by the issuance of a building permit, provided all other uses, structures, and activities on the lot comply fully with the requirements of this by law.~~

~~2) An existing nonconforming building, other than a one-family or two-family dwelling which is nonconforming with respect to dimensional and/or density requirements of the zoning by law for the district in which said building is located, other than a minimum~~

setback, may not be enlarged or extended except by a Finding issued by the Zoning Board of Appeals.

Section 12. Single and Two Unit Nonconforming Structures.

Nonconforming single and two unit residential structures may be extended, altered, or structurally changed upon a determination by the Zoning Enforcement Officer (ZEO) that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure, and that such reconstruction, extension, alteration or change does not increase the gross floor area of the structure by more than 100%.

A. Permissible Changes. The following circumstances shall not be deemed to increase the nonconforming nature of said structure and a building permit may be issued:

1. *Insufficient Area.* Alteration to a structure located on a lot with insufficient area which complies with all current setback, yard, building coverage, and building height requirements.
2. *Insufficient Frontage.* Alteration to a structure located on a lot with insufficient frontage which complies with all current setback, yard, building coverage, and building height requirements.
3. *Encroachment.* Alteration to a structure which encroaches upon one or more required yard or setback areas, where the alteration will comply with all current setback, yard, building coverage and not result in any increase in building height in the area of encroachment.

If the Zoning Enforcement Officer (ZEO) determines that proposed alteration, extension or change exceeds the one or more of the criteria set forth above, the Zoning Board of Appeals (ZBA) may, by a Finding made by a simple majority vote of the Board as constituted, allow such alteration, extension or change where it determines that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood. In the case of voluntary demolition of a single or two unit structure, reconstruction thereafter shall be governed by Section 13.

Section 13. RECONSTRUCTION AFTER CATASTROPHE OR VOLUNTARY DEMOLITION.

Any nonconforming structure may be reconstructed after a catastrophe or after voluntary demolition in accordance with the following provisions.

A. Procedures.

1. Reconstruction of said premises shall commence within three years after such catastrophe or demolition.

2. A building may be reconstructed as of right if (a) it will be located on the same footprint as the original nonconforming structure and (b) it will not exceed the gross floor area of the original nonconforming structure.

3. A building may be reconstructed upon the grant of a special permit from the Zoning Board of Appeals if (a) the proposed reconstruction would cause the structure to exceed the gross floor area of the original nonconforming structure or (b) the proposed reconstruction would cause the structure to be located other than on the original footprint upon a finding that that the reconstruction will not result in substantial detriment to the neighborhood. Such special permit shall be obtained prior to voluntary demolition.

~~16. Reconstruction After Involuntary Destruction (By Right) Any nonconforming use, structure, building, sign, parking space or loading bay or other nonconforming situation which is destroyed or damaged by explosion, collapse, fire, storm, natural disaster or other catastrophic event, any of which is beyond the control of the owner, may, within three (3) years from the date of such damage or destruction, be reconstructed to the same extent as the original, provided there is no increase in the site coverage or gross floor area or the degree of nonconformity and the reconstruction conforms to the current requirements of this bylaw to the maximum extent practicable in the opinion of the Building Inspector. In this context, maximum extent practicable shall consider extreme site conditions, such as steep grades, the presence of ledge or other unsuitable soil conditions, or the shape and configuration of the lot.~~

~~17. Reconstruction After Destruction (By a Finding) The Board of Appeals may grant a Finding for the reconstruction of a use, structure, building, sign, parking space or loading bay or other situation allowed by Finding, which is destroyed or damaged by explosion, collapse, fire, storm, natural disaster or other catastrophic event, any of which is beyond the control of the owner or by the proposed voluntary action of the owner, to demolish, in whole or in part, in a manner different from the prior conditions, provided the Board determines that:~~

~~A. There is no increase in the site coverage;~~

~~B. There is no increase in the gross floor area;~~

~~C. There is no increase in the degree of nonconformity;~~

~~D. The reconstruction conforms to the current requirements of this by law to the maximum extent practicable;~~

~~E. In the case of the reconstruction of a nonconforming use, that it complies with the standards for the substitution of a nonconforming use described in subparagraph 3.10.C.~~

14 12. Nonconforming Lots

Any lot which does not comply with the provisions of this Zoning Bylaw ~~by law~~ with respect to minimum lot area, minimum lot frontage, or minimum lot width or with the

requirements then in effect at the time of recording or endorsement, whichever occurs sooner, shall not be subdivided or otherwise changed in area or shape, except through public action, so as to be in violation of the provisions of this by-law. A lot already nonconforming with respect to those provisions shall not be changed in area or shape so as to increase the degree of noncompliance. A lot which is nonconforming with respect to those provisions may be changed to be made closer in compliance, but once brought closer into compliance, i.e. the amount or degree of nonconformity is reduced, it shall not be permitted to revert to noncompliance which is greater than the closest amount or degree of compliance which it had achieved. A lot which is nonconforming shall not preclude the issuance of permits allowed pursuant to Sections 3.10, 3.11, 3.16 and 3.17.

~~15 13.~~ Nonconforming Off-Street Parking and Loading Existing Nonconforming Parking Spaces, Loading Bays Any off-street parking spaces or loading bays in existence on the effective date of this bylaw or thereafter established, which serve a building or use, may not be reduced in number or changed in location or design contrary to the by-law requirements so as to increase the degree of nonconformity with said requirements. If the use of an existing structure or lot, which does not have sufficient parking or loading, including a use which has no off-street parking or loading area, is changed to a different type of use for which a different number of parking spaces or loading bays is required as set forth in this by-law, and there is no increase in the net floor area, the following rules shall apply:

A. If there is a net increase in the number of required parking spaces or loading bays, that net increase shall be provided, which number shall not include any existing parking spaces or loading bays, or,

B. If there is a net decrease in the number of required parking spaces or loading bays, that lesser number shall be the new basis for determining whether, in the future, there is a net increase in the number of parking spaces or loading bays required. If it is proposed to increase the net floor area of a building, whether by addition to the exterior of the building or by internal reconstruction, and the building does not have sufficient off-street parking or loading area, full compliance with the applicable parking requirements for the entire building shall be a condition of the issuance of a building permit for the construction of the increase of net floor area.

~~16 14.~~ Parking and Loading Requirements for a Building Destroyed, Damaged or Demolished If a building for which sufficient off-street parking or loading is not provided is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced if otherwise permitted by this by-law, without providing additional parking spaces or loading bays, provided the new use is the same type of use as the use before the destruction, damage or demolition, or is a type of use that requires the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage or demolition, at least the same number of spaces or bays shall be provided.

~~17.15~~. Repair, Reconstruction Continuance Routine maintenance and repairs are permitted to a nonconforming structure, sign, parking space or loading bay or other nonconforming situation to maintain it in sound condition and presentable appearance.

18. Vesting of Rights During Adoption of Amendments

A. A use, building, structure, lot, sign, parking space or loading bay or other situation which would comply with the provisions of this by-law at the time at which a building permit is issued or a Special Permit is granted, but would not comply with a proposed amendment to this by-law, shall be considered to be nonconforming and may be completed, continued or maintained provided:

1) the building permit was issued or Special Permit was granted before the first publication of notice of public hearing on the proposed amendment, and

2) substantial physical construction or start of operations is begun within six (6) months of the issuance of a building permit or the grant of a Special Permit and is carried through to its completion as continuously and expeditiously as is reasonable. If the construction is not completed within eighteen (18) months of the issuance of the building permit or the grant of the Special Permit, the rights to nonconforming status shall cease and the construction shall comply with this by-law, as amended.

B. The filing of an application for either a building permit or a Special Permit is not sufficient to vest rights. The building permit must be issued or the Special Permit must be granted prior to such first publication of notice.

C. In the event of the filing and subsequent approval of a definitive subdivision plan, an exemption from an amendment to this by-law and a right to be treated under the 15 previously existing provisions of this by-law may be vested, as set forth in MGL, Chapter 40A, Section 6.

Section 4: Site Plan Review

1. Purpose and Intent.

The purpose of this ~~S~~section is to provide a comprehensive review procedure for construction and projects which will have significant impacts on the Town, to ensure compliance with the goals and objectives of the Town, and the provisions of this ~~S~~section and ~~B~~bylaw, to minimize adverse impacts of development. The intent of this ~~S~~section, in particular, is to assure safe access, safe and efficient vehicular and pedestrian movement, adequate parking and loading spaces, public convenience and safety and welfare of the inhabitants of the Town of Danvers.

2. Applicability

A. In all instances where Site Plan Review is required, no work shall commence to alter a site, no change of use shall occur, and no building permit shall be issued to construct, alter or relocate the exterior of a building until Site Plan Review has been granted by the Planning Board or ~~Planning staff~~ the Board's designee. If the Use or change of Use is ~~By~~ Right and Site Plan Review is not required a building permit can be pursued.

B. The Planning Board shall promulgate at any posted public meeting *Zoning Regulations* to effectuate the purposes and intent of this ~~Section 4 provision of this bylaw~~. This can include definitions and plan requirements. The exact form and contents of the application, fees, plans and information shall be as required by the *Zoning Regulations* ~~of the Planning Board~~, which shall be available electronically on the town's website and paper copies on file at the Planning Division and Town Clerk's Office.

C. A public ~~hearing meeting~~ shall be required for all projects subject to Site Plan design ~~Review (not including Intermediate Site Plan Review)~~. ~~The applicant will send a notice to landowners (abutters) within 300 feet of the affected lot or lots. Proof of notice must be provided to the Planning Board. Notice shall be provided in accordance with the procedures for Special Permits set forth in M.G.L. c. 40A, s. 11.~~

~~D. Site plans submitted for review in conjunction with one (1) or more special permit applications are subject to the procedural requirements required for special permits under M.G.L. Chapter 40A, Section Nine.~~

E. ~~Planning staff~~ The Board's designee is responsible ~~for~~ to conduct Intermediate Site Plan Review.;

F. Site Plan Review is required for:

1) Exterior construction or expansion of a structure enlarged by 1,000 square feet of gross floor area or greater or 5% of existing gross floor area (GFA), whichever is greater;

2) Increase to existing total site coverage of 10% or greater;

3) Increase to impervious surfaces on site by 10% or greater;

4) Increase in existing parking spaces by ten (10) or more spaces;

5) Any change of Use ~~(between residential, commercial and industrial Uses, ie commercial Use to a different commercial Use in not considered a change of Use)~~, other than a structure containing four (4) or fewer dwelling units whose sole use is for residential purposes;

6) In cases where a change of Use is proposed and ~~minimal~~ no physical changes to the exterior of a building or site will occur, Site Plan Review may be waived if the Planning ~~staff~~ Board's designee determines that the change will not conflict with the purpose of this Zoning Bylaw, is in compliance with current zoning, and finds that the proposed use will not result in the need for further review.

G. Site Plan Review is not required for:

- 1) Any new or expanded buildings that result in an increase in total gross floor area of less than 1,000 square feet of the existing total gross floor area;
- 2) Any increase in total site coverage of less than 10% of the existing total site coverage;
- 3) Any new or expanded impervious surfaces resulting in an increase of less than 10%;
- 4) Any new or expanded parking areas resulting in less than ten (10) additional parking spaces;
- 5) Structures containing four (4) or fewer dwelling units and said structures are solely residential in use;
- 6) When no physical change will occur to the exterior of either a structure, building, or site and the use remains constant;
- 7) When the only change to the exterior of a building or site includes the installation of signs in compliance with the Town's signage bylaws or regulations or alterations to the building's façade only, including changes to exterior windows and doors;
- 8) A change of Use, within a multi-tenanted structure with verification that the property complies with the parking requirements of the Zoning Bylaw.

H. Levels of Site Plan Review

- 1) ~~Site Plan Design~~ Review: Any development project or site alteration that requires Site Plan Review which exceeds the thresholds of Intermediate Site Plan Review.
- 2) Intermediate Site Plan Review:
 - a) Projects which involve new construction or additions of 1,999 square feet of gross floor area or less;
 - b) Projects adding ten (10) to nineteen (19) additional parking places;
 - ~~c) Projects which require a special permit from the Planning Board and which are not otherwise subject to intermediate or design review, excepting: accessory dwelling units (ADUs), Extended Family Living Areas (EFLAs), accessory structures, and accessory uses;~~
 - c) Increase to existing total site coverage of 15% or less;
 - d) Increase to impervious surfaces on site of 15% or less;
 - ~~f) Any project that is requesting a provision of the zoning that is allowed only with Site Plan Review and which is not otherwise subject to design review.~~

3. Submission Procedure

A. Prior to filing an application, applicants are encouraged to schedule a consultation with Planning Division staff. The purpose of this consultation is to discuss the requirements,

address concerns of the applicant, and provide the applicant advice and comments prior to submitting an application.

B. Applicants shall submit a Site Plan and completed application form and associated documentation for review to the Planning Division Board or designee. Application requirements can be found in the Planning Board's Zoning Regulations.

C. A complete application package must be submitted to the Office of the Town Clerk and the Planning Division. Approval deadlines will be calculated from the date of submission of a complete application to the Town Clerk.

4. Review Standards Procedure

A. The following criteria shall be considered by the Planning Board, or designee, in evaluating the Site Plan and all associated documentation as part of the application:

1) 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 neighboring developed areas. Adequate landscaping shall also be provided, including screening of adjacent residential uses, provision of street trees, landscape islands in the parking lot and a landscape buffer along the street frontage.

2) Relation of Buildings to Environment: Proposed development shall be integrated into the terrain and the use, scale, and architecture of existing buildings in the vicinity and shall be in accordance with the other plans adopted by the Town guiding future development. Building sites shall avoid, to the extent feasible, the impact on steep slopes, floodplains, scenic views, grade changes, wetlands, tree groves, and wildlife habitats and other areas of aesthetic and ecological interest.

3) Circulation: Special attention shall be given to traffic circulation, parking areas and access points to public streets and community facilities in order to maximize convenience and safety of vehicular, bicycle and pedestrian movement within the site and in relation to adjacent streets. Special consideration shall be given to infrastructure and design that will enhance public transit, such as bus shelters, on-site transportation demand management measures (TDM), and participation in a Transit Management Association (TMA). The location and number of curb cuts shall be such to minimize turning movements, and hazardous exits and entrances. The location and design of parking spaces, bicycle racks, drive aisles, loading areas and sidewalks shall be provided in a safe and convenient manner.

4) Stormwater/Drainage: Proper site surface drainage so that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Proposed developments shall seek to retain storm water runoff on site to the maximum extent possible, incorporating best practices in stormwater management and Low Impact Design (LID) techniques.

5) Screening: Screening, such as screen plantings, shall be provided for exposed storage areas, exposed machinery installations, service areas, truck loading areas, dumpsters, utility

buildings and structures, and similar accessory areas and structures in order to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.

6) Lighting: Protection of adjacent properties by minimizing the intrusion of lighting, including parking lot and building exterior lighting, through the use of cut-off luminaries, light shields, lowered height of light poles, screening or similar solutions. Except for architectural and interior-lit signs, all exterior site lighting shall be downcast and shall be directed or shielded to eliminate light trespass onto any street or abutting property and to eliminate direct or reflected glare perceptible to persons on any street or abutting property and sufficient to reduce a viewer's ability to see. All site lighting, including architectural, sign, and parking lot lighting, shall be kept extinguished outside of normal business hours, except for lighting determined to be necessary for site security and the safety of employees and visitors.

7) Nuisance: Protection of adjacent properties from nuisance caused by noise, fumes, and smells. The proposed use will not create unsanitary or unhealthful conditions by reason of emissions to the air, or other aspects of its design or operation.

8) Safety: With respect to personal safety, all open and enclosed spaces shall be designed to facilitate building evacuation and maximize accessibility by fire, police, and other emergency personnel and equipment.

9) The project is designed in accordance with ~~the any Design-Review~~ Standards as set forth herein and *the Zoning Regulations*.

10) Conformance with all appropriate provisions of the Zoning Bylaw, *Zoning Regulations*, and any area specific plans.

5. Waivers

A. The applicant, as part of the application may request waivers in writing ~~to, or~~ the Planning Board, ~~or designee, who~~ may at its discretion grant waivers in an effort to satisfy the criteria herein.

B. Strict compliance with the provisions of the ~~S~~site ~~P~~plan may be waived for any of the requirements only if it is determined that:

- 1) literal compliance is impractical due to the nature of the use;
- 2) The location, size, width, depth, shape, or grade of the lot makes compliance impossible;
- 3) Such waivers would be in the public interest and/or;
- 4) Such waivers would protect natural features.

C. Waivers may be granted from the following items:

- 1) Submission Requirements; and Character Based Zoning Districts Design Standards, located in the Zoning Regulations
 - 2) Review Design Standards set forth in Section 4.A.1-10, above; and within the Zoning Regulations; and
 - 3) Section 10 of the Zoning Bylaw, Off-Street Parking Standards
6. Approval

~~The written decision of the Planning Board shall be filed with the Town Clerk within 90 days from the close of the public hearing. Failure to file the decision within 90 days of the close of the public hearing shall be constructive approval of the Site Plan application, For complete applications the Planning Board, or designee, shall take final action on a site plan within sixty (60) days of its date stamp by the Town Clerk unless the final action deadline is extended in writing and agreed to by the Planning Board, or designee and the applicant. Incomplete applications will not be accepted and are grounds for denial. If an application is complete and the Planning Board, or designee, fails to act within sixty (60) days the application shall be deemed constructively approved and the Planning Board shall issue a decision and endorse plans submitted.~~ Upon failure to do so, the Town Clerk will issue a decision to the same effect.

7. Maintenance

In order to ensure continued compliance of an approved Site Plan:

A. The property owner shall be responsible for the continued maintenance including but not limited to:

- 1) Yearly replacement of all dead, missing and damaged landscape material;
- 2) Inspections and maintenance of all stormwater management systems in accordance with any Operation and Maintenance (O&M) Plan or stormwater permit;
- 3) All paved areas, including driveways and parking areas.

B. The Town may conduct ongoing monitoring, inspections and, if necessary, enforcement.

8. Provisions for Site Plan Lapse

Any approval of a ~~S~~site ~~P~~plan which has been granted pursuant to this Zoning Bylaw by-law shall lapse within three (3) years from the grant thereof, ~~if a substantial use thereof has not sooner commenced, except for good cause, or in the case of a permit for construction, if construction has not begun by such date, except for good cause. which shall not include such time required to pursue or await the determination of an appeal referred to G.L. c. 40A, s. 17, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause.~~

9. Appeal.

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

Section 9 Accessory Uses

In addition to those uses specified below, other accessory uses are allowed provided they meet the definition of “accessory use,” which is “a use incidental and subordinate to the principal use, and located on the same lot.”

1. General Accessory Uses

The following accessory uses are permitted ~~B~~by ~~R~~ight on any single or two family residential property based upon the specified provisions:

- A. Such normal uses as storage sheds, tennis courts, swimming pools, cabanas for swimming pools, landscaping and gardens for personal use.
- B. A private garage for not more than three (3) vehicles.
- C. Greenhouses for personal use that do not exceed two hundred fifty (250) square feet.
- ~~D. Temporary real estate signs advertising the rental, lease or sale of the property of a size not to exceed six (6) square feet and limited to one sign facing each street;~~
- ~~E. A two (2) square foot sign, including only the name of the occupants, the number of the dwelling unit and the street which the dwelling unit is on. Any lighting shall be constant, installed in a manner that will prevent light from falling on any street or adjacent property and may not be internally illuminated. Signs shall not be designed, colored, or placed so as to create a hazardous condition for motor vehicle traffic.~~
- F. Plaques or signs not exceeding two (2) square feet in area designating a building as a historical structure, or giving the name of the building and date of erection.
- G. Parking one commercial vehicle, or vehicle with an attached trailer, used by a resident of that premises in connection with his/her occupation or business, provided that: 1) The vehicle does not exceed 13,000 pounds (lb.) gross vehicle weight including any trailer, or exceed a capacity of twelve passengers; 2) The vehicle is not considered a construction apparatus (for example, tractor, backhoe, or crane); 3) The vehicle is not loaded in whole or in part with noxious, flammable, dangerous, or offensive materials or liquids.
- ~~H. Movie/TV production uses for up to fourteen (14) days, subject to Special Permit by the Zoning Board of Appeals.~~

Section 9.2.E

3) Upon sale of the property, the new owner shall be required to file a new application, with the Building Commissioner, for purposes of maintaining the EFLA;

4) Within 30 days of receipt of a letter from the ~~Building Commissioner~~ Zoning Administrator determining a violation, a special permit shall be sought for the continuation of the EFLA. Failure to apply for the Special Permit within 30 days shall result in the EFLA being discontinued and the permit shall automatically lapse and be null and void;

Section 9.4.E

~~E. Signs: 1) A minor home occupation may be permitted a two (2) square foot sign attached to the dwelling structure by special permit from the Zoning Board. 2) A major home occupation may be permitted a two (2) square foot free standing sign, placed at least ten (10) feet from the front lot line and shall not exceed four (4) feet in height by special permit from the Zoning Board. 3) Window signs and signs visible from the exterior of a window are prohibited. 4) Signs shall not be internally lighted. 5) Signs shall be illuminated during hours of operation only~~

Section 10 Off Street Parking Standards

~~D. The Planning Board, under Site Plan Review, may authorize a decrease in the number of parking~~

~~spaces required provided that:~~

~~1) The decrease in the number of parking spaces is no more than 25% of the total number of spaces~~

~~required. The waived parking shall be set aside and shall not be intended for immediate construction~~

~~other than landscaping in addition to that required. Such spaces shall be labeled "Reserved Parking" on~~

~~the site plan. However, said waiver parking shall be constructed if:~~

~~a) The reduced parking is deemed to be inadequate after an annual review by the Planning Board or by written communication by the Building Commissioner to the Planning Board prior to the annual review.~~

~~b) b) A change of use of the property occurs which requires greater parking as established by this section of the zoning by law.~~

~~2) Any such decrease in the number of required parking spaces shall be based upon documentation of the special nature of a use or building.~~

~~3) The parking spaces labeled "Reserved Parking" on the site plan shall be properly designed as an integral part of the overall parking layout, location on land suitable for parking development.~~

~~10.1.D The Special Permit Granting Authority (SPGA) or the Planning Board, during the course of special~~

~~permitting or site plan review, as may be applicable, may waive any provision of this~~

~~Section 10, upon a~~

finding that no substantial detriment shall result. This waiver shall be available in all districts. A finding shall be required that any decrease in number of required spaces will not create undue congestion or traffic hazards. Any such relief may be granted without substantial detriment to the neighborhood. Where development on a specified site has already been given relief under this Section, but the site exhibits a continuing or recurring parking problem that creates a hazard to public safety, the Planning Board shall have the authority to require an alternative parking plan that illustrates a solution to the parking problem.

~~E. The decrease in number of required spaces will not create undue congestion or traffic hazards and that such relief may be granted without substantial detriment to the neighborhood and without derogation from the intent and purpose of this by-law. Where development on a specified site has already occurred according to the ratios of this Section, but the site exhibits a continuing or recurring parking problem that creates a hazard to public safety, the Planning Board shall have the authority to require an alternative parking plan that illustrates a solution to the parking problem.~~

E.F. Properties containing both a principal and accessory use, shall meet the minimum parking standards for the principal use.

F.G. In the case of mixed uses, the total requirements for off-street parking shall be the sum of the requirements of the various uses computed separately and the off-street parking space for one use shall not be considered as providing the required off-street parking for any other use.

Section 16 Waterfront Village District

16.5.B.10

~~Signs—The design of signs should reflect the scale and character of the structure or site. Signs should simply and clearly identify individual establishments, buildings, locations and uses, while remaining subordinate to the architecture and larger streetscape. The choice of materials, color, size, method of illumination and character of symbolic representation on signs should be compatible with the architectural or landscape design style of the structure or site.~~

Section 18 Character Based Zoning Districts

~~18.6.G.4. Non-Conforming Building Retrofit: A development project involving one or more preexisting non-conforming buildings may retrofit and repurpose the building as a residential or mixed-use building with a maximum residential density of 1 dwelling unit per 2,500 gross floor area or the maximum residential density allowed by right in the zoning district, whichever is greater. When additions to the pre-existing building are proposed they must comply with the maximum residential density allowed by right in the zoning district~~

Section 18.7 Building Form and Function Standards

A. Classification of Building Types

1. Principal Building Types: The ~~Building Commissioner~~ Zoning Administrator shall classify new principal structures as a specific building type based on the definition of each type and upon finding that the structure is substantially similar in placement, height, massing, use, and features to one of the permitted building types for the zoning district where the structure is located. The ~~Building Commissioner~~ Zoning Administrator shall also classify existing structures that are being substantially expanded or converted to new uses under this section. If the ~~Building Commissioner~~ Zoning Administrator is unable to classify an existing principal structure as one of the building types of this section, the structure is considered nonconforming and subject to Special Permit review and approval by the Planning Board.

2. Other Principal Building Types: If a new building is proposed that cannot be classified as one of the allowed building types of this section by the ~~Building Commissioner~~ Zoning Administrator, the building is subject to Special Permit review and approval by the Planning Board.

Section 18.12 Affordable Housing Requirements

Developments within Danvers Town Center (DTC) districts and the High Street Mixed Use Corridor (HSMUC) District are required to participate in forwarding the Town's affordable housing goals. Developments within these districts are required to offer an affordable unit to the Town for inclusion on the subsidized housing inventory, a payment to the Town to forward affordable housing goals, or, in some instances, both. These requirements are explained in Section 29, Affordable Housing Provisions, of the Zoning Bylaw ~~The calculation for the units or payments is based on the formula shown in Table 18.12. This provision only applies to additional units added to a property greater than the number of units currently existing on a lot (net new units).~~

TABLE 18-12: AFFORDABLE HOUSING REQUIREMENTS

Units (net new)	Affordable Unit Percentage	Payment
1-4	0%	Payment based on affordable unit construction cost and percentage of required affordable housing per this By law
5-9	10%	Fractional payment based on affordable unit construction cost and percentage of required affordable housing per this By law
10+	12.5%	

Where the calculation from Table 18.12 results in a fractional dwelling unit less than 0.5, the applicant may either provide an eligible dwelling unit or make a contribution to the Town of Danvers for affordable housing purposes in an amount sufficient to construct that fraction of an eligible dwelling unit, net of the dwelling unit's restricted resale price, as determined by the Planning Division. Where this calculation results in a fractional dwelling unit greater than 0.5 the applicant must provide an affordable dwelling unit to the Town of Danvers. An example of these calculations is provided in Table 18.13.

TABLE 18-13: EXAMPLE AFFORDABLE HOUSING CALCULATIONS

New Units in Project	Required Affordable Percentage	Affordable Units Required	Fractional Payment
1*	0%	0	\$35,000
2	0%	0	\$70,000
3	0%	0	\$105,000
4	0%	0	\$140,000
5	10%	1	\$0
6	10%	1	\$0
8	10%	1	\$0
9	10%	1	\$35,000
10	12.5%	1	\$70,000
12	12.5%	2	\$0

14	12.5%	2	\$0
16	12.5%	2	\$0
18	12.5%	2	\$70,000
20	12.5%	3	\$0
* Existing, detached single family homes adding a second unit are exempt from the fractional payment.			

The calculations shown in the Table 18.13 were made using the following assumptions for a potential development within the applicable districts. The required percentage of affordable units for developments with 1 to 4 net new units is 0%. For developments adding 5 to 9 net new units the required percentage of affordable housing is 10%. For developments adding 10 or more net new units the required percentage of affordable housing is 12.5%. The proposed net new units are multiplied by the applicable percentage and results in the number of affordable units within a development. Where this number results in a fractional unit the developer will either round up the number of affordable units required if the fraction is greater than .5, or make a contribution to the Town of Danvers for affordable housing purposes in an amount sufficient to construct that fraction of an eligible dwelling unit, net of the dwelling unit's restricted resale price if the fraction is less than .5. The contribution required is based on the estimated cost to construct a new affordable dwelling unit in the region (\$465,000) net the dwelling unit's estimated, average restricted sales price (\$185,000) for the region.

The mathematical breakdown for a scenario involving a 10-unit development is as follows:

$10 \text{ Units} * 12.5\% = 1.25$ In this instance, the developer is required to provide one (1) SHH eligible unit and a payment of \$70,000 for the 0.25 fraction, or $0.25 * (\$465,000 - \$185,000) = \$70,000$.

Affordable units constructed under this provision shall be sold or rented to households with incomes at or below 80 percent for for-sale housing and 60 percent for rental housing of the Median Regional Household Income (as determined by the U.S. Department of Housing and Urban Development (HUD) pursuant to the Housing Act of 1937, as amended and adjusted for family size), and shall be restricted to sales prices or monthly rents that are affordable to such households. The sales price or monthly rent shall, in all instances, be such that the dwelling unit qualifies as a local initiative unit under the Commonwealth's Local Initiative Program (LIP) and meets the requirements of a subsidized housing unit for the purposes of listing in the Town's subsidized housing inventory under G.L. c. 40B Sec. 20-23. For purposes of this By-law, rental housing shall be deemed affordable if rents (including utilities or a HUD approved utility allowance if utilities are paid separately by tenants) do not exceed 30 percent of 50 percent of the gross monthly Median Regional Household Income for a family of four, adjusted for the bedroom size of the unit in accordance with the protocols accepted under Section 42 of the federal tax code. For sale housing shall be

~~deemed affordable for purposes of this bylaw if it is priced so that monthly principal, interest, tax, and property insurance costs and condominium fees (if applicable) do not exceed 30 percent of 70 percent of gross monthly Median Regional Household Income for a family of four, adjusted for the bedroom size of the unit, using the best generally available mortgage terms and rates for such borrowers.~~

~~A. Segmentation~~

~~A developer or property owner may not phase or segment a project or transfer ownership of contiguous properties to evade, defer or curtail the affordability or Payment in Lieu requirements of this regulation. The Planning Board shall consider all circumstances as to whether various applications or activities, taken together, comprise a single development or independent undertakings, regardless of whether there is more than one developer or property owner, including any time interval(s) between the applications or activities. The Planning Board may impose such additional Payment in Lieu requirements on segmented developments as are needed to ensure that, as a whole, a development makes the full payments warranted.~~

~~B. Continued Affordability~~

~~Affordable housing units developed pursuant to this Bylaw, Section 18.12 shall be subject to long term use restrictions and, where applicable, resale restrictions, to ensure that they remain affordable to low and moderate income households for the longest period allowed by law, but in no instance less than ninety nine years. Such restrictions shall be enforceable by the Town of Danvers, the Danvers Housing Authority, or by a housing related charitable corporation or trust designated by the Town of Danvers in accordance with Section 55C of Chapter 44 of the Massachusetts General Laws and shall be executed and recorded at the Essex County Registry of Deeds, Southern District. It is the intent of this bylaw that affordable housing units be restricted, and that long term affordability be enforced in such a manner that~~

~~units are considered "low and moderate income housing" for purposes of Section 20 of Chapter 40B of the Massachusetts General Laws.~~

~~C. Comparability~~

~~Affordable units shall be dispersed throughout the site and shall be comparable to market rate units except in size, interior finish, fixtures, and appliances. Affordable units shall be deemed "comparable" only when the number of bedrooms is the same in both the market rate and the affordable unit(s). Where the mix of units bedroom is of equal proportion in the market rate units (e.g. 50% two bedroom and 50% one bedroom) the higher number shall be considered as required in the affordable unit mix (e.g., a two bedroom unit would be required for the affordable unit). Where more than one affordable unit is required, the distribution of units by number of bedrooms shall be in the same proportion for both market rate and affordable units.~~

~~D. Compliance 1. Permit Conditions. No Special Permit shall be issued without appropriate restrictions to ensure that the provisions of this~~

~~subsection are made binding upon the applicant. 2. Occupancy Conditions. No Certificate of Occupancy shall be issued for any market rate units in a development covered by this subsection until all deed covenants and/or other documents necessary to ensure compliance by the applicant with the requirements of this subsection have been executed. The Planning Board may grant a waiver to this requirement and allow incremental release of certificates of occupancy provided that adequate provisions are in place to ensure that the provisions of this subsection are made binding upon the applicant.~~

~~D. Compliance~~

~~1. Permit Conditions. No Special Permit shall be issued without appropriate restrictions to ensure that the provisions of this subsection are made binding upon the applicant.~~

~~2. Occupancy Conditions. No Certificate of Occupancy shall be issued for any market rate units in a development covered by this subsection until all deed covenants and/or other documents necessary to ensure compliance by the applicant with the requirements of this subsection have been executed. The Planning Board may grant a waiver to this requirement and allow incremental release of certificates of occupancy provided that adequate provisions are in place to ensure that the provisions of this subsection are made binding upon the applicant.~~

Section 22 Maple Street Traditional Neighborhood Development Smart Growth Overlay District

22.9 ADMINISTRATION

B. Plan Approval Procedures

7. Circulation to Other Boards: Upon receipt of the application, the PAA shall immediately provide a copy of the application materials to the Select Board, Zoning Board of Appeals (ZBA), Board of Health, Conservation Commission, Fire Department, Police Department, ~~Building Commissioner~~ Zoning Administrator, Department of Public Works (DPW), the Monitoring Agent (for any project subject to the Affordability requirements of Section 22.8.), and other municipal officers, agencies or boards for comment, and any such board, agency or officer shall provide any written comments within sixty (60) days of its receipt of a copy of the plan and application for approval.

Section 22.10 ENFORCEMENT AND APPEAL

The provisions of this Section 22 shall be administered by the ~~Building Commissioner~~ Zoning Administrator, except as otherwise provided herein. Any legal appeal arising out of a Plan Approval decision by the PAA under Section 22.9 shall be governed by the applicable provisions of M.G.L. Chapter 40R. Any other request for enforcement or appeal arising under Section 22 shall be governed by the applicable provisions of M.G.L. Chapter 40A.

Section 27 Groundwater Protection District By-Law

Section 27: GROUNDWATER PROTECTION ~~OVERLAY~~ DISTRICT ~~BY-LAW~~

1. Purpose The purpose of this Groundwater Protection ~~Overlay~~ District is to:

~~A.E.~~ 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 Danvers and adjacent towns;

~~F.B.~~ Preserve and protect existing and potential sources of drinking water supplies;

~~G.C.~~ Conserve the natural resources of the Town of Danvers; and

~~H.D.~~ Prevent temporary and permanent contamination of the environment

2. ~~Overlay~~ District Boundaries

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

For the purposes of this district, there are hereby established within the Town of Danvers certain groundwater protection areas, consisting of aquifers and recharge areas as delineated on the map entitled "Groundwater Protection Districts, Town of Danvers," dated March 12, 2001, and revised October 18, 2004. This map is hereby made a part of the Town of Danvers Zoning ~~By-Laws~~ and is on file in the Office of the Town Clerk, Planning Board, and the ~~Building Commissioner~~ Zoning Administrator.

3. Uses Permitted ~~B~~by Right

The following structures and/or uses are permitted in the Groundwater Protection ~~Overlay~~ District, provided that all necessary permits, orders or approvals required by local, state or federal law are also obtained:

A. Any structure or use permitted in the underlying zoning, except for those structures or uses specifically prohibited in Section 27.4 below and subject to the requirements of Section 27.5 below;

B. Conservation of soil, water, plants, and wildlife;

C. Outdoor recreation, nature study, boating, fishing, and hunting, where otherwise legally permitted;

- D. Foot, bicycle, and/or bridle paths and bridges;
- E. Normal operation and maintenance of existing water bodies and dams, splash boards, and other water control, supply, and conservation devices;
- F. Maintenance and repair of an existing structure;
- G. Expansion of an existing structure or use, except for those structures or uses specifically prohibited by Section 27.4 below and subject to Section 27.5 below;
- H. Construction, maintenance, repair, and enlargement of drinking water supply related facilities such as, but not limited to, wells, pipelines, aqueducts, and tunnels.

4. Prohibited Uses

The following structures and uses are prohibited in the Groundwater Protection Overlay District:

- A. Landfills and open dumps as defined in 310 CMR 19.006
- B. Automobile graveyards and junkyards, as defined in M.G.L. c. 140B, §1;
- C. Landfills receiving only wastewater and/or septage residuals, including those approved by the Department of Environmental Protection pursuant to M.G.L. c. 21, §26 through 53; M.G.L. c. 111, §17; M.G.L. c. 83, §6 and 7, and any regulations promulgated thereunder;
- D. Facilities that generate, treat, store, or dispose of hazardous waste that are subject to M.G.L. c. 21C and 310 CMR 30.00, except for the following:
 - 1) Household hazardous waste centers and events under 310 CMR 30.390;
 - 2) Waste oil retention facilities required by M.G.L. c. 21, § 52A; or
 - 3) Water remediation treatment works approved by the Department of Environmental Protection for the treatment of contaminated ground or surface waters;
- E. Establishments which store petroleum, fuel oil, and/or heating oil, including, but not limited to, gasoline stations, petroleum bulk stations and terminals, and fuel oil dealers;
- F. Storage of liquid hazardous materials, as defined in M.G.L. c. 21E., and liquid petroleum products in quantities greater than that required for normal household use, except as allowed by Special Permit in Section 27.5 below and provided such storage is:
 - 1) Above ground level; and
 - 2) On an impervious surface; and
 - 3) Located within a building or within an area with a containment system with a capacity of 110% of the stored amount.
- G. Storage of sludge and septage, unless such storage is in compliance with 310 CMR 32.30 and 310 CMR 32.31;

H. Storage of de-icing chemicals, unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated runoff or leachate;

I. Storage of animal manure unless covered or contained in accordance with the specifications of the Natural Resource Conservation Service;

J. Earth removal, consisting of the removal of soil, loam, sand, gravel or any other earth material (including mining activities) to within 4 feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the United States Geological Survey, except for excavations for building foundations, roads or utility works;

K. On-site disposal of wastewater, including industrial and commercial process wastewater, except for the following:

1) Replacement or repair of an existing treatment works that will not result in a design capacity greater than the design capacity of the existing treatment works;

2) Treatment works approved by the Department of Environmental Protection designed for the treatment of contaminated ground or surface water and operating in compliance with 314 CMR 5.05(3) or 5.05(13); or

3) Publicly owned treatment works.

L. Stockpiling and disposal of snow and ice containing de-icing chemicals, if brought in from outside the district;

M. Storage of commercial fertilizers, as defined in MGL c. 128, §84, unless such storage is within a structure designated to prevent the generation and escape of contaminated runoff or leachate;

N. Enlargement or expansion of existing structures or uses which are expressly prohibited above, including accessory structures or uses; and

O. Change of an existing use to another use which is expressly prohibited above.

5. Uses Requiring a Special Permit

The following uses are allowed only by issuance of a Special Permit from the Planning Board under such conditions as they may require:

A. Uses permitted in the underlying zoning district and not specifically prohibited in Section 27.4 above which will involve the incidental storage of hazardous materials or liquid petroleum products in quantities greater than those associated with normal household use;

B. Any use permitted in the underlying zoning district and not specifically prohibited in Section 27.4 above which will render impervious more than 15% of the lot or 2,500 square feet, 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 contaminants. Any and all recharge areas shall be permanently maintained in full working order by the owner.

6. Procedure for Issuance of a Special Permit

A. The Planning Board shall be the Special Permit-Granting Authority (SPGA) under this ~~bylaw~~ [Section 27](#).

B. Application Requirements: Any filing for a Special Permit ~~under-in~~ the Groundwater Protection [Overlay](#) District shall be made in accordance with the requirements of M.G.L. Chapter 40A and shall include the following:

- 1) One completed Application for a Special Permit (Form 3);
- 2) Fourteen (14) copies of a site plan prepared in accordance with Section 4.3 and including, where applicable:
 - a) List of chemicals, pesticides, herbicides, fertilizers, fuels, and other potentially Hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use.
 - b) For those activities using or storing hazardous materials, a Hazardous Materials Management Plan. The Hazardous Materials Management Plan shall include:
 - i. 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;
 - ii. Provisions for indoor, secured storage of hazardous materials and wastes with impervious floor surfaces; and
 - iii. Evidence of compliance with the Regulations of the Massachusetts Hazardous Waste Management Act 310 CMR 30, including obtaining an EPA identification number from the Massachusetts Department of Environmental Protection.
 - c) Proposed down-gradient location(s) for groundwater monitoring well(s), should the Planning Board deem the activity a potential groundwater threat.
- 3) Applicable filing fee.
 - a) The Planning Board shall transmit a copy of the site plan to the Building Inspector, the Board of Health, the Conservation Commission, the Town Engineer, the Fire Department, the Hazardous Materials Coordinator, and any other agency deemed appropriate by the Board for their written recommendation. These agencies shall submit a written report on the plan within thirty (30) days of the referral. The Planning Board shall not render a decision

on the application until all such reports have been received or until the thirty (30) days have lapsed.

b) A public hearing with notice and advertisement shall be held in accordance the provisions of MGL Chapter 40A.

c) The Planning Board shall review the application and plans for compliance with the intent of this bylaw, as well as any specific criteria. In reviewing the application, the Planning Board must make the following findings:

i. The proposed use shall not, during construction or thereafter, adversely affect the existing or potential quality or quantity of water that is available in the Groundwater Protection District; and

ii. The proposed use is designed to avoid substantial disturbance of the soils, topography, drainage, vegetation, and other water-related natural characteristics of the subject property.

iii. The Planning Board shall include in any decision the basis for any departure from the recommendations of the other town agencies as well as any specific conditions imposed. d)

The decision shall be rendered and filed in accordance with the provisions of M.G.L. Chapter 40A. If the Special Permit is granted, no work shall commence until the appeal period has expired and the decision recorded as required by M.G.L. Chapter 40A.

7. Violations

Enforcement of the Groundwater Protection Bylaw and any Special Permit and/or Site Plan approved under the provisions of this bylaw shall be in accordance with Section 2.2 and any violation of this bylaw or approval there under is subject to the provisions of Section 2.7. Copies of the written notice of any violation of the Groundwater Protection District Bylaw shall be transmitted to the Planning Board, the Board of Health, the Conservation Commission, the Town Engineer, the Department of Public Works, and Water Department. The cost of containment, clean-up or other action required for correction of the violation and compliance with the Groundwater Protection District Bylaw shall be borne by the owner and operator of the subject property.

Section 29 Affordable Housing Provisions

1. Purpose and Intent

The requirements of Section 29 are established to:

A. ~~I~~increase the supply of rental and ownership housing in the Town of Danvers that is permanently available and affordable to low and moderate-income households;

B. ~~D~~evelop and maintain a satisfactory proportion of the Town's housing stock as affordable units; ~~and~~

C. ~~C~~ontribute affordable housing units to the Town's Subsidized Housing Inventory.

2. Applicability

The requirements of this section, Section 29, apply to any development or land development consisting of new dwelling units resulting in three or more dwelling units in total on a site or sites. ~~This Section 29 does not apply to developments in the Maple Street Traditional Neighborhood Development Overlay District (MSTND), Accessory Dwelling Units (ADUs), Mobile homes, or Extended Family Living Areas (EFLAs). The MSTND Affordable Housing provisions are located in Section 22.8~~

Applicable developments are required to offer an affordable unit to the Town for inclusion on the State's Subsidized Housing Inventory, a payment to forward affordable housing goals, or, in some instances, both. The calculation for units or payments is based on the formula shown in ~~the requirements~~-subsection 3 of this section, Section 29. This formula applies to additional units added to a property greater than the number of units currently existing on a lot (net new units). ~~This provision does not apply to Character Based Zoning Districts, Accessory Dwelling Units (ADUs), or Extended Family Living Areas (EFLAs).~~

3. Requirements Calculating the Inclusionary Housing

TABLE 29.1 AFFORDABLE HOUSING REQUIREMENTS

Units (net new)	Affordable Unit Percentage	Payment
1-4	0%	Payment based on affordable unit construction cost and percentage of required affordable housing per this By-law
5-9	10%	Fractional payment based on affordable unit construction cost and percentage of required affordable housing per this By-law
10+	12.5%	Fractional payment based on affordable unit construction cost and percentage of required affordable housing per this By-law

~~Where the calculation from Table 29.1 results in a fractional dwelling unit less than 0.5, the applicant may either provide an eligible dwelling unit or make a contribution to the Town of Danvers for affordable housing purposes in an amount sufficient to construct that fraction of an eligible dwelling unit, net of the dwelling unit's restricted resale price, as determined by the Planning Division. Where this calculation results in a fractional dwelling unit greater than 0.5, the applicant must provide an affordable dwelling unit to the Town of Danvers (Footnote 3)~~

Footnote 3 The calculations shown in the Table 29.1 were made using the following assumptions for a potential development within the applicable districts. The required percentage of affordable units for developments with 1 to 4 net new units is 0%. For developments adding 5 to 9 net new units the required percentage of affordable housing is 10%. For developments adding 10 or more net new units the required percentage of affordable housing is 12.5%. The proposed net new units are multiplied by the applicable percentage and results in the number of affordable units within a development. Where this number results in a fractional unit the developer will either round up the number of affordable units required if the fraction is greater than .5, or make a contribution to the Town of Danvers for affordable housing purposes in an amount sufficient to construct that fraction of an eligible dwelling unit, net of the dwelling unit's restricted resale price if the fraction is less than .5. The contribution required is based on the estimated cost to construct a new affordable dwelling unit in the region (\$465,000) net the dwelling unit's estimated, average restricted sales price (\$185,000) for the region. The pro forma breakdown of these costs can be found in the 2016 Housing Institute report authored by Edward H. Marchant, dated June 14, 2016. The mathematical breakdown for a scenario involving a 10-unit development is as follows: $10 \text{ Units} * 12.5\% = 1.25$ In this instance, the developer is required to provide one (1) SHI eligible unit and a payment of \$70,000 for the 0.25 fraction, or $0.25 * (\$465,000 - \$185,000) = \$70,000$.

~~Affordable units constructed under this provision shall be sold or rented to households with incomes at or below 80 percent for for sale housing and 60 percent for rental housing of the Median Regional Household Income (as determined by the U.S. Department of Housing and Urban Development (HUD) pursuant to the Housing Act of 1937, as amended and adjusted for family size), and shall be restricted to sales prices or monthly rents that are affordable to such households. The sales price or monthly rent shall, in all instances, be such that the dwelling unit qualifies as a local initiative unit under the Commonwealth's Local Initiative Program (LIP) and meets the requirements of a subsidized housing unit for the purposes of listing in the Town's subsidized housing inventory under G.L. c. 40B Sec. 20-23. For purposes of this By law, rental housing shall be deemed affordable if rents (including utilities or a HUD approved utility allowance if utilities are paid separately by tenants) do not exceed 30 percent of 50 percent of the gross monthly Median Regional Household Income for a family of four, adjusted for the bedroom size of the unit in accordance with the protocols accepted under Section 42 of the federal tax code. For sale housing shall be deemed affordable for purposes of this by law if it is priced so that monthly principal, interest, tax, and property insurance costs and condominium fees (if applicable) do not exceed 30 percent of 70 percent of gross monthly Median Regional Household Income for a family of four, adjusted for the bedroom size of the unit, using the best generally available mortgage terms and rates for such borrowers.~~

Determining the required affordable housing contribution is based on a graduated percentage. Projects creating between one and nine net new units require a 10% inclusionary contribution, while projects creating ten or more new units are held to a 12.5% inclusionary contribution.

When the application of the appropriate percentage results in a fraction less than 0.5, the applicant may either provide an eligible dwelling unit or make a fractional payment instead of providing the unit. Table 29.1 below shows how this works for projects ranging from one to twenty units.

Table 29.1 Example Inclusionary Affordable Housing Calculations

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>	<u>Column D</u>	<u>Column E</u>	<u>Column F</u>
<u>Net New Units</u>	<u>Inclusionary Percentage</u>	<u>Applied Inclusionary Percentage (Column A x B)</u>	<u>Required Affordable Units</u>	<u>Payment Fraction</u>	<u>Required Payment Column E x 280,000</u>
<u>1*</u>	<u>10.00%</u>	<u>0.10</u>	<u>0</u>	<u>0.10</u>	<u>\$28,000.00</u>
<u>2</u>	<u>10.00%</u>	<u>0.20</u>	<u>0</u>	<u>0.20</u>	<u>\$56,000.00</u>
<u>3</u>	<u>10.00%</u>	<u>0.30</u>	<u>0</u>	<u>0.30</u>	<u>\$84,000.00</u>
<u>4</u>	<u>10.00%</u>	<u>0.40</u>	<u>0</u>	<u>0.40</u>	<u>\$112,000.00</u>
<u>5</u>	<u>10.00%</u>	<u>0.50</u>	<u>1</u>	<u>-</u>	<u>\$0.00</u>
<u>6</u>	<u>10.00%</u>	<u>0.60</u>	<u>1</u>	<u>-</u>	<u>\$0.00</u>
<u>7</u>	<u>10.00%</u>	<u>0.70</u>	<u>1</u>	<u>-</u>	<u>\$0.00</u>
<u>8</u>	<u>10.00%</u>	<u>0.80</u>	<u>1</u>	<u>-</u>	<u>\$0.00</u>
<u>9</u>	<u>10.00%</u>	<u>0.90</u>	<u>1</u>	<u>-</u>	<u>\$0.00</u>
<u>10</u>	<u>12.50%</u>	<u>1.25</u>	<u>1</u>	<u>0.25</u>	<u>\$70,000.00</u>
<u>11</u>	<u>12.50%</u>	<u>1.38</u>	<u>1</u>	<u>0.38</u>	<u>\$105,000.00</u>
<u>12</u>	<u>12.50%</u>	<u>1.50</u>	<u>2</u>	<u>-</u>	<u>-</u>
<u>13</u>	<u>12.50%</u>	<u>1.63</u>	<u>2</u>	<u>-</u>	<u>-</u>
<u>14</u>	<u>12.50%</u>	<u>1.75</u>	<u>2</u>	<u>-</u>	<u>-</u>
<u>15</u>	<u>12.50%</u>	<u>1.88</u>	<u>2</u>	<u>-</u>	<u>-</u>
<u>16</u>	<u>12.50%</u>	<u>2.00</u>	<u>2</u>	<u>-</u>	<u>-</u>
<u>17</u>	<u>12.50%</u>	<u>2.13</u>	<u>2</u>	<u>0.13</u>	<u>\$35,000.00</u>
<u>18</u>	<u>12.50%</u>	<u>2.25</u>	<u>2</u>	<u>0.25</u>	<u>\$70,000.00</u>
<u>19</u>	<u>12.50%</u>	<u>2.38</u>	<u>2</u>	<u>0.38</u>	<u>\$105,000.00</u>
<u>20</u>	<u>12.50%</u>	<u>2.50</u>	<u>3</u>	<u>-</u>	<u>-</u>

* Existing, detached single-family homes adding a second unit are exempt from the fractional payment.

Determining the value of a payment is based on the estimated cost to construct a new affordable dwelling unit (\$465,000) minus the dwelling unit's estimated restricted sales price (\$185,000) multiplied by the payment fraction shown in column E. The pro forma breakdown of these costs can be found in the 2016 Housing Institute report by Edward H. Marchant, dated June 14, 2016.

4. Affordable Units on the Subsidized Housing Inventory

To qualify for inclusion on the Commonwealth's Subsidized Housing Inventory (SHI), affordable units created under this provision must:

- A. Affordable units constructed under this provision shall ~~B~~ be sold or rented to households with incomes at or below 80 percent for for-sale housing and 60 percent for rental housing of the Median Regional Household Income (as determined by the U.S. Department of Housing and Urban Development (HUD) pursuant to the Housing Act of 1937, as amended and adjusted for family size).
- B. ~~, and shall B~~ be restricted to sales prices or monthly rents that are affordable to such households. The sales price or monthly rent shall, in all instances, be such that the dwelling unit qualifies as a local initiative unit under the Commonwealth's Local Initiative Program (LIP) and meets the requirements of a subsidized housing unit for the purposes of listing in the Town's ~~S~~ubsidized ~~H~~ousing ~~I~~nventory (SHI) under M.G.L. c. 40B Sec. 20-23. For purposes of ~~Section 29~~ ~~this By law~~, rental housing shall be deemed affordable if rents (including utilities or a HUD-approved utility allowance if utilities are paid separately by tenants) do not exceed 30 percent of 50 percent of the gross monthly Median Regional Household Income for a family of four, adjusted for the bedroom size of the unit in accordance with the protocols accepted under Section 42 of the federal tax code. For-sale housing shall be deemed affordable for purposes of this ~~Section 29~~ ~~by law~~ if it is priced so that monthly principal, interest, tax, and property insurance costs and condominium fees (if applicable) do not exceed 30 percent of 70 percent of gross monthly Median Regional Household Income for a family of four, adjusted for the bedroom size of the unit, using the best generally available mortgage terms and rates for such borrowers.

5.4. Segmentation

A developer or property owner may not phase or segment a project or transfer ownership of contiguous properties to evade, defer or curtail ~~this Bylaw's~~ affordability or ~~p~~Payment-in-~~L~~ieu requirements. ~~of this regulation.~~ All circumstances ~~shall will~~ be considered as to whether various applications or activities, taken together, comprise a single development or independent undertakings, regardless of whether there is more than one developer or property owner, including any time interval(s) between the applications or activities. Additional ~~p~~Payment-in-~~L~~ieu requirements on segmented developments may be imposed ~~as are needed~~ to ensure ~~that, as a whole, a the~~ development makes the full payments warranted.

6.5. Off-site Location

With the approval of the Planning Board, ~~the is a~~ Affordable ~~h~~Housing ~~inclusionary~~ requirement may be met ~~by providing through the provision of~~ some or all of the required affordable units on an alternative site or sites suitable for housing use. Off-site units ~~must shall~~ be newly created, affordable units and at least equal in number to the affordable units

that would have been provided on-site. Affordable off-site units required by this section may be ~~located~~ in an existing structure and may replace any ~~of the~~ dwelling units ~~contained in the structure~~. Affordable units provided through this provision ~~shall~~ must comply, in all respects other than on-site location, with the requirements of this section, Section 29, and all other requirements of the zoning bylaw.

76. Continued Affordability Conditions of Approval

~~A.~~ Affordable housing units ~~developed created according to Section 29 pursuant to this by-law shall be are~~ subject to long-term use restrictions and, where applicable, resale restrictions, ~~in perpetuity~~ to ensure that they remain affordable to low- and moderate-income households in perpetuity. Such restrictions ~~shall~~ must be enforceable by the Town of Danvers, the Danvers Housing Authority (DHA), or by a housing related charitable corporation or trust designated by the Town of Danvers in accordance with Section 55C of Chapter 44 of the Massachusetts General Laws ~~and shall be executed~~ and recorded at the Essex County Registry of Deeds, Southern District. ~~It is the intent of T~~ this B ~~by-law~~ intends that affordable housing units be restricted, and that long-term affordability be enforced ~~so in such a manner~~ that affordable units are considered "low- and moderate-income housing" for purposes of Section 20 of Chapter 40B of the Massachusetts General Laws.

8. Comparability Between Market Rate and Affordable Units

~~B.~~ Affordable units ~~shall~~ must be dispersed throughout the site and ~~shall be~~ comparable to market-rate units except in size, interior finish, fixtures, and appliances. Affordable units ~~shall be are~~ deemed "comparable" only when the number of bedrooms is the same in both the market-rate and the affordable unit(s). Where the mix of units' bedrooms is of equal proportion in the market rate units (e.g. 50% two bedroom and 50% one-bedroom), the higher number shall be considered as required in the affordable unit mix (e.g., a two-bedroom unit would be required for the affordable unit). Where more than one affordable unit is required, the distribution of units by number of bedrooms ~~shall~~ must be in the same proportion for both market-rate and affordable units.

9C. Compliance

1) No permits, Site Plan approval, Special Permit, Variance relief, or findings ~~shall~~ may be issued without appropriate restrictions to ensure that this section's provisions ~~of this subsection~~ are ~~made~~ binding upon the applicant.

2) No ~~C~~ertificate of ~~O~~ccupancy (CO) shall be issued for any market-rate units in a development covered by ~~this subsection~~ Section 29 until all deed covenants and ~~for~~ other documents necessary to ensure compliance by the applicant with the requirements of ~~this subsection~~ Section 29 have been executed. A waiver to this requirement may be granted to allow the incremental release of ~~e~~Certificates of ~~e~~Occupancy (CO), provided that adequate provisions are in place to ensure that Section 29 ~~the provisions of this subsection~~ are ~~made~~ binding upon the applicant.

Section 30 Special Permits

Section 30.4

4. Conditions for Special Permits

~~Before granting a special permit, the Special Permit Granting Authority (SPGA) shall be satisfied that:~~

~~A. The municipal water and sewer systems shall not become overloaded by the proposed use.~~

~~B. The public streets shall not become overloaded by proposed use.~~

~~C. The value of other land and buildings will not be depreciated by the proposed use.~~

~~D. The specific site is an appropriate location for the use or structures.~~

~~E. The use developed will not adversely affect the neighborhood.~~

~~F. There will not be an undue nuisance or serious hazard to vehicles or pedestrians, and adequate and appropriate facilities will be provided to ensure the proper operation of the proposed use, structure and condition.~~

~~G. The proposed use or structure will be in harmony with the general purpose of this bylaw.~~

4. Required Findings for Issuance of Special Permits.

~~Special Permits may be granted by the Special Permit Granting Authority (SPGA), unless otherwise specified herein, only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts on the town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site. In addition to any specific factors that may be set forth in this Zoning Bylaw, the determination shall include consideration of each of the following:~~

~~1. Social, economic, or community needs which are served by the proposal;~~

~~2. Traffic flow and safety, including parking and loading;~~

~~3. Adequacy of utilities and other public services;~~

~~4. Compatibly with the size, scale, and design of other structures in the neighborhood and social structures;~~

~~5. Impacts on the natural environment; and~~

~~6. Potential fiscal impact, including impact on town services, tax base, and employment.~~

Section 31 Floodplain Overlay District

Section 31.2 District Boundaries

The District includes all special flood hazard areas within the Town of Danvers designated as Zone A, AE, AH, AO, A99, V, or VE on the Essex County Flood Insurance Rate Map (FIRM) dated July 19, 2018, issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP). The exact boundaries of the District shall be defined by the 1%-chance base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated July 19, 2018. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board, and [Building Commissioner Zoning Administrator](#).

Section 32 Hathorne West

32.5. Signage (Moved to Section 37.4.I)

~~The following signs shall be allowed in the Hathorne West District: A. A maximum of one (1) identifying sign shall be allowed for each lot. 1) Identifying signs may be placed on the building wall or may be a ground sign between the street and the building. 2) If the lot fronts on two (2) or more streets, one (1) sign facing each street shall be allowed, up to a maximum of two (2) signs per lot, provided both are ground signs. 3) The area of any wall sign shall not exceed thirty-two (32) square feet. A wall sign shall be attached directly to the face of the building, and may not project more than 200 twelve (12) inches from the wall to which it is attached. A sign shall not project beyond outside edge of wall(s). 4) The area of any ground sign shall not exceed thirty-two (32) square feet, and shall be set back a minimum of ten (10) feet from the street line. Maximum ground sign height is five (5) feet. 5) No sign, portion of a sign, or structural support for such sign may extend above the lowest point of the roofline of a building. B. Signs necessary to give clear directions to a parking lot or building entrance on the premises or lot are permitted. Such signs shall not exceed four (4) square feet in area, nor shall they stand more than four (4) feet high. No advertisement of the business/establishment is allowed for this type of signage. C. One memorial sign or tablet per building indicating the name of the building and/or date of erection, if not exceeding two feet by three feet (2' x 3') in size and if carved into or attached in such a way as to be an integral part of the building, and without separate illumination, shall be allowed. D. General Requirements 1) Any lighting of a sign shall be constant (non-blinking), stationary and installed in a manner that will prevent light from falling on any street or adjacent property. Lighting shall be directed solely at or be internal to the sign. 2) No sign shall be illuminated between the hours of 11 p.m. and 6 a.m. except signs on premises open for business and signs as provided for in Section 32.5.B 3) Signs shall not be designed, colored, or placed to create a hazardous condition for motor vehicle traffic. Illumination of signage shall conform to the lighting requirements of Section 4 of this by law, as most recently amended. 4) No animated, moving, or flashing signs shall be permitted on the building or in the building to be seen from the outside, on the lot or the adjacent lot.~~

~~Traditional holiday decorations and lights, when in season, are allowed. 5) Temporary real estate signs advertising rental, lease, or sale of the property, or part thereof, shall be allowed for each use for up to ninety (90) days by application to the Building Commissioner. Such signs shall be set back a minimum of ten (10) feet from the street line, shall be unlighted and shall not exceed twelve (12) square feet in area. Renewals of temporary real estate signs shall be allowed by application to the Building Commissioner. 6) No window signs or any other signage that is visible from the outside is allowed. 7) The Building Commissioner is authorized to order the repair or removal of any sign and its supporting structure that, in the judgment of the Building Commissioner, is dangerous or in disrepair or which is erected or maintained contrary to this by-law. Such repair or removal shall be the responsibility of the building owner, and must be completed within thirty (30) days of notification by the Building Commissioner. 201 Appeals from the Building Commissioner's order shall be held by the Zoning Board of Appeals. 8) Within one hundred and twenty (120) days of the closing of a business, all wording must be painted over or obliterated by the building owner.~~

8. Signage in the PDA

The signage regulations specified in Section ~~37.4.I 2.5~~ of this by-law apply to signage proposed within the PDA.

32.5. Signage (Moved to Section 37.4.I)

~~12. Signage Review for PDA The Planning Board shall conduct design review of the signage within the PDA. Below are the criteria the Planning Board shall use to review signage: A. The Planning Board shall review all signage to meet the minimal requirement of clear direction to the site and through the site. B. Signage shall be designed so as not to detract from the view shed of Route 1 and Maple Street. C. The Planning Board shall also consider the following criteria in its review of signage: 1) Sign scale is appropriate in relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures. 2) Sign size, shape and placement serves to define or enhance such architectural elements of the buildings as columns, sill lines, cornices and roof edges, and not to interrupt, obscure or hide them. 3) Sign design is not wholly discontinuous with other signage on the same or adjacent structures, providing continuity in mounting location and height, proportions, materials or other important qualities. 4) Sign materials, colors, lettering style and forms are compatible with building design and use. 5) Sign content does not overcrowd the background. 6) Sign legibility is not impaired by excessive complexity, multiple lettering styles or colors or other distracting elements. 13. Other Signage by Special Permit in Hathorne West A. The Zoning Board of Appeals may grant a Special Permit for the following other types of signage within the Hathorne West District: 1) One ground sign that does not need to meet the setback requirements and stating the name of the commercial, institutional or residential development (but not stating the name of any business establishment). This sign shall be located at the entrance to the lot or overall development area. This sign shall not exceed twenty (20) square feet; maximum sign height is five (5) feet. 2) One ground sign that does not need to meet the setback requirements for the purpose of a business directory at or near the entrance to the commercial, institutional or residential~~

development. This sign shall be no larger than one (1) square foot per tenant, with a maximum size of thirty two (32) square feet. Maximum sign height is five (5) feet. Sign shall be set back at least ten (10) feet from the roadway entrance and a maximum of thirty (30) feet. All occupants shall have the same size space on the directory for identification. 3) For each building within the district, one additional wall sign for each separate entrance facing a parking lot available for use by the public (and not fronting on a 207 street), located to designate the entrance. Such additional sign shall not exceed ten percent (10%) of the size of the identifying sign as provided in Section 32.5.A 4) For each building within the district, signs located at the entry door of specific tenants in a multi-tenant building (excluding fire exits), size not to exceed one foot by three feet (1' x 3'). 5) For multiple buildings on a lot, with a single tenant, a sign located at the main entrance, size not to exceed sixteen (16) square feet. B. Review and Criteria for Special Permits for signs: The Zoning Board of Appeals shall use the criteria set forth in Section 32.11 in their determination, as well as the criteria below: 1) The purpose of the sign is to facilitate public and private convenience and necessity; to provide direction and facilitate proper traffic flow; to alleviate congestion on public streets; to provide sufficient access to private lands and businesses; to minimize curb cuts to public streets; or to encourage utilization of fewer (or a single) curb cuts by more than one user. 2) In cases where access to a public street is pursuant to Massachusetts State Curb Cut, the Massachusetts Highway Department shall be consulted. 3) The Board of Appeals shall ensure that maintenance and expense of any such sign is not a public expense. 4) In determining the allowable dimensions, the Board of Appeals will consider, among other factors it deems relevant, the following: a) The number and size of buildings and lots to be served by the sign. b) The effect of the topography of the lot as it relates to the siting and visibility from the adjacent roadways. c) The effect of the topography of the lot as it relates to the siting and visibility from adjacent residential uses. d) The utility of the sign as it relates specifically to the purposes stated in paragraph a. above. 5) Any lighting of a sign shall be constant (non-blinking) stationary and illuminated only during business hours. 6) Signs shall not be designed, colored, or placed so as to create a hazardous condition for motor vehicle traffic. 7) No animated, moving, or flashing signs or "attention catching" devices shall be permitted. 8) Repair and Maintenance—The Building Commissioner is authorized to order the repair or removal of any sign and its supporting structure that, in the judgment of the Building Commissioner, is dangerous, or in disrepair, or which is erected or maintained contrary to this by law. Such repair or removal shall be the responsibility of the building owner, and must be completed within thirty (30) days of notification by the Building Commissioner. Appeals from the Building Commissioner's order shall be held by the Zoning Board of Appeals. 9) Within one hundred and twenty (120) days of the closing of a business, all wording must be painted over or obliterated by the applicant for the PDA special permit and/or the building owner.

Section 34 Congregate and Independent Housing for Elderly

34.6 (Moved to 37.4.J)

6. Signage Requirements

~~A maximum of two (2) signs for purposes of site identification may be erected in a congregate housing development. Signs may be a maximum of twenty (20) square feet in size and no more than six (6) feet in height. Each such sign shall be freestanding and constructed in proximity to the entrance and exit of the site and each may be illuminated by not more than one (1) nonblinking white light focused on the face(s) of each sign. Handicapped, no parking, fire zone, directional, and other similar signs of five (5) square feet in size or less shall not be subject to the provisions of this section.~~

Section 36

36.6

6. Signage Requirements

~~A maximum of one (1) sign for the purpose of site identification may be erected in an Assisted Living Residence. The sign shall be a maximum of thirty two (32) square feet in size and no more than six (6) feet in height. The sign shall be freestanding and may be illuminated by not more than two (2) non-blinking white lights focused on the face(s) of the sign. Said sign shall have a minimum front setback of twenty (20) feet. Handicapped, No Parking, Fire Zone, directional (part of approval process outlined in 36.6), and other similar signs of four (4) square feet in size or less shall not be subject to the provisions of this section.~~

Section 37: Sign Bylaw

2. Applicability

A. Signs in the Character Based Zoning Districts of the Town of Danvers are regulated by the Section 7.9 of the Zoning Regulations of the Planning Board adopted June 9, 2020, and as most recently amended. Signs in all other Zoning District are regulated by the Zoning Bylaw.

BA. Any sign to be erected, altered or enlarged shall be subject to this bylaw as follows:

1) Proposed Signs that are in compliance with all applicable provisions of this bylaw shall require a permit from the Building Commissioner.

2) Pre-existing signs that are non-conforming to the applicable provisions of this bylaw may not be enlarged or altered in any way other than for maintenance or to change the graphics, panels or colors, except to conform or conform to a greater degree to the requirements of this by-law, or through a M.G.L Chapter 40A, Section 6 finding from the Zoning Board of Appeals. This exemption shall terminate with respect to any sign which is not repaired within thirty (30) days of notice of required repairs, as given by the Building Commissioner.

3) When a proposed sign is part of an application for a Special Permit or Site Plan approval, the Special

Permit Granting Authority (SPGA) or the Planning Board, as may be applicable, may waive any provision of this Section 37, upon a finding that no substantial detriment shall result. For applications which do not otherwise require a Special Permit or Site Plan approval, the application for such waiver shall be made to the Planning Board. This waiver shall be available in all districts.

Section 37.4.C

C. Commercial I, ~~and Commercial IA, and Waterfront Village District~~

~~For property not located in the Downtown Improvement District:~~

37.4.G

G. Residential I, IA, II, IIA, III & IIIA

On a one to two-family residential property the following signs are permitted By Right:

A. Temporary real estate signs advertising the rental, lease or sale of the property of a size not to exceed six (6) square feet and limited to one sign facing each street;

B. A two (2) square foot sign, including only the name of the occupants, the number of the dwelling unit and the street which the dwelling unit is on. Any lighting shall be constant, installed in a manner that will prevent light from falling on any street or adjacent property and may not be internally illuminated. Signs shall not be designed, colored, or placed so as to create a hazardous condition for motor vehicle traffic.

C. A minor home occupation may have a two (2) square foot sign attached to the dwelling structure. Window signs and signs visible from the exterior of a window are prohibited. Signs shall not be internally lighted. Signs shall be illuminated during hours of operation only.

The Zoning Board of Appeals (ZBA) may issue a Special Permit for signage in connection with any multi-family or non-residential use (not including exempt uses), and major home occupation in accordance with the following standards:

- 1) One (1) sign, not to exceed twenty (20) sq. ft. with a maximum height of six (6) feet and a minimum setback of ten (10) ft.
- 2) specifically for multi-family units, a two (2) sq. ft. sign for each building, including only the name of the building and its number.

3) A major home occupation may be permitted a two (2) square foot free-standing sign, placed at least ten (10) feet from the front lot line and shall not exceed four (4) feet in height. Window signs and signs visible from the exterior of a window are prohibited. Signs shall not be internally lighted. Signs shall be illuminated during hours of operation only.

37.4.H

H. Waterfront Village District (WVD)

The design of signs should reflect the scale and character of the structure or site. Signs should simply and clearly identify individual establishments, buildings, locations and uses, while remaining subordinate to the architecture and larger streetscape. The choice of materials, color, size, method of illumination and character of symbolic representation on signs should be compatible with the architectural or landscape design style of the structure or site.

1) Freestanding ground signs shall not exceed fifteen (15) feet in height, or forty-two (42) square feet in area and shall be set back a minimum of ten (10) feet.

2) One (1) attached wall sign is permitted for each exterior wall of a building or establishment, which faces a public way or contains a public entrance. The wall sign shall be attached directly to the face of the building, and may not project more than twelve (12) inches from the wall to which it is attached and may not exceed in total area one (1) square foot for each linear foot of exterior wall to which it is attached, and in no case may exceed twenty (20) square feet.

3) For buildings with two (2) or more businesses using a common entrance, each business is allowed one (1) attached sign, but the total sign area may not exceed one (1) square foot per linear foot of exterior wall.

4) One (1) awning sign is permitted for each display window of a business, with sign lettering not to exceed twenty percent (20%) of each awning area.

5) Permanent window signs, including lettering, are permitted, not to exceed twenty percent (20%) of the window area.

6) No signs shall be placed on the roof of any building, and no wall sign shall project above the roofline of the building, except if a front fascia extends above the roofline, then a sign may be placed on that fascia. However, said sign may not extend above the fascia.

7) In situations where more than one (1) structure or more than one (1) business in a structure exists on a lot, such as with office and industrial parks, shopping centers and multi-tenant buildings, one (1) freestanding ground sign in conformance with Section 37.4.C.1 shall be allowed at the entrance to the lot 229 and one (1) attached wall sign in accordance with Section 37.4.C.(2) and (3) shall be allowed for each business or tenant, provided that

the total sign area does not exceed ten percent (10%) of the façade or wall area of the leased area per tenant as defined from lease line to lease line.

37.4.I

I. Hathorne West District

The following signs shall be allowed in the Hathorne West District:

A. A maximum of one (1) identifying sign shall be allowed for each lot.

1) Identifying signs may be placed on the building wall or may be a ground sign between the street and the building.

2) If the lot fronts on two (2) or more streets, one (1) sign facing each street shall be allowed, up to a maximum of two (2) signs per lot, provided both are ground signs.

3) The area of any wall sign shall not exceed thirty-two (32) square feet. A wall sign shall be attached directly to the face of the building, and may not project more than 200 twelve (12) inches from the wall to which it is attached. A sign shall not project beyond outside edge of wall(s).

4) The area of any ground sign shall not exceed thirty-two (32) square feet, and shall be set back a minimum of ten (10) feet from the street line. Maximum ground sign height is five (5) feet.

5) No sign, portion of a sign, or structural support for such sign may extend above the lowest point of the roofline of a building.

B. Signs necessary to give clear directions to a parking lot or building entrance on the premises or lot are permitted. Such signs shall not exceed four (4) square feet in area, nor shall they stand more than four (4) feet high. No advertisement of the business/establishment is allowed for this type of signage.

C. One memorial sign or tablet per building indicating the name of the building and/or date of erection, if not exceeding two feet by three feet (2' x 3') in size and if carved into or attached in such a way as to be an integral part of the building, and without separate illumination, shall be allowed.

D. General Requirements

1) Any lighting of a sign shall be constant (non-blinking), stationary and installed in a manner that will prevent light from falling on any street or adjacent property. Lighting shall be directed solely at or be internal to the sign.

2) No sign shall be illuminated between the hours of 11 p.m. and 6 a.m. except signs on premises open for business and signs as provided for in Section 32.5.B

3) Signs shall not be designed, colored, or placed to create a hazardous condition for motor vehicle traffic. Illumination of signage shall conform to the lighting requirements of Section 4 of this by-law, as most recently amended.

4) No animated, moving, or flashing signs shall be permitted on the building or in the building to be seen from the outside, on the lot or the adjacent lot. Traditional holiday decorations and lights, when in season, are allowed.

5) Temporary real estate signs advertising rental, lease, or sale of the property, or part thereof, shall be allowed for each use for up to ninety (90) days by application to the Building Commissioner. Such signs shall be set back a minimum of ten (10) feet from the street line, shall be unlighted and shall not exceed twelve (12) square feet in area. Renewals of temporary real estate signs shall be allowed by application to the Building Commissioner.

6) No window signs or any other signage that is visible from the outside is allowed.

7) The Building Commissioner is authorized to order the repair or removal of any sign and its supporting structure that, in the judgment of the Building Commissioner, is dangerous or in disrepair or which is erected or maintained contrary to this by-law. Such repair or removal shall be the responsibility of the building owner, and must be completed within thirty (30) days of notification by the Building Commissioner. Appeals from the Building Commissioner's order shall be held by the Zoning Board of Appeals.

8) Within one hundred and twenty (120) days of the closing of a business, all wording must be painted over or obliterated by the building owner.

E. Signage Review for PDA

The Planning Board shall conduct design review of the signage within the PDA. Below are the criteria the Planning Board shall use to review signage:

A. The Planning Board shall review all signage to meet the minimal requirement of clear direction to the site and through the site.

B. Signage shall be designed so as not to detract from the view shed of Route 1 and Maple Street.

C. The Planning Board shall also consider the following criteria in its review of signage:

1) Sign scale is appropriate in relation to development scale, viewer distance and travel speed, and sign sizes on nearby structures.

2) Sign size, shape and placement serves to define or enhance such architectural elements of the buildings as columns, sill lines, cornices and roof edges, and not to interrupt, obscure or hide them.

3) Sign design is not wholly discontinuous with other signage on the same or adjacent structures, providing continuity in mounting location and height, proportions, materials or other important qualities.

4) Sign materials, colors, lettering style and forms are compatible with building design and use.

5) Sign content does not overcrowd the background.

6) Sign legibility is not impaired by excessive complexity, multiple lettering styles or colors or other distracting elements.

F. Other Signage by Special Permit in Hathorne West

A. The Zoning Board of Appeals may grant a Special Permit for the following other types of signage within the Hathorne West District:

1) One ground sign that does not need to meet the setback requirements and stating the name of the commercial, institutional or residential development (but not stating the name of any business establishment). This sign shall be located at the entrance to the lot or overall development area. This sign shall not exceed twenty (20) square feet; maximum sign height is five (5) feet.

2) One ground sign that does not need to meet the setback requirements for the purpose of a business directory at or near the entrance to the commercial, institutional or residential development. This sign shall be no larger than one (1) square foot per tenant, with a maximum size of thirty-two (32) square feet. Maximum sign height is five (5) feet. Sign shall be set back at least ten (10) feet from the roadway entrance and a maximum of thirty (30) feet. All occupants shall have the same size space on the directory for identification.

3) For each building within the district, one additional wall sign for each separate entrance facing a parking lot available for use by the public (and not fronting on a 207 street), located to designate the entrance. Such additional sign shall not exceed ten percent (10%) of the size of the identifying sign as provided in Section 32.5.A

4) For each building within the district, signs located at the entry door of specific tenants in a multi-tenant building (excluding fire exits), size not to exceed one foot by three feet (1' x 3').

5) For multiple buildings on a lot, with a single tenant, a sign located at the main entrance, size not to exceed sixteen (16) square feet.

B. Review and Criteria for Special Permits for signs:

The Zoning Board of Appeals shall use the criteria set forth in Section 32.11 in their determination, as well as the criteria below:

1) The purpose of the sign is to facilitate public and private convenience and necessity; to provide direction and facilitate proper traffic flow; to alleviate congestion on public streets; to provide sufficient access to private lands and businesses; to minimize curb cuts to public streets; or to encourage utilization of fewer (or a single) curb cuts by more than one user.

2) In cases where access to a public street is pursuant to Massachusetts State Curb Cut, the Massachusetts Highway Department shall be consulted.

3) The Board of Appeals shall ensure that maintenance and expense of any such sign is not a public expense.

4) In determining the allowable dimensions, the Board of Appeals will consider, among other factors it deems relevant, the following: a) The number and size of buildings and lots to be served by the sign. b) The effect of the topography of the lot as it relates to the siting and visibility from the adjacent roadways. c) The effect of the topography of the lot as it relates to the siting and visibility from adjacent residential uses. d) The utility of the sign as it relates specifically to the purposes stated in paragraph a. above.

5) Any lighting of a sign shall be constant (non-blinking) stationary and illuminated only during business hours.

6) Signs shall not be designed, colored, or placed so as to create a hazardous condition for motor vehicle traffic.

7) No animated, moving, or flashing signs or "attention catching" devices shall be permitted.

8) Repair and Maintenance - The Building Commissioner is authorized to order the repair or removal of any sign and its supporting structure that, in the judgment of the Building Commissioner, is dangerous, or in disrepair, or which is erected or maintained contrary to this by-law. Such repair or removal shall be the responsibility of the building owner, and must be completed within thirty (30) days of notification by the Building Commissioner. Appeals from the Building Commissioner's order shall be held by the Zoning Board of Appeals.

9) Within one hundred and twenty (120) days of the closing of a business, all wording must be painted over or obliterated by the applicant for the PDA special permit and/or the building owner.

37.4.J Congregate and Independent Housing for Elderly

A maximum of two (2) signs for purposes of site identification may be erected in a congregate housing development. Signs may be a maximum of twenty (20) square feet in size and no more than six (6) feet in height. Each such sign shall be freestanding and constructed in proximity to the entrance and exit of the site and each may be illuminated by not more than one (1) nonblinking white light focused on the face(s) of each sign. Handicapped, no parking, fire zone, directional, and other similar signs of five (5) square feet in size or less shall not be subject to the provisions of this section.

37.4.K Assisted Living Residences

A maximum of one (1) sign for the purpose of site identification may be erected in an Assisted Living Residence. The sign shall be a maximum of thirty-two (32) square feet in size and no more than six (6) feet in height. The sign shall be freestanding and may be

illuminated by not more than two (2) non-blinking white lights focused on the face(s) of the sign. Said sign shall have a minimum front setback of twenty (20) feet. Handicapped, No Parking, Fire Zone, directional (part of approval process outlined in 36.6), and other similar signs of four (4) square feet in size or less shall not be subject to the provisions of this section.

6. Permitted Signs

B. Temporary Signs: Within any non-residential zoning district, contractor (at construction site while work is in progress) and temporary real estate signs advertising rental, lease, or sale of the property, or part thereof, shall be allowed for each use for up to ninety (90) days by application to the Building Commissioner. Such signs shall be setback a minimum of ten (10) feet from the street line and shall not exceed thirty-two (32) square feet in the aggregate. Renewals of temporary real estate signs shall be allowed by application to the Building Inspector.

~~Within any non-residential zoning district, a temporary sign or signs advertising the opening of a new business shall be allowed for up to ten (10) days by application to the Building Commissioner along with provision of surety in the amount of not less than \$500. Release of the surety will be granted by the 233 Building Commissioner upon receipt of satisfactory evidence that the temporary sign was permanently removed within the ten (10) day window. Failure to remove the sign at the end of this period shall result in loss of surety and is subject to subsequent enforcement activity for violation of the Sign Bylaw. Such signs shall be setback a minimum of ten (10) feet from the street line and shall not exceed sixty (60) square feet in the aggregate.~~

Within any non-residential zoning district, a temporary sign or signs advertising a new business shall be allowed for up to forty-five (45) days. Such signs shall not exceed the maximum square footage, comply with setbacks and other requirements allowed for a permanent sign in the zoning district where the property is located. These temporary signs shall be subject to all permitting and fee requirements for a permanent sign in the zoning district where the property is located.

Section 40 Definitions

Administering Agency or Monitoring Agent: The local housing authority or other qualified housing entity designated by the PAA, pursuant to Section 22.8, to review and implement the Affordability Requirements affecting projects under Section ~~29.18.12~~

Table 2 (Dimensional Table)

- Accessory Uses height in R I, R II, and R III should be changed from 10 feet to 20 feet

- Modify footnote 3 to remove “or” and replace with “and” Standard sheds are 10 x 12 (120) so it should say more than 120.