

Town of Rowley

Massachusetts

Rowley Protective Zoning Bylaw

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TABLE OF CONTENTS

DIMENSIONAL REQUIREMENTS TABLE,	
ZONING MAP.....	i -ii
1.0 PURPOSE AND APPLICATION	1
2.0 DEFINITIONS	2
3.0 DISTRICTS	6
3.1 ESTABLISHMENT OF DISTRICTS	6
3.2 DETERMINATION OF DISTRICT BOUNDARY LINES	6
4.0 USE REGULATIONS	8
4.1 APPLICATION OF USE REGULATIONS	8
4.2 CENTRAL DISTRICT	8
4.3 RESIDENTIAL DISTRICT	9
4.4 OUTLYING DISTRICT	10
4.4 COASTAL CONSERVATION DISTRICT.....	13
4.6 RETAIL DISTRICT.....	10
4.7 BUSINESS/LIGHT INDUSTRY DISTRICT.....	13
4.8 USES PERMITTED IN ALL DISTRICTS	15
4.9 USES EXCLUDED IN ALL DISTRICTS.....	15
4.10 FLOODPLAIN DISTRICT	
4.11 MUNICIPAL WATER SUPPLY PROTECTION DISTRICT	16
4.12 FLEA MARKET/ANTIQUE STORE OVERLAY DISTRICT (FMASOD)	25
4.13 MARIJUANA NOT MEDICALLY PRESCRIBED.....	26
4.14 RETAIL VILLAGE OVERLAY DISTRICT (RVOD).....	26
5.0 NON-CONFORMING USES AND STRUCTURES	30
5.1 DISCONTINUANCE	30
5.2 EXPANSION OR CHANGE.....	30
5.3 EFFECT OF ZONING CHANGE	331
5.4 CHANGES TO NON-CONFORMING SINGLE AND TWO-FAMILY RESIDENTIAL STRUCTURES	31
6.0 INTENSITY OF LAND USE.....	34
6.1 SINGLE FAMILY AND NON-RESIDENTIAL USES.....	354
6.2 MULTI-FAMILY DWELLINGS.....	387
6.3 CONVERSION OF EXISTING BUILDINGS.....	40
6.4 OPEN SPACE RESIDENTIAL DEVELOPMENT	41
6.5 GENERAL REQUIREMENTS	47
6.6 ACCESSORY IN-LAW APARTMENTS	48
6.7 NEW ENGLAND VILLAGE DEVELOPMENT	49
7.0 ADMINISTRATION.....	52
7.1 BOARD OF APPEALS	52
7.2 BOARD OF HEALTH APPROVAL	52
7.3 ENFORCEMENT.....	52
7.4 DELETED	52
7.5 AMENDMENT	52
7.6 SITE PLAN REVIEW	53
7.7 PENALTY	55

7.8	SPECIAL PERMITS.....	56
7.9	ADULT ENTERTAINMENT & ESTABLISHMENTS.....	58
8.0	SPECIAL REQUIREMENTS	60
8.1	SOIL SUITABILITY	60
	(THIS SECTION REPEALED AT MAY 2010 SPECIAL TOWN MEETING, ARTICLE 17)	
8.2	HAZARDOUS MATERIALS	60
8.3	EARTH REMOVAL	60
8.4	SIGNS.....	60
8.5	NEW SINGLE FAMILY DWELLING LIMITATION	62
	(THIS SECTION REPEALED AT APRIL 30, 2012 SPECIAL TOWN MEETING, ARTICLE 16)	
8.6	OUTDOOR ILLUMINATION STANDARDS, INCLUDING STANDARDS FOR ILLUMINATED SIGNS	62
8.7	PERSONAL WIRELESS SERVICE FACILITIES.....	66
8.8	DRIVEWAYS AND COMMON DRIVEWAYS	73
8.9	Large-scale Solar Photovoltaic Installations.....	75
	ZONING AMENDMENTS.....	76

1.0 PURPOSE AND APPLICATION

- 1.1** This Bylaw is adopted pursuant to, and is intended to achieve the objectives of, Chapter 40A of the Massachusetts General Laws ("M.G.L."). Except as provided by Chapter 40A, all structures constructed, reconstructed, altered, or moved, and all uses of land or structures in the Town of Rowley, shall comply with the provisions of this Bylaw.
- 1.2** The invalidity of any provision of this Bylaw shall not be construed to invalidate any other provision.

2.0 DEFINITIONS

Abandonment: The discontinuation of a nonconforming use or building, or the removal of the characteristic equipment or furnishings used in the performance of the nonconforming use, without its replacement by similar equipment or furnishings, or the replacement of the nonconforming use or building with a conforming use or building.

Agriculture: Shall include farming in all of its branches and the cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural, aquacultural, floricultural or horticultural commodities, the growing and harvesting of forest products upon forest land, raising of livestock including horses, the keeping of horses as a commercial enterprise, the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes, bees, fur-bearing animals, and any forestry or lumbering operations, performed by a farmer, who is hereby defined as one engaged in agriculture or farming as herein defined, or on a farm as an incident to or in conjunction with such farming operations, including preparations for market, delivery to storage or to market or to carriers for transportation to market.

Alteration: Any external construction, reconstruction, or other action resulting in a change in the structural parts of height, number of stories or exits, size, or location of a structure.

Apartment : A dwelling unit which occupies part of a building, and which has its own kitchen sink, toilet, shower or bathtub, and cooking facilities.

Aquifer: A geologic formation composed of rock, sand, or gravel that contains significant amounts of recoverable water.

Bedroom: A room providing privacy, intended for sleeping, and containing at least one window, floor space of seventy (70) or more square feet, and electrical service. Living rooms, dining rooms, kitchens, halls, bathrooms, unfinished cellars, unheated storage areas over garages, and open lofts without windows are not considered bedrooms.

Buildable Area: The portion of a lot that is composed of ground dry and permeable enough to permit construction of a dwelling and the installation of sewage disposal facilities.

Conservation Areas, Primary: Areas consisting of wetlands, riverfront areas, or floodplains protected by the Wetlands Protection Act, M.G.L., Ch. 131, § 40, land included within the Floodplain and Watershed Protection District, or land protected by a restrictive order under M.G.L., Ch. 130, § 105.

Conservation Areas, Secondary: Areas consisting of unprotected elements of the natural landscape (e.g., steep slopes, woodlands, farmland, meadows, and wildlife habitats), and cultural features (e.g., historic or archeological sites, scenic viewpoints).

Disposal: The deposit, leaking, dumping, or incineration of any material into or on any land or water body so that such material, or any constituent thereof, may enter the environment, be emitted into the air, or discharged into any waters or groundwaters.

Driveway: A way that provides vehicular access from a street to a garage or parking area located on a lot .

Driveway, Common: A driveway that serves more than one lot . Any extension of a common driveway that provides vehicular access to only one of the lots served by the common driveway shall not be considered as part of a common driveway .

Dwelling, Multi-Family : A building designed for, or containing, two (2) or more dwelling units.

Dwelling, Single-Family: A building designed for, or containing, a single dwelling unit that is substantially separated by open space from any other structure except accessory structures.

Dwelling, Townhouse: A building designed for, or containing, two (2) or more dwelling units separated by one (1) or more common walls, but with no common spaces within the building, and no portion of any unit above or below any portion of another unit.

Dwelling Unit: A room or group of rooms intended for habitation by a single family or household.

Dwelling Unit, Affordable: A dwelling unit that (1) is permanently restricted to occupancy by persons who qualify as low or moderate income, as those terms are defined for the area by the Commonwealth's Department of Housing and Community Development ("DHCD"), and that (2) meets the minimum criteria for inclusion into the Subsidized Housing Inventory maintained under M.G.L., Ch. 40B, § 21.

Dwelling Unit, Market Rate : A dwelling unit that does not qualify as an affordable dwelling unit .

Filling: The deposit or redistribution of earth, gravel, or similar materials on any land or wetland, or in any watercourse.

Filling Station: A building whose primary activity is the selling of gasoline, oil, and related products for motor vehicles, or limited auto repair.

Flea market: a temporary or transient business operated on a site, that involves the use of land, structures or buildings for the sale of goods, including arts and crafts, usually second hand or cut-rate, by individuals or groups licensed or otherwise authorized to use the portion of the land, structures or buildings from which they sell such goods.

Floor Areas: The gross area of all floors within a building, or all floors within a section or sections of a building devoted to a particular use or establishment, excluding basements and attics not designed for human occupancy.

Formula Fast Food Restaurant: A restaurant, required by contractual or other arrangements to offer standardized menus, ingredients, food preparation, decor, external facade, or uniforms, and which primarily sells on-premise prepared, ready-to-consume meals through window, drive-through, or over-the-counter service, or combination of such services.

Frontage: The continuous distance, unencumbered by easements or otherwise, measured between the side lot lines at the street line on a way that qualifies for frontage under M.G.L., Ch. 41, § 81 L (for the purposes of this definition, a common driveway shall not be considered to be an easement or other form of encumbrance).

Full cut-off fixture design (fully shielded): A luminaire which is designed, constructed, and installed so that no light is emitted at an angle above the horizontal plane through the lowest light emitting part (including refractors, reflectors, or other devices) of the luminaire.

Glare: A level of illumination from a property with a commercial or multifamily use which projects directly into the public right-of-way, or projects directly onto an abutting property with a residential use, which impairs or interferes with visual performance, or results in a nuisance.

Groundwater: All water beneath the surface of the ground.

Historic Building: A building which is listed in the National Register of Historic Places and/or the Inventory of Historic Assets of the Commonwealth of Massachusetts, or a building filed with the Massachusetts State Historical Commission.

Home Occupation: An occupation that is customarily carried on entirely within a dwelling unit by the residents of the unit, and which in no way changes the character of the building.

Hotel, Motel , or Inn: A building or portion of a building intended for transient occupancy by five (5) or more persons, and in which major provision for cooking may be made in a central kitchen, but not in individual rooms or suites.

Impervious Surfaces: Material or structure on, above, or below the ground that does not allow water to penetrate into the soil.

Leachable Wastes: Waste materials, including sewage and sludge, that are capable of releasing water borne contaminants into the surrounding environment.

Light Trespass: Illumination from a luminaire on a property with a commercial or multifamily use where the light is emitted, without shielding, filtering, or refraction, pointed directly skyward, or pointed directly into the space beyond the luminaire and which goes beyond the parcel lot lines on which the luminaire is located, to abutting parcels with a residential use or into the public right-of-way.

Loading Space: An off-street space used for loading or unloading.

Lot , Reduced Frontage : A lot that does not satisfy the applicable frontage requirement established by section 6.1.1.1.

Lot Width: The shortest distance between the side lot lines of a lot, as measured between the street line and the proposed building site.

Lumen: The basic unit of measurement for light at its source. For the purposes of this bylaw, the lumen output shall be the initial lumen rating listed by the bulb manufacturer's specification data sheet at the rated voltage and power (watts).

Luminaire: A complete lighting unit or fixture, consisting of a lamp or lamps, ballast (when applicable), and any part designed to distribute the light, position the unit, protect the lamps (housing), and connect lamps to the power supply.

Independent marijuana testing laboratory: a laboratory that is licensed by the Massachusetts Cannabis Control Commission and is qualified to test marijuana in compliance with regulations promulgated by the said commission.

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

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

Marijuana product manufacturer: an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments, but not to consumers.

Marijuana products: products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Marijuana retailer: an entity licensed to purchase and deliver marijuana and marijuana products from marijuana establishments and to deliver, sell or otherwise transfer marijuana and marijuana products to marijuana establishments and to consumers.

Mining: The removal or relocation of geologic materials such as topsoil, sand, gravel, metallic ores, or bedrock.

Nonconforming Structure or Use: Any structure or use that complied with the Bylaw when it was commenced or built, but which does not currently comply with the Bylaw, and which may lawfully be continued, despite such noncompliance, pursuant to M.G.L., Ch. 40A, § 6.

Recharge: The drainage of water from any source, on or beneath the surface of the ground, into an aquifer.

Recharge Areas: Areas that collect precipitation or surface water and transmit it to aquifers.

Registered Marijuana Dispensary (“RMD”): a not-for-profit entity registered by the Massachusetts Department of Public Health under 105 C.M.R. 725.100 that acquires, cultivates, possesses, processes (including development of related products, such as edible marijuana-infused products, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies or educational materials to registered qualifying patients or their personal caregivers. Unless otherwise specified, RMD refers to the site(s) of dispensing, cultivation, and preparation of marijuana.

Retail Sales Establishments: Stores or similar business establishments that are primarily engaged in selling goods, wares, or merchandise on a retail basis.

Retail Sales Establishments, Large: Retail sales establishments that utilize forty thousand (40,000) or more square feet of floor area.

Retail Sales Establishments, Medium: Retail sales establishments that utilize five thousand (5,000) or more, but less than forty thousand (40,000), square feet of floor area.

Retail Sales Establishments, Small: Retail sales establishments that utilize less than five thousand (5,000) square feet of floor area.

Solar Photovoltaic Installation, Large-Scale: A solar photovoltaic system with an output of 100kW or more.

Solid Wastes : Unwanted or discarded materials with insufficient liquid content to be free-flowing, including rubbish, scrap materials, junk, and other refuse.

Storage Trailer for Permanent Use: A trailer that is used to store goods and materials for more than twelve (12) months.

Storage Trailer for Temporary Use: A trailer that is used to store goods or materials for a limited period of time (e.g., during a construction project or following a fire or other calamity), not to exceed twelve (12) months.

Structure: A combination of materials assembled at a fixed location to give support or shelter, such as a building, bridge, trestle, tower, retaining wall, swimming pool, tank, tunnel, tent, tennis court, bin, fence or sign .

Subdivision of Land: A division of a tract of land that constitutes a “subdivision” under M.G.L., Ch. 41, 81L.

Subdivision Rules: The Rules and Regulations Governing the Subdivision of Land in Rowley, promulgated by the Rowley Planning Board .

Toxic or Hazardous Materials: Any substance or mixture of physical, chemical, or infectious characteristics posing a significant hazard to water supplies or to human health if such substances or mixtures are discharged to land or water. Toxic or hazardous materials include synthetic organic chemicals, petroleum products, heavy metals, radioactive or infectious wastes, acids and alkalis, all substances defined as toxic or hazardous under M.G.L., Ch. 21C and 21E, and 310 C.M.R. 30.00, and such products as solvents and thinners in quantities greater than those associated with normal household use.

Use, Accessory: A use which is customary, incidental, and subordinate to the principal use of a structure or lot .

Use, Principal: The main purpose for which a structure or lot is used.

Watershed or Drainage Basin: A land area bounded by a ridgeline of high elevation from which surface run-off and groundwater flow downgradient into streams, ponds, wetlands, and aquifers.

3.0 DISTRICTS

3.1 Establishment of Districts

3.1.1 The Town of Rowley is divided into the following zoning districts: the Central District, the Residential District, the Outlying District, the Coastal Conservation District, the Retail District, and the Business/Light Industry District. In addition, the following overlay zoning districts have been established: the Municipal Water Supply Protection District, the Floodplain District, Flea Market/Antique Store Overlay District (FMASOD), and the Rowley Village Overlay District(RVOD).

3.1.2 The districts established by this Bylaw are located as shown on a map entitled “Zoning District Map of the Town of Rowley”, dated November 2, 1983, signed by the Planning Board and filed with the Town Clerk. Such map, together with all explanatory matters thereon, and amendments thereto, is incorporated and made a part of this Bylaw.

3.2 Determination of District Boundary Lines

3.2.1 District boundary lines shall be determined as follows:

- (a)** Where a district boundary line is shown on the zoning district map within the street lines of a public or private way, or within utility transmission lines, the center line of such way or transmission lines shall be considered the district boundary line, unless otherwise indicated.
- (b)** Boundary lines shown outside of, but approximately parallel to, street or transmission lines, shall be regarded as parallel to such lines, and such dimensions shown in figures placed upon the map between such boundary lines and street or transmission lines are the distances in feet of such boundary lines from such lines, such distances being measured at right angles to such lines, unless otherwise indicated.
- (c)** Where a boundary line is shown approximately on a lot line, and the exact location of the lot or boundary line is not indicated by means of dimensions shown in figures, the lot line shall be the boundary line.
- (d)** Where a boundary line is shown along the boundary of a brook or stream, or in a brook or stream, the center line of such brook or stream shall be the boundary line. Where a boundary line is along or in a body of water, the highwater mark shall be the boundary line.
- (e)** Contour lines used as boundary lines are the elevation above the datum sea level as indicated by the U.S. Coast and Geodetic maps of Rowley, on file with the Planning Board and the Town Clerk.

- (f)** In all situations not addressed above, boundary lines shall be determined by the distance in feet, if given, from other lines on the map, or by the use of identification shown on the map, or by the scale of the map.

4.0 USE REGULATIONS

4.1 Application of Use Regulations

4.1.1 Except as provided by M.G.L., Ch. 40A, or by other sections of this Bylaw, a structure or lot may be used only for the purposes permitted in the applicable zoning district as described in this section. Any use not described in this section shall be deemed to be prohibited.

4.2 Central District

4.2.1 The Central District is intended to encompass the historic village area of the Town and to provide for business, semi-public, and government uses normally found in a town center.

4.2.2 The following principal uses are permitted in the Central District .

- (a)** Single family dwellings.
- (b)** Multi-family dwellings subject to the provisions of section 6.2 ("Multi-Family") and section 6.7 ("New England Village Development").
- (c)** Conversion of buildings to accommodate more than one (1) dwelling unit subject to the provisions of section 6.3 ("Conversion of Existing Buildings").
- (d)** Townhouse dwellings subject to the provisions of section 6.4 ("Open Space Residential Development").
- (e)** Accessory in-law apartments subject to the provisions of section 6.6 ("Accessory In-Law Apartments").

4.2.3 The following principal uses are permitted in the Central District, provided a site plan is approved by the Planning Board, and except for those uses that also require a special permit, as provided in sections 4.2.4 and 4.2.5.

- (a)** Small retail sales establishments, but excluding sales of motor vehicles, and provided further that the square footage of all outdoor retail display areas utilized by such an establishment shall not exceed the lesser of ten percent (10%) of the square footage of the indoor retail space utilized by the establishment or five thousand (5,000) square feet.
- (b)** Consumer service establishments, but excluding filling stations and establishments for the service, storage, and repair of motor vehicles.
- (c)** Professional and business offices and services.
- (d)** Medical and dentistry clinics.
- (e)** Banks and credit unions without drive-through facilities.

- (f)** Historical, philanthropic, or charitable associations.
- (g)** Restaurants (other than formula fast food restaurants) without live entertainment.
- (h)** Museums and libraries.
- (i)** Antique and handicraft shops.
- (j)** Funeral establishments.

4.2.4 The following principal uses are permitted in the Central District , provided a special permit is approved by the Planning Board.

- (a)** Any development under section 4.2.3, whether or not developed in phases, that would create more than five thousand (5,000) square feet of floor area, or more than fifteen (15) off-street parking spaces, or that would include accessory buildings, enclosed accessory uses, or off-street loading areas.
- (b)** Research laboratories and facilities.

4.2.5 The following principal uses are permitted in the Central District , provided a site plan is approved by the Planning Board , and a special permit is approved by the Board of Selectmen .

- (a)** Filling stations, and establishments for the sale, storage, service, and repair of motor vehicles .
- (b)** Overnight lodging, including hotels, motels, and inns.

4.3 Residential District

4.3.1 The Residential District is intended to encompass the more established, residential areas surrounding the town center.

4.3.2 The following principal uses are permitted in the Residential District.

- (a)** Single family dwellings.
- (b)** Multi-family dwellings subject to the provisions of section 6.2 (“Multi-Family”), excluding multi-family dwellings approved under section 6.7.
- (c)** Conversion of buildings to accommodate more than one (1) dwelling unit subject to the provisions of section 6.3 (“Conversion of Existing Buildings”).
- (d)** Townhouse dwellings subject to the provisions of section 6.4 (“Open Space Residential Development”).

- (e) Accessory in-law apartments subject to the provisions of section 6.6 (“Accessory In-Law Apartments”).

4.4 Outlying District

4.4.1 The Outlying District is intended as an area of low density residence, recreation, conservation, agriculture, and similar uses compatible with a rural area.

4.4.2 The following principal uses are permitted in the Outlying District.

- (a) Single family dwellings.
- (b) Conversion of buildings to accommodate more than one (1) dwelling unit subject to the provisions of section 6.3 (“Conversion of Existing Buildings”).
- (c) Townhouse dwellings subject to the provisions of section 6.4 (“Open Space Residential Development”).
- (d) Accessory in-law apartments subject to the provisions of section 6.6 (“Accessory In-Law Apartments”).
- (e) Agriculture, horticulture, floriculture, viticulture, aquaculture, and animal husbandry.

4.4.3 The following uses are permitted in the Outlying District, provided a site plan is approved by the Planning Board.

- (a) Large-scale solar photovoltaic installations.

4.4.4 The following uses are permitted in the Outlying District, provided a special permit is approved by the Planning Board .

- a) Country clubs, day camps, and other nonprofit recreational uses without overnight accommodations.
- b) A landing field for the noncommercial use of the residents of the lot on which the field is located, provided there are no hangars and no repairs are conducted on site.
- c) Large-scale solar photovoltaic installations, subject to the issuance of a special permit by the Planning Board in accordance with Section 8.9.

- d) Outdoor cultivation of marijuana on parcels 4 acres or greater, subject to special permit/site plan review approval by the Planning Board, and provided that the proposed canopy area to be cultivated is no larger than 5,000 square feet, at least 300 feet from an abutting residential structure, at least 400 feet from a public right-of-way, not located within two hundred (200) feet of a day care facility, elementary or secondary school, or church or religious assembly, and complies with all State regulations for outdoor marijuana cultivation. The Planning Board shall also have the discretion to require vegetational screening to ensure that cultivation areas or facilities are not visible from the public right of way or from an abutting residential use. Marijuana or marijuana products associated with outdoor cultivation of marijuana specified under this bylaw shall be delivered only to other licensed retail marijuana establishments or dispensaries and nothing in this bylaw shall be construed to authorize or permit delivery of marijuana or marijuana products to consumers.

4.5 Coastal Conservation District

4.5.1 The Coastal Conservation District is intended as an area of low density residence, recreation, conservation, agriculture, and similar uses compatible with a salt marsh ecosystem and adjacent upland areas.

4.5.2 The following principal uses are permitted in the Coastal Conservation District.

- (a)** Single family dwellings.
- (b)** Townhouse dwellings subject to the provisions of section 6.4 ("Open Space Residential Development").
- (c)** Accessory in-law apartments subject to the provisions of section 6.6 ("Accessory In-Law Apartments").
- (d)** Agriculture, horticulture, floriculture, viticulture, aquaculture, and animal husbandry.
- (e)** Large-scale solar photovoltaic installations, subject to approval of a special permit by the Planning Board in accordance with Section 8.9.
- (f)** A landing field for the noncommercial use of the residents of the lot on which the field is located, provided there are no hangars and no repairs are conducted on site, and subject to the issuance of a special permit by the Planning Board.

4.6 Retail District

4.6.1 The Retail District is intended as an area for retail business which provides goods and services primarily for consumers arriving by automobile.

4.6.2 The following principal uses are permitted in the Retail District, provided a site plan is approved by the Planning Board, and except for those uses that also require a special permit, as provided by section 4.6.3.

- (a)** Small and medium retail sales establishments, but excluding sales of motor vehicles, and provided further that the square footage of all outdoor retail display areas utilized by such an establishment shall not exceed the lesser of ten percent (10%) of the square footage of the indoor retail space utilized by the establishment or five thousand (5,000) square feet.
- (b)** Consumer service establishments, but excluding filling stations and establishments for the service, storage, and repair of motor vehicles.
- (c)** Professional and business offices and services.
- (d)** Medical and dentistry clinics.
- (e)** Banks and credit unions without drive-through facilities.
- (f)** Historical, philanthropic, or charitable associations.
- (g)** Restaurants (other than formula fast food restaurants) without live entertainment.
- (h)** Large-scale solar photovoltaic (SPV) installations which may serve as the primary use or as a use which is accessory to a primary commercial use, subject to Site Plan Review approval by the Planning Board and pursuant to the requirements specified under Zoning Bylaw Sections 8.9.2 through 8.9.5 excepting that commercial SPVs under this section are by-right uses subject to Site Plan Review and not the Special Permit review specified under Section 8.9.1.
- (i)** Solar Photovoltaic (SPV) research laboratories and facilities.

4.6.3 The following principal uses are permitted in the Retail District, provided a special permit is approved by the Planning Board .

- (a)** Office parks and shopping centers .
- (b)** Banks and credit unions with drive-through facilities.
- (c)** Research laboratories and facilities.
- (d)** Wholesale trade or sales establishments.
- (e)** Assembly or light manufacturing enterprises.
- (f)** Adult entertainment establishments subject to the provisions of section 7.9.
- (g)** Filling stations, and establishments for the repair and servicing of motor vehicles and for the retail distribution of petroleum products.

- (h)** Video or electronic game machines, except that no more than two (2) machines are allowed per building, facility, or lot.
- (i)** Dance halls and theaters, except that no more than one (1) theater is allowed per building, facility, or lot.
- (j)** Bars, taverns, and restaurants (other than formula fast food restaurants) with live entertainment.
- (k)** Registered Marijuana Dispensaries, except that such dispensaries may not be located within two hundred (200) feet of a day care facility, elementary or secondary school, or church or religious assembly.
- (l)** Fitness centers, indoor skating rinks, and other indoor recreational facilities, except that the floor area of such facilities may not exceed twenty thousand (20,000) square feet.
- (m)** Any development under section 4.6.2, whether or not developed in phases, that would create more than ten thousand (10,000) square feet of floor area, or more than 30 off-street parking spaces, or that would include accessory buildings, enclosed accessory uses, or off-street loading areas.
- (n)** Pharmacies with drive-through facilities.
- (o)** marijuana retailers approved in accordance with the provisions of Section 4.13.

4.7 Business/Light Industry District

4.7.1 The Business/Light Industry District is intended for office and professional buildings and for assembly and light manufacturing uses consistent with the Town's suburban character.

4.7.2 The following principal uses are permitted in the Business/Light Industry District, provided a site plan is approved by the Planning Board, and except for those uses that also require a special permit, as provided by section 4.7.3.

- (a)** Professional and business offices and services.
- (b)** Medical and dentistry clinics.
- (c)** Restaurants (other than formula fast food restaurants) without live entertainment.
- (d)** Veterinary hospitals and kennels.
- (e)** Enclosed storage yards.

- (f)** Offices for general construction, landscaping, or similar contractors, with open storage of related supplies, equipment, or vehicles, and structures for storing such items, provided all such storage areas and structures are screened from outside view, and provided further that such storage areas and structures may not be located within seventy (70) feet of a street line, or within the minimum setback area established by section 6.1.3.2.2, whichever is greater.
- (g)** Large-scale solar photovoltaic (SPV) installations which may serve as the primary use or as a use which is accessory to a primary commercial use, subject to Site Plan Review approval by the Planning Board and pursuant to the requirements specified under Zoning Bylaw Sections 8.9.2 through 8.9.5 excepting that commercial SPVs under this section are by-right uses subject to Site Plan Review and not the Special Permit review specified under Section 8.9.1.
- (h)** Solar Photovoltaic (SPV) research laboratories and facilities.

4.7.3 The following principal uses are permitted in the Business/Light Industry District, provided a special permit is issued by the Planning Board .

- (a)** Research laboratories and facilities.
- (b)** Wholesale trade or sales establishments.
- (c)** Assembly or light manufacturing enterprises.
- (d)** Dance halls and theaters, except that no more than one (1) theater is allowed per building, facility, or lot.
- (e)** Office parks.
- (f)** Warehousing and distribution facilities.
- (g)** Self-storage facilities.
- (h)** Retail sales accessory to a principal use, except that the floor area devoted to such accessory use may not exceed the lesser of ten percent (10%) of the floor area of the principal structure, or two thousand (2,000) square feet.
- (i)** Establishments for the repair and servicing of motor vehicles, and for the retail distribution of petroleum products.
- (j)** Fitness centers, indoor skating rinks, and other indoor recreational facilities, except that the floor area of such facilities may not exceed twenty thousand (20,000) square feet.
- (k)** Any development under section 4.7.2., whether or not developed in phases, that would create more than ten thousand (10,000) square feet of floor area, or more than 30 off-street parking spaces, or that would include accessory buildings, enclosed accessory uses, or off-street loading areas.

- (l) Marijuana product manufacturers, marijuana cultivators, and independent marijuana testing labs approved in accordance with the provisions of Section 4.13.

4.8 Uses Permitted in All Districts

4.8.1 Subject to the provisions of sections 4.10 ("Flood Plain and Watershed Protection District") and 4.11 ("Municipal Water Supply Protection District "), the following uses are permitted in all districts.

- (a) Cemeteries.
- (b) Municipal buildings and uses.
- (c) Agriculture, horticulture, floriculture, and viticulture, provided that such uses shall be limited to parcels of land containing at least two (2) acres.
- (d) Uses of land or structures for religious or educational purposes on land owned or leased by the Commonwealth or its political subdivisions, or by a religious sect or denomination, or by a non-profit educational corporation, except as provided in M.G.L., Ch. 40A, § 3, and provided further that, if new or additional off-street parking is required, a site plan is approved by the Planning Board.
- (e) Personal wireless service facilities, subject to the provisions of section 8.7.
- (f) Activities accessory to activities otherwise permitted within the district as a matter of right, which activities are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities permitted as a matter of right, subject to the issuance of a special permit by the Board of Appeals.
- (g) Conservation areas for water, plants, and wildlife, and dams necessary for achieving this purpose.
- (h) Accessory structures and uses which are customary, incidental, and subordinate to a principal use permitted in the district, including storage trailers for temporary use and, where dwelling units are permitted, home occupations. Notwithstanding the provisions of this paragraph (h), a special permit from the Planning Board is required for any building that is accessory to a dwelling unit and that has more than fifteen hundred (1500) square feet of floor area.

4.9 Uses Excluded in All Districts

4.9.1 Notwithstanding the foregoing provisions of section 4.0, the following uses are excluded in all districts.

- (a) Formula fast food restaurants.
- (b) Car washes , unless performed as part of a temporary, fund-raising effort.
- (c) Drive-through windows and facilities for uses other than banks, credit unions, or filling stations.
- (d) Wholesale fuel storage and distribution areas .
- (e) Storage trailers for permanent use.
- (f) Large retail sales establishments.

4.10 Floodplain Overlay District

- 4.10.1** Purpose: the purpose of the Floodplain Overlay District is to:
- a. Ensure public safety through reducing the threats to life and personal injury
 - b. Eliminate new hazards to emergency response officials
 - c. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding
 - d. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding
 - e. Eliminate costs associated with the response and cleanup of flooding conditions
 - f. Reduce damage to public and private property resulting from flooding waters

4.10.2 Definitions

Base Flood: a flood having a one percent (1%) chance of being equaled or exceeded in any given year.

Base Flood Elevation (BFE): the elevation of the water surface of the base flood.

Development: means any man-made change to improved or unimproved real estate, including but not limited to building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. [US Code of Federal Regulations, Title 44, Part 59]

Floodway: the channel of a river or other watercourse and the adjacent areas that must be reserved to discharge the base flood without cumulatively increasing the water surface elevation more than the designated height. [Base Code, Chapter 2, Section 202]

Functionally Dependent Use: means a use which cannot perform its

intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities. [US Code of Federal Regulations, Title 44, Part 59] Also [Referenced Standard ASCE 24-14]

Highest Adjacent Grade: means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure. [US Code of Federal Regulations, Title 44, Part 59]

Historic Structure: means any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs. [US Code of Federal Regulations, Title 44, Part 59]

New Construction: Structures for which the start of construction commenced on or after the effective date of the first floodplain management code, regulation, ordinance, or standard adopted by the authority having jurisdiction, including any subsequent improvements to such structures. New construction includes work determined to be substantial improvement. [Referenced Standard ASCE 24-14]

New Development Activities: Any man-made change to improved or unimproved real estate, including, but not limited to, the following: the construction of new structures; the substantial improvement of existing structures; the construction of roads, driveways, and parking areas; grading, mining, dredging, filling, excavating, dumping, and similar activities; and the permanent storage of materials and/or equipment, but excluding activities that have no flood damage potential and that do not obstruct flood flows to any significant extent, such as the raising of agricultural crops and the grazing of livestock, and the erection of mail boxes, flag poles, split rail fences, and similar structures.

Recreational Vehicle: means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal

projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use. [US Code of Federal Regulations, Title 44, Part 59]

Regulatory Floodway - see FLOODWAY.

Special Flood Hazard Area (SFHA): The land area subject to flood hazards and shown on a Flood Insurance Rate Map or other flood hazard map as Zone A, AE, A1-30, A99, AR, AO, AH, V, VO VE or V1-30. [Base Code, Chapter 2, Section 202]

Substantial Improvement: Any expansion, reconstruction, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the fair market value of the structure either before construction of the improvement is commenced or, if the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the structure commences, regardless of whether such alteration affects the external dimensions of the structure. The latest assessed value of a structure may be used to establish fair market value, provided the Town's Assessor certifies that such assessed value is based on one hundred percent (100%) valuation, less depreciation.

Substantial Repair of a Foundation: When work to repair or replace a foundation results in the repair or replacement of a portion of the foundation with a perimeter along the base of the foundation that equals or exceeds 50% of the perimeter of the base of the foundation measured in linear feet, or repair or replacement of 50% of the piles, columns or piers of a pile, column or pier supported foundation, the building official shall determine it to be substantial repair of a foundation. Applications determined by the building official to constitute substantial repair of a foundation shall require all existing portions of the entire building or structure to meet the requirements of 780 CMR. [As amended by MA in 9th Edition BC]

Variance: means a grant of relief by a community from the terms of a flood plain management regulation. [US Code of Federal Regulations, Title 44, Part 59]

Violation: means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in §60.3 is presumed to be in violation until such time as that documentation is provided. [US Code of Federal Regulations, Title 44, Part 59]

4.10.3 Establishment of District and Allowed Uses

4.10.3.1 The Floodplain District is herein established as an overlay zoning district, and is imposed on the following areas that have been deemed subject to seasonal or periodic flooding:

(a) all areas below the elevation of fifteen (15) feet above North American Vertical Datum of 1988 (NAVD 88);

(b) all areas below the elevation of ten (10) feet above the line following the lowest part of the stream bed (thalweg) of a named stream or river, or within one hundred (100) feet of the lowest part of the stream bed of a named stream or river, or within one hundred (100) feet of the high-water line of a named pond or lake, as shown on the U.S. Geological Survey Map of Georgetown, Ipswich, Newburyport East, and Newburyport West; and

(c) all SFHAs within the Town designated as Zones A, AE, or VE on the FIRM issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The exact boundaries of the district may be defined by the 1%-chance base flood elevations shown on the FIRM and further defined and further defined by the Essex County Flood Insurance Study (FIS) report July 19, 2018. The FIRM and the FIS report are incorporated herein by reference and are on file with the Conservation Commission.

4.10.3.2 All uses permitted in the underlying zoning district are permitted in the Floodplain District, except that new development activities in the Floodplain District are prohibited, unless such activities are authorized by a special permit issued by the Planning Board under section 4.10.5.

4.10.4 Submittal and Notification Requirements

4.10.4.1 An applicant for a special permit under this section shall provide the Planning Board with a site plan that meets the requirements of section 7.6 of the Bylaw.

4.10.4.2 In a riverine situation, the Planning Board shall notify the following of any alteration or relocation of a watercourse: adjacent communities; the NFIP State Coordinator, Massachusetts Department of Conservation and Recreation, 251 Causeway St., Suite 600-700, Boston, MA 02114-2104; and the NFIP Program Specialist, FEMA, Region I, 99 High St., 6th Floor, Boston, MA 02110.
Rowley Protective Zoning Bylaw Page 21 June 22, 2020

4.10.4.3 Requirement to submit new technical data: if the Town acquires data that changes the base flood elevation in the FEMA mapped Special Flood Hazard

Areas, the Town will, within 6 months, notify FEMA of these changes by submitting the technical or scientific data that supports the changes(s). Notification shall be submitted to: FEMA Region I Risk Analysis Branch Chief, 99 High Street, 6th Floor, Boston, MA 02110, and a copy of the notification to: Massachusetts NFIP State Coordinator, MA Dept of Conservation & Recreation, 251 Causeway Street, Boston, MA 02114

4.10.4.4 In Zones A and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.

4.10.4.5 When proposing subdivisions or other developments greater than fifty (50) lots or five (5) acres whichever is less, the proponent must provide technical data to determine base flood elevations for each developable parcel shown on the design plans. All subdivision proposals and developments in the floodplain overlay district shall be reviewed to assure that:

- a) Such proposals minimize flood damage;
- b) Public utilities and facilities are located and constructed so as to minimize flood damage.
- b) Adequate drainage is provided.

4.10.5 Development Standards

4.10.5.1 In addition to any development standards adopted under section 7.8.3.2, new development activities in the Floodplain District shall comply with the following standards:

- (a) the volume of lost floodwater storage capacity caused by the proposed development shall be offset by the provision of an equal volume of floodwater storage capacity by excavation or other compensatory measures at hydraulically equivalent sites;
- (b) vehicular and pedestrian access to, over, and from the site shall be provided over ways having an elevation of at least fifteen (15) feet above NAVD 88, or one foot above the BFE, whichever elevation is higher, except that the standard established by this paragraph shall not apply where the proposed development activity consists of the substantial modification of an existing dwelling unit, and provided further that the Planning Board may waive the application of this standard if the Board determines (1) that the non-compliant portion[s] of the proposed access route involves a way that existed on the effective date of the

Bylaw, and (2) that the measures that would be required to raise the noncompliant portion[s] of such existing way to the required elevation, or to construct

an alternative access route that would meet the standard, would have a significant adverse impact on primary or secondary conservation areas, or would be substantially detrimental to the character of the neighborhood;

(c) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town's FIRM encroachments are prohibited, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

(d) A Zones, in the absence of FEMA BFE data and floodway data, the building department will obtain, review and reasonably utilize base flood elevation and floodway data available from a Federal, State, or other source as criteria for requiring new construction, substantial improvements, or other development in Zone A and as the basis for elevating residential structures to or above base flood level, for floodproofing or elevating nonresidential structures to or above base flood level, and for prohibiting encroachments in floodways.

(e) In A1-30, AH, AE Zones, V1-30, VE, V Zones, all recreational vehicles to be placed on a site must be elevated and anchored in accordance with the zone's regulations for foundation and elevation requirements or be on the site for less than 180 consecutive days or be fully licensed and highway ready.

(f) the methods by which structures and ways are elevated shall not endanger human health and safety or adversely affect the natural function of the floodplain;

(g) within Zones AO and AH on the FIRM, adequate drainage paths must be provided around structures on slopes, to guide floodwaters around and away from proposed structures;

(h) alteration of sand dunes is prohibited when the alteration would increase potential flood damage;

(i) all new construction within Zones A, AE, and VE must be located landward of the reach of mean high tide;

(j) the area of the Floodplain District that is used to satisfy the minimum lot area and yard requirements in the underlying zoning district in which the remainder of the lot is located shall not exceed twenty-five percent (25%) of the lot area; and

(k) any proposed development that (1) would be located entirely or partially within the Floodplain District, (2) that would involve a Subdivision of Land, and (3) that would satisfy the eligibility criteria specified in section 6.4.3.1, shall require a special permit for an Open Space Residential Development (OSRD) under section 6.4, except that the Planning Board may waive the application of this standard if the Board determines that the development of the site as an OSRD, as compared to a conventional subdivision, would not promote the purposes of section 6.4.

4.10.5.2 Nothing in this section shall be construed as modifying the requirements of the following: M.G.L., Ch. 131, § 40; the Massachusetts State Building Code, 780 C.M.R.; the Massachusetts Wetlands Protection Regulations, 310 C.M.R. 10.00; the Massachusetts Inland Wetlands Restriction, 310 C.M.R. 13.00; the Massachusetts Coastal Wetlands Restriction, 310 C.M.R. 12.00; and Title V of the State Environmental Code, 310 C.M.R. 15.000.

4.10.6 Special Permit Criteria and Procedures

4.10.6.1 A special permit is required for proposed construction or other development in the floodplain overlay district, including new construction or changes to existing buildings, placement manufactured homes, placement of agricultural facilities, fences, sheds, storage facilities or drilling, mining, paving and any other development that might increase flooding or adversely impact flood risks to other properties.

4.10.6.2 In deciding whether to issue a special permit under this section, the Planning Board shall consider any comments submitted prior to the close of the public hearing by the Conservation Commission, the Board of Selectmen, the Board of Health, and any Town officer or department.

4.10.6.3 The review process outlined in this section includes the requirement that the project proponent obtain all local, state, and federal permits that will be necessary in order to carry out the proposed development in the floodplain overlay district. The proponent must acquire all necessary permits, and demonstrate that all necessary permits have been acquired.

4.10.7 Administration

4.10.7.1 Designated Administrator: The Town of Rowley hereby designates the position of Conservation Agent to be the official floodplain administrator for the Town.

4.10.7.2 Variances:

A variance from these floodplain bylaws must meet the requirements set out by State law, and may only be granted if: 1.) Good and sufficient cause and exceptional nonfinancial hardship exist; 2.) the variance will not result in additional threats to public safety, extraordinary public expense, or fraud or victimization of the public; and 3.) the variance is the minimum action necessary to afford relief.

Variances to state building code floodplain standard:

- A. The Town will request from the State Building Code Appeals Board a written and/or audible copy of the portion of the hearing related to the variance, and will maintain this record in the community's files.
- B. The Town/City shall also issue a letter to the property owner regarding potential impacts to the annual premiums for the flood insurance policy covering that property, in writing over the signature of a community official that (i) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage and (ii) such construction below the base flood level increases risks to life and property.
- C. Such notification shall be maintained with the record of all variance actions for the referenced development in the floodplain overlay district.

4.10.7.3 Relation to other bylaws: The floodplain regulations found in this Floodplain Overlay District bylaw shall take precedence over any less restrictive conflicting local laws, ordinances or codes.

4.10.7.4 Liability: The degree of flood protection required by this bylaw is considered reasonable but does not imply total flood protection.

4.10.7.5 Severability: If any section, provision or portion of this bylaw is deemed to be unconstitutional or invalid by a court, the remainder of this bylaw shall be effective.

4.11 Municipal Water Supply Protection District

4.11.1 Purposes

4.11.1.1 This section is intended to promote the health, safety, and general welfare of the community by preserving the quality and quantity of existing and potential sources of drinking water.

4.11.2 Establishment

4.11.2.1 The Municipal Water Supply Protection District (MWSPD) is an overlay district superimposed on other zoning districts. The MWSPD shall apply to all new construction, reconstruction, or expansion of existing buildings, and new or expanded uses. Uses within the MWSPD must comply with the requirements of this section, as well as with the requirements of the underlying zoning district. Uses that are prohibited in the underlying district are not allowed in the MWSPD.

4.11.2.2 The MWSPD includes all lands lying within the watersheds of groundwater aquifers which now provide public water supply. The boundaries of the MWSPD are shown on the Zoning District Map of the Town of Rowley.

4.11.2.3 Any person who disputes the location of the MWSPD boundary line in relation to a particular parcel may resolve the dispute by applying for a special permit from the Board of Appeals. The Applicant shall bear the burden of proving that the boundary line should be relocated. The Board of Appeals may engage, at the Applicant's expense, a registered civil or sanitary engineer, hydrologist, geologist, or soil scientist to determine the boundary of the district with respect to the subject parcel of land.

4.11.3 Use Regulation

4.11.3.1 The following uses are prohibited within the MWSPD.

- (a)** Landfills and open dumps, as defined by 310 C.M.R. § 19.006.
- (b)** Landfills receiving only wastewater residuals and/or septage (wastewater residuals "monofills") approved by the Commonwealth's Department of Environmental Protection ("DEP"), pursuant to M.G.L., Ch. 21, §§ 26-53; M.G.L., Ch. 111, § 17; M.G.L., Ch. 83, §§ 6-7, and any regulations promulgated thereunder.
- (c)** Storage of sludge or septage, unless such storage complies with 310 C.M.R. §§ 32.30 and 32.31.
- (d)** Commercial service and repair of motor vehicles, including motorboats.
- (e)** Degreasing or detoxification of motor vehicles.
- (f)** Dry cleaning.
- (g)** Commercial furniture stripping and refinishing.
- (h)** Metal plating, processing, or finishing.
- (i)** Chemical or bacteriological laboratories.

- (j)** Storage of liquid petroleum products or liquid hazardous materials, as defined by M.G.L., Ch. 21E, unless such storage is: above-ground level; on an impervious surface; and either (i) in container[s] or above-ground tank[s] within a building, or (ii) outdoors in covered container[s] or above-ground tank[s] in an area that has a containment system designed and operated to hold either 10% of the total possible storage capacity of all containers, or 110% of the largest container's storage capacity, whichever is greater; however, these storage requirements shall not apply to the replacement of existing tanks or systems for the keeping, dispensing, or storing of gasoline, provided the replacement is performed in a manner consistent with State and local requirements.
- (k)** Petroleum, fuel oil, and heating oil bulk stations and terminals, including, but not limited to, those listed under Standard Industrial Classification (SIC) Codes 5171 and 5983; SIC Codes are established by the U.S. Office of Management and Budget, and may be determined by referring to the publication, Standard Industrial Classification Manual, and any amendments thereto.
- (l)** Storage of sodium chloride, chemically treated abrasives, or other chemicals used for the removal of ice and snow on roads, unless such storage, including loading areas, is within a structure designed to prevent the generation and escape of contaminated leachate or runoff.
- (m)** Storage of animal manure, unless covered or contained to prevent the generation and escape of contaminated leachate or runoff.
- (n)** Removal of soil, sand, or gravel or any other earth material, including mining activities, to within six (6) feet of historical high groundwater as determined from monitoring wells and historical water table fluctuation data compiled by the U.S. Geological Survey, unless the substances removed are redeposited within forty-five (45) days of removal on site to achieve a final grading greater than six (6) feet above the historical high water mark, and except for excavations for the construction of building foundations, or the installation of utility works.
- (o)** Facilities that generate, treat, store or dispose of hazardous waste subject to M.G.L., Ch. 21C, and 310 C.M.R. § 30.00, except the following: (1) very small quantity generators, as defined by 310 C.M.R. § 30.00; (2) household hazardous waste collection centers and events operated pursuant to 310 C.M.R. § 30.390; (3) waste oil retention facilities required by M.G.L., Ch. 21, § 52A; and (4) water remediation treatment works approved under 314 C.M.R. § 5.00 for the treatment of contaminated ground or surface waters.
- (p)** Junk and salvage yards, including automobile graveyards, as defined by M.G.L., Ch. 140B, § 1.
- (q)** Truck and bus terminals.
- (r)** Commercial car washes.

- (s)** Treatment works subject to 314 C.M.R. § 5.00, including privately-owned sewage treatment facilities, except the following: (1) replacement or repair of an existing treatment works that will not result in an increased design capacity; (2) replacement of existing subsurface sewage disposal system(s) with waste-water treatment works that will not result in an increased design capacity; and (3) treatment works approved by the DEP designed for the treatment of contaminated ground water.
- (t)** Industrial and commercial uses which discharge processed wastewater on site.
- (u)** Stockpiling and disposal of snow or ice removed from streets located outside of the MWSPD that contains sodium chloride, chemically treated abrasives, or other chemicals used for snow and ice removal.
- (v)** Storage of commercial fertilizers and soil conditioners, as defined by M.G.L., Ch. 128, § 64, unless such storage is within a structure designed to prevent the generation and escape of contaminated leachate or runoff.
- (w)** Use of septic system cleaners which contain toxic or hazardous chemicals.

4.11.3.2 The following uses are permitted in the MWSPD, provided a special permit is issued by the Board of Appeals.

- (a)** Expansion or alteration of existing uses that do not conform to the MWSPD.
- (b)** Construction of dams or other water control devices, or other changes in water bodies or watercourses, for recreational or agricultural uses, or drainage improvements.
- (c)** Any use that will render impervious more than fifteen percent (15%), or two thousand five hundred (2,500) square feet, of any lot , whichever is greater. A system for groundwater recharge must be provided which does not degrade groundwater quality. For non-residential uses, recharge by storm water infiltration basins or similar systems covered by 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 facilities shall be permanently maintained in full working order.

4.11.4 Site Plan and Special Permit Criteria

4.11.4.1 An Applicant for a special permit under section 4.11.3.2 shall request site plan review from the Board of Appeals pursuant to section 7.6. In addition to the information required by section 7.6, the site plan shall contain the following:

- (a)** a complete list of chemicals, pesticides, herbicides, fertilizers , fuels, and other potentially hazardous materials to be used or stored on the premises in quantities greater than those associated with normal household use; and

- (b) proposed down-gradient location(s) for groundwater monitoring well(s).

4.11.4.2 If the proposed use involves materials described in section 4.11.4.1(a), the Applicant shall file a Hazardous Materials Management Plan with the Board of Appeals, the Board of Health, and the Fire Chief. Such plan shall include the following information:

- (a) provisions to protect against the discharge of hazardous materials or wastes to the environment due to spillage, accidental damage, corrosion, leakage, or vandalism, including spill containment and cleanup procedures;
- (b) provisions for indoor, secured storage of hazardous materials and wastes on impervious floor surfaces; and
- (c) evidence of compliance with the regulations promulgated under the Massachusetts Hazardous Waste Management Act, 310 C.M.R. § 300.00, including the assignment of an EPA identification number from the DEP.

4.11.4.3 The Board of Appeals may grant a special permit under section 4.11.3.2, if the Board makes the following determinations:

- (a) that the proposed use satisfies any pertinent standards established by section 4.11.3.2;
- (b) that the proposed use will not have a material adverse impact on the quality or quantity of existing or potential sources of groundwater in the MWSPD ; and
- (c) that proposed control and response measures are sufficient to mitigate risks to groundwater quality and quantity resulting from accident or system failure.

4.12 Flea Market/Antique Store Overlay District

4.12.1 Establishment of District: The Flea Market/Antique Store Overlay District ("FMASOD") is an overlay district consisting of approximately 65 acres of land located along Main Street (Rt. 1A) between the Bradstreet Farm and Warehouse Lane. The FMASOD is superimposed on the existing Outlying District and specifically allows for the operation of Flea Markets and Antique Stores, subject to the issuance of a Special Permit by the Planning Board, in accordance with MGL Ch. 40A, Section 9, and section 7.8 of the Bylaw. All uses allowed in the Outlying District are allowed in the FMASOD, in accordance with section 4.4 of the Bylaw.

4.12.2 Applicability – This section shall apply to proposals for new flea markets and antique stores in the district.

4.12.3 Procedures – An application for a Special Permit for an antique store or a flea market in the FMASOD shall be submitted to and reviewed by the Planning Board in accordance with section 7.8 of the Bylaw.

4.12.4 Relationship to General Bylaws – The issuance of a Special Permit for a flea market or antique store by the Planning Board under this section shall not derogate from the authority granted to the Board of Selectmen by the Flea Market, Transient Business, and Auction Bylaw included in the General Bylaws of the Town of Rowley. However, Special Permit approval for a flea market or antique store shall be completed prior to the issuance of a Transient Business License by the Board of Selectmen.

4.13 Marijuana Not Medically Prescribed

4.13.1 Applicability: This Section shall apply to all marijuana establishments, as defined in Section 2.0, provided that nothing in this Section shall be deemed to apply to any Registered Marijuana Dispensary or to prevent the conversion of a medical marijuana treatment center licensed or registered not later than July 1, 2017 engaged in the cultivation, manufacture or sale of marijuana or marijuana products to a marijuana establishment engaged in the same type of activity under G.L. c. 94G.

4.13.2 Prohibition: Except as specifically permitted by this Section, marijuana retailers, marijuana cultivators, marijuana product manufacturers, independent testing laboratories and other marijuana establishments, as defined in Section 2.0, may not be located in any zoning district of the Town.

4.13.3 Retailers: Marijuana retailers may be located in the Retail District with a special permit issued by the Planning Board, provided that such use may not be located within two hundred (200) feet of a day care facility, elementary or secondary school, or church or religious assembly, and provided that the Planning Board has approved a site plan.

4.13.4 Product Manufacturers, Cultivators, Laboratories: Marijuana product manufacturers, marijuana cultivators, and independent marijuana testing laboratories may be located in the Business/Light Industry District with a special permit issued by the Planning Board, provided that such use may not be located within two hundred (200) feet of a day care facility, elementary or secondary school, or church or religious assembly, and provided that the Planning Board has approved a site plan.

4.14 Retail Village Overlay District (“RVOD”)

4.14.1 Establishment of District: The Retail Village Overlay District (“RVOD”) is an overlay district which appears in two locations in Rowley. The first location consisting of approximately 34.62 acres located at the west end of Haverhill Street (Route 133), just east of the I-95 interchange. The Haverhill Street (Route 133) RVOD is superimposed on the following properties: 993 Haverhill Street (Map 4, Lot 23), 981 Haverhill Street (Map 4, Lot 24), 992 Haverhill Street (Map 4, Lot 20-2), 1000 Haverhill Street (Map 4, Lot 20), 0 Haverhill Street (Map 4, Lot 19-1), 982 Haverhill Street (Map 4, Lot 19), 970 Haverhill Street (Map 4, Lot 18-1), 968 Haverhill Street (Map 4, Lot 18), which are all located in the Business Light Industry (BLI) Zoning District, and, 966 Haverhill Street (Map 4, Lot 17), and 944 Haverhill Street (Map 4, Lot 15), which are both located in the Outlying (OD) Zoning District. The second RVOD location, consisting of approximately 43.54 acres on the west side of Newburyport Turnpike (Route 1), is superimposed on the following properties: 226 Newburyport Turnpike (Map 13, Lot 10), 236 Newburyport Turnpike (Map 13, Lot 11), 240 Newburyport Turnpike (Map 13, Lot 12-1), 244 Newburyport Turnpike (Map 13, Lot 12-2), 264 Newburyport Turnpike (Map 13, Lot 13), 467 Newburyport Turnpike (Map 13, Lot 14), 274 Newburyport Turnpike (Map 13, Lot 14-A), 282 Newburyport Turnpike (Map 13, Lot 14-B), 288 Newburyport Turnpike (Map 13, Lot 14-C), 300 Newburyport Turnpike (Map 13, Lot 14-D), 272 Newburyport Turnpike (Map 13, Lot 14-F).

The RVOD specifically allows for small and medium retail sales establishments, subject to the conditions and requirements of this section. Within the overlay district, the regulations for use, dimensions, and all other provisions of the zoning bylaw governing the underlying zoning district(s) shall remain in full force, except for those properties seeking and granted approval in accordance with section 4.15.

4.14.2 Statement of Purpose. The purpose of this section is to allow small or medium scale retail uses in the RVOD that would otherwise not be allowed in the underlying zoning district, but only if such retail uses are developed in the context of a village-style retail mall or market area (thus precluding strip malls, "big box" stores, or similar types of conventional retail development). This section would generally require the retail buildings to be located close to Haverhill Street/Route 1 (pursuant to a maximum setback requirement), while requiring the parking spaces serving the development to be located in the rear of the principal buildings or in internal areas of the retail village where they do not become part of the streetscape. Architectural character and detail which comport with the retail village style aesthetic shall be a primary feature of prospective projects in the RVOD, along with further enhancement by requirements for high quality vegetative landscaping along the Haverhill Street/Route 1 frontage and in internal areas of the development. Interior parking areas will also be visually enhanced by requiring a reasonable allocation of landscaped parking islands. The ultimate goal of this section is to promote quality retail development in the RVOD that enhances this important gateway to the Town.

4.14.3 Applicability: This section shall apply to new development or redevelopment proposals to construct commercial buildings for the operation of small and medium retail sales establishments within the RVOD.

4.14.4 Permitted Uses: Retail village market with an option for mixed-uses consisting of small or medium retail sales establishments (excluding sales or rentals of motor vehicles) as primary uses occupying the first (ground level) floor (provided that the Planning Board may grant a waiver pursuant to Section 4.15.7(g) of this bylaw to allow residential on the first floor), with the option of second/third floors consisting solely of residential dwelling units, subject to the requirement that 10% of the total number of proposed residential units in the building are designated as affordable housing units, pursuant to the affordability requirements specified under Section 6.2.4 of this bylaw. Also permitted in the RVOD is a parking area accessory to the proposed commercial and residential uses on the site. The affordability requirements of Section 6.2.4.2 through 6.2.4.4 shall apply to any residential dwelling units approved under this section.

4.14.5 Procedures: The applicant shall submit Special Permit and Site Plan Review applications for review and approval by the Planning Board pursuant to the requirements of section 7.6 and sections 7.8 of the Bylaw, and subject to the criteria and conditions set forth by this section.

4.14.6 Setbacks

4.14.6.1 The requirements of section 6.1.3.2 of the Bylaw ("Minimum Setback Areas in the Retail District or the Business/Light Industry District") shall not apply to developments approved under this section.

4.14.6.2 Principal buildings approved under this section shall not be located closer than thirty (30) feet, nor further than fifty (50) feet, from Haverhill Street (Route 133) / Newburyport Turnpike (Route 1), except that the Planning Board may waive this requirement, if the Applicant proposes an alternative design that is consistent with the purposes of this section and provided that proposed retail and residential parking areas are adequately screened from view by either the building itself or by landscaping.

4.14.6.3 Nothing shall be built or installed on any lot in the RVOD within fifteen (15) feet of non-street lot lines, except that this provision shall not apply to fences, walkways, utilities, utility lines, landscaping, septic systems, or water supplies.

4.14.7 Retail Village Design Criteria: In addition to the design and development standards adopted under section 7.8.3.2 of the Bylaw, any retail development in the RVOD shall comply with the following requirements:

(a) The Board shall approve an architectural design plan, prepared by a registered architect. The architectural plan shall include color elevation renderings which denote

building height and materials, and which incorporates design elements that will enhance the public view from Haverhill Street/Route 1 and from within the development, such as periodic building section offsets, and exterior façade elements like gables, pitched roofing, windows, cupolas or decorative trim designs.

(b) Signage may consist of a freestanding monument sign the design of which is, in the opinion of the Board, compatible with the proposed building architecture, and which shall have sufficient space for a specialized sign for each vendor in the retail mall. The freestanding sign area shall have a vegetated landscaped surround which is sized to the width and height of the sign. Wall signage shall only be allowed on the individual store fronts facing the interior parking lot, unless this limitation is waived by the Board. The Planning Board shall approve each vendor sign, ensuring that each individual vendor sign is generally equivalent in regards to height and dimensions and that all signs are aesthetically compatible with existing vendor signage.

(c) Accessory on-site parking areas shall not be located between the principal building and Haverhill Street (Route 133) / Newburyport Turnpike (Route 1), except that a proposal to install vegetative screening (or berming with landscape vegetation) which, in the opinion of the Planning Board, is sufficient to ensure that the proposed parking areas are not visible from Haverhill Street (Route 133) / Newburyport Turnpike (Route 1), may be considered.

(d) The Board shall review and approve a parking area plan, prepared by an engineering professional, which provides sufficient parking capacity for employees, customers, and residents pursuant to the Schedule A - Parking requirements specified in the Planning Board Rules and Regulations. The parking area plan shall also depict landscaped parking islands which are, in the opinion of the Board, appropriately dispersed throughout the parking lot. Moreover, the parking area plan shall depict the location of parking light poles with details of the pole heights and lighting fixtures to be denoted and depicted on the face of the plan.

(e) The Board shall review and approve a landscaping plan, prepared by a registered landscape architect, that provides high-quality landscaping installed in the street-side front yard along Haverhill Street/Route 1, and that also depicts the locations and arrangement of trees, shrubs, and/or ground-cover plantings to be used on the interior parking islands.

(f) The Board may waive the requirements of section 6.5.1 (Building Height), if the Board determines that such waiver is consistent with sound planning principles and the purposes of this bylaw.

(g) The Board may waive the first-floor retail establishment requirement set forth under Section 4.15.4 in favor of permitting first floor residential uses, if the Board determines that such a waiver will serve the interests of the Town. For the purposes hereof, such a waiver may be granted in the Board's discretion if the first-floor residential uses will be dedicated to providing housing for individuals of all ages with disabilities.

5.0 NON-CONFORMING USES AND STRUCTURES

5.1 Discontinuance

5.1.1 Non-conforming uses and structures may be continued as provided in M.G.L., Ch. 40A, § 6. However, if a non-conforming use is abandoned, it shall not be reestablished, and any future use shall be in conformance with this Bylaw. A non-conforming use shall be deemed to have been abandoned, regardless of whether the owner/operator intended to abandon such use, if the use is discontinued or not used for a period of two (2) years or more.

5.2 Expansion or Change

5.2.1 Except as provided by section 5.2.2, the Board of Appeals may issue a special permit authorizing an expansion of a non-conforming use, or a change of a non-conforming use to another non-conforming use, but only if the Board determines that such expansion or change will not be substantially more detrimental to the neighborhood than the existing non-conforming use. Changes that constitute an expansion of a non-conforming use include, but are not limited to, an increase in building lot coverage or floor area, parking or loading capacity, or the hours of operation of such use.

5.2.2 The authority under section 5.2.1 to approve an expansion or a change of a non-conforming use is subject to the following limitations:

- (a)** the expanded or changed non-conforming use must be located entirely on the same lot that was occupied by the original non-conforming use on the date such use became non-conforming (for the purpose of this limitation, any changes made to the lot lines of a lot that have the effect of expanding the area of the lot shall be deemed to result in the creation of a new and different lot);
- (b)** a non-conforming use may not be changed under section 5.2.1 to the following uses: filling stations; establishments for the sale, rental, storage, service, or repair of motor vehicles or motor boats; and the uses described in section 4.9 ("Uses Excluded in All Districts");
- (c)** regardless of whether an expansion or a change of a non-conforming use is proposed, the total floor area of all buildings associated with the nonconforming use, and the parking or loading capacity of such use, may not be increased by more than twenty-five percent (25%), as measured from the date on which the original non-conforming use became non-conforming (where multiple non-conforming uses are located on a lot, the calculations required by this paragraph shall be made in the aggregate);

- (d) if a non-conforming use has been changed to a more restrictive nonconforming use (in terms of such factors as intensity of use, parking or loading capacity, or hours of operation), it may not thereafter be changed to a less restrictive non-conforming use; and
- (e) if a non-conforming use has been changed to a conforming use, it may not thereafter be changed to a non-conforming use.

5.3 Effect of Zoning Change

- 5.3.1** Any increase in area, frontage, width, yard, or depth requirements of this Bylaw shall not apply to a lot for single or two-family residential use, which at the time of recording or endorsement, whichever occurred sooner, was not held in common ownership with any adjoining land, conformed to then existing requirements and has less than current requirements, but at least five thousand (5000) square feet of area and fifty (50) feet of frontage, as provided in M.G.L., Ch. 40A, § 6.
- 5.3.2** Any increase in area, frontage, width, yard, or depth requirements of this Bylaw shall not apply for a period of five (5) years from its effective date to a lot for single or two-family residential use, provided the plan for such lot was recorded or endorsed and such lot was held in common ownership with any adjoining land and conformed to the existing zoning requirements as of January 1, 1976, and had less area, frontage, width, yard or depth requirements than the newly effective zoning requirements, but contained at least seven thousand five hundred (7500) square feet of area and seventy-five (75) feet of frontage, and provided further that the provisions of this section 5.3.2 shall not apply to more than three of such adjoining lots held in common ownership.
- 5.3.3** Construction or operations under a building or special permit shall conform to any subsequent amendment of the Bylaw, unless the use or construction is commenced within six (6) months after the issuance of the permit and, in cases involving construction, such construction is continued through to completion as continuously and expeditiously as is reasonable.

5.4 Changes to Non-Conforming Single and Two-Family Residential Structures

5.4.1 Changes that May Be Approved by the Building Inspector:

The Building Inspector may approve, without the necessity of a public hearing, the changes to nonconforming single and two-family residential structures described in this section 5.4.1. Specifically, the Building Inspector may approve

- (1) the alteration, reconstruction, or extension of a nonconforming single or two-family residential structure, or

(2) the alteration, reconstruction, or extension of any existing (or the construction of any new) attached or detached structure that is accessory to such nonconforming single or two-family residential structure,

but only if

(a) no part of the proposed alteration, construction, reconstruction, or extension will be located within the minimum set-back area established by section 6.1.3.1 of this Bylaw,

(b) the proposed alteration, construction, reconstruction, or extension will not result in, or increase, the structure's nonconformance with the lot-coverage or building-height limitations established, respectively, by sections 6.1.5.2 and 6.5.1 of this Bylaw, and

(c) in the case of single or two-family structures located on lots with insufficient area or frontage, the proposed alteration, reconstruction, or extension will not increase the floor area of the structure by more than fifty percent (50%).

5.4.2 Changes that Must Be Approved by the Board of Appeals:

Changes to nonconforming single and two-family residential structures which are not authorized by section 5.4.1 of this Bylaw may be approved only by a special permit from the Board of Appeals pursuant to a public hearing. In deciding whether to approve such changes, the Board will first determine whether the proposed alteration, construction, reconstruction, or extension of a nonconforming single or two-family residential structure or accessory structure will increase the nonconforming nature of such structure. If the Board determines that there will be no increase in the nonconforming nature of the structure, it will approve the proposed change. If the Board determines that there will be an increase in the nonconforming nature of the structure, it will disapprove the proposed alteration, construction, reconstruction, or extension, unless the Board finds that the proposed change will not be substantially more detrimental to the neighborhood than the existing nonconformity. In determining whether the proposed change will be substantially more detrimental to the neighborhood than the existing nonconformity, the Board will consider, among other relevant factors, the size, scale, and mass of the proposed structure, as compared to other structures in the neighborhood.

6.0 INTENSITY OF LAND USE

6.1 Single Family and Non-Residential Uses

6.1.1 Lot Area and Frontage

6.1.1.1 Except as provided by section 6.1.1.2, each principal building or structure for non-residential use and each single family dwelling shall be located on a lot in conformance with the following requirements:

- (a)** In the Central District, at least thirty thousand (30,000) square feet of area and one hundred and twenty-five (125) feet of frontage are required.
- (b)** In the Residential District, the Outlying District, and the Coastal Conservation District, at least sixty thousand (60,000) square feet of area and one hundred and fifty (150) feet of frontage are required.
- (c)** In the case of a corner lot, the required frontage need be provided only on one street, and shall be measured from the side lot line to the point of tangency of the required corner radius.

6.1.1.2 The requirements of section 6.1.1.1 are subject to the following exceptions:

- (a)** A single family dwelling may be located on a reduced frontage lot, if the Planning Board determines (by a majority vote, and in conjunction with its review of an “Approval Not Required” or Definitive Subdivision Plan) that the lot meets the following requirements:
 - (i)** the lot is located in the Central District, the Residential District, the Outlying District, or the Coastal Conservation District;
 - (ii)** the lot has at least fifty (50) feet of frontage;
 - (iii)** the lot width at all points between the street line that provides the lot with frontage and the proposed building site equals or exceeds fifty (50) feet;
 - (iv)** the area of the lot is at least one hundred and eighty thousand (180,000) square feet, for lots located in the Residential District, the Outlying District, and the Coastal Conservation District, and ninety thousand (90,000) square feet, for lots located in the Central District;

- (v) the lot does not have contiguous street frontage with another reduced frontage lot that was held in common ownership with such lot on or after January 16, 2003; and
 - (vi) if a driveway is to be constructed across the frontage of the lot, the Planning Board shall verify that the grade of the driveway will not exceed ten percent (10%), that cut and fill on such portion will not exceed five (5) vertical feet, that the sight distances on the street are at least one hundred and fifty (150) feet in each direction (as measured from a point on the driveway at least six (6) feet back from the street pavement), and that the driveway will not adversely affect the existing drainage pattern (where topographical or other site conditions warrant, the Board may require the submission of a drainage analysis).
- (b)** Notwithstanding the provisions of paragraph (a)(vi), the Planning Board may issue a special permit authorizing the construction of a single family dwelling on a reduced frontage lot that has contiguous street frontage with one or two other reduced frontage lots that were held in common ownership with such lot on or after January 16, 2003, if the Board determines
 - (1) that all such reduced frontage lots will be accessed by a common driveway approved under section 8.8.3,
 - (2) that each lot meets the requirements of paragraph (a)(i)-(v), and
 - (3) that the approval of the reduced frontage lots with a common driveway is superior to alternate methods of development.
- (c)** The requirements of section 6.1.1.1 shall not apply to personal wireless service facilities approved under section 8.7.

6.1.2 Lot Width

- 6.1.2.1** In all districts, the minimum lot width at the setback line shall be one hundred (100) feet, except that this requirement shall not apply to a reduced frontage lot that qualifies under section 6.1.1.2(a) or (b) for an exception to the applicable frontage requirement established by section 6.1.1.1.

6.1.3 Yard Area

6.1.3.1 In all districts, except the Retail District or the Business/Light Industry District, nothing other than fences, walks, public and private utilities and utility lines, septic systems, water supplies, and driveways shall be built on any lot nearer than fifty (50) feet to street lines and fifteen (15) feet to other lot lines, except with permission of the Board of Appeals which will take into consideration the alignment of existing adjacent structures or, also excepting that in the Central Zoning District, with Special Permit approval from the Board of Appeals, that no building, structure, or parking area need have a front setback that is greater than the average of the setbacks on the lots on either side. In the case where an abutting lot is a vacant lot, or a lot occupied by a building setback more than the required front yard depth, each abutting lot shall be considered as though occupied by a building at the required setback.

6.1.3.2 Minimum Setback Areas in the Retail District or the Business/Light Industry District.

6.1.3.2.1 Except as permitted by Section 6.1.3.2.4, nothing shall be built or installed on any lot in the Retail District or the Business/Light Industry District within the minimum setback area (MSA) measured from street lines and other non-street, lot lines.

6.1.3.2.2 The MSA measured from street lines shall be calculated as follows:

- (a)** for buildings which do not exceed one hundred and fifty (150) feet in length on the side facing the street, the MSA shall be fifty (50) feet from the street line;
- (b)** for buildings which exceed one hundred and fifty (150) feet in length on the side facing the street, the MSA shall be equal to the length of the building on the side facing the street divided by three (3); and
- (c)** , for buildings that are stepped back from the street one or more times, separate MSAs shall be calculated, using the criteria stated above, for the length of the building closest to the street, and for each length of the building stepped back from the street.

6.1.3.2.3 The MSA measured from non-street, lot lines shall be fifteen (15) feet.

6.1.3.2.4 The provisions of Section 6.1.3.2.1 are subject to the following exceptions:

- (a)** fences, walks, utilities, utility lines, septic systems, water supplies, and signs may be built or installed in an MSA ;
- (b)** parking spaces may be located within an MSA measured from a street line, provided that in no event will parking spaces be allowed within fifty (50) feet of the street line, or within a distance from the street line of one-half (1/2) of the MSA calculated for that street line, whichever distance is greater; and

- (c) a site access road may be built across an MSA measured from a street line, except that, within the distance described by Section 6.1.3.2.4 (b) above, the site access road shall run perpendicular, or nearly perpendicular, to the setback line; a site access road may not, within this distance, serve as a portion of a perimeter road running adjacent or parallel to the structure.

6.1.4 Floor Area

- 6.1.4.1** For each unit for rent in a hotel, inn, motel, tourist home or lodging house there shall be a minimum of one hundred and sixty (160) square feet for single occupancy plus sixty (60) square feet for each additional person occupying the unit.

- 6.1.4.2** The restrictions of this section shall not apply to any dwelling in existence in the Town at the time of the adoption of this Bylaw.

6.1.5 Lot Coverage

- 6.1.5.1** In the Retail District or the Business/Light Industry District, no more than fifty (50) percent of any lot or area shown on the site plan shall be covered by structures or impervious surfaces.

- 6.1.5.2** In all districts, the maximum building lot coverage for all new construction, alteration, enlargement, or reconstruction for all structures on any lot shall not exceed twenty-five (25) percent of the total lot area.

6.2 Multi-Family Dwellings

6.2.1 Applicability

- 6.2.1.1** Multi-family dwellings are authorized by this section in the Central District or the Residential District as follows:

- (a) a development creating fewer than five (5) multi-family dwelling units is authorized, subject to the requirements of this section, and provided a site plan is approved by the Planning Board; and
- (b) a development containing five or more multi-family dwelling units is authorized, subject to the requirements of this section, and provided a special permit is issued by the Planning Board.

- 6.2.1.2** Notwithstanding section 6.2.1.1, the requirements of this section do not apply to townhouse dwellings approved as part of an Open Space Residential Development under section 6.4, or to multi-family dwellings approved as part of a New England Village Development under section 6.7, except as provided by section 6.7.3.2.

6.2.1.3 Any development under this section that involves a Subdivision of Land shall be subject to the approval of the Planning Board under the Subdivision Rules.

6.2.2 Density

6.2.2.1 The development shall be located on a site consisting of at least five (5) acres in the Residential District and two (2) acres in the Central District .

6.2.2.2 The maximum number of dwelling units allowed in a multi-family development approved under this section shall be determined in the following manner: ten thousand (10,000) square feet of area for each of the first six (6) dwelling units, plus twenty thousand (20,000) square feet of area for each additional unit, is required, except that, for developments under section 6.2.1.1(b), the Planning Board may increase the number of units allowed, up to a maximum density of *ten thousand (10,000) square feet of area for each unit*, if the Applicant proposes additional affordable housing than that required by section 6.2.4, or on-site or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed development. The square footage of any primary conservation areas shall not be considered in determining the maximum number of dwelling units allowed under this section. The requirements of this section may not be circumvented by the development of a parcel or parcels in phases.

6.2.2.3 At least one hundred and fifty (150) feet of frontage is required in the Residential District, and at least one hundred and twenty-five (125) feet of frontage is required in the Central District.

6.2.2.4 No building or structure may be located within fifty (50) feet of any street line, or within fifty (50) feet or twenty-five (25) feet, respectively, of any non-street, lot line in the Residential District or the Central District , except that these setback requirements shall not apply to structures referenced in section 6.1.3.2.4(a), and provided further that, for developments under section 6.2.1.1(b), the Planning Board may reduce these required setbacks, if the Board determines that the reduction will result in a superior design and will not have an adverse impact on the neighborhood.

6.2.2.5 Building coverage may not exceed twenty-five percent (25%) of the area of a lot in the Residential District, and thirty-five percent (35%) of the area of a lot in the Central District.

6.2.2.6 No more than fifty percent (50%) of any lot in the Residential District , or seventy percent (70%) of any lot in the Central District, may be covered by impervious surfaces.

6.2.3 Design and Development Standards

6.2.3.1 In addition to any design and development standards adopted under section 7.8.3.2, the development shall comply with the provisions of section 6.4.11.2(a), (b), (c), (d), and (f), and the following additional requirements:

- (a)** individual buildings shall contain no more than eight (8) dwelling units
- (b)** the development shall provide for varied roofline articulation that stresses New England village-style architecture, and the use of building materials and colors that are compatible with other quality buildings of similar scale in the vicinity
- (c)** each dwelling unit shall have two (2) sides with full exposures; and
- (d)** each dwelling unit shall have a minimum of three hundred and fifty (350) square feet of floor area, plus one hundred (100) square feet of floor area for the second and each additional bedroom.

6.2.3.2 The Applicant shall submit a separate landscaping plan, prepared by a registered landscape architect, that provides for intensive high-quality landscaping of all open areas, including areas adjacent to paths, driveways and parking lots, and, where appropriate for screening purposes, dense buffers of trees and shrubs.

6.2.4 Affordability Requirements

6.2.4.1 At least one (1) of the units in a development approved under section 6.2.1.1(a) shall qualify as an affordable dwelling unit or, in lieu of designating one or more units as affordable dwelling unit(s) the applicant may be permitted to make a cash contribution to the Rowley Affordable Housing Trust in an amount determined by the Affordable Housing Trust committee, provided the Planning Board determines it is in the public interest.

6.2.4.2 At least ten percent (10%) of the units in a development approved under section 6.2.1.1(b) shall qualify as affordable dwelling units. For the purposes of this calculation, a fraction of one half ($\frac{1}{2}$) or greater shall be rounded to the next higher whole number, and a fraction of less than one half ($\frac{1}{2}$) shall be rounded to the next lower whole number, but not less than the number one (1).

6.2.4.3 Affordable dwelling units shall be indistinguishable from market rate dwelling units, except for matters of interior finish, fixtures, and appliances. Where more than one affordable dwelling unit is required, such units shall be dispersed throughout the site. Affordable units shall be constructed concurrently with market rate units.

6.2.4.4 The Applicant shall submit to the Planning Board and the Board of Selectmen the deed covenants and other documentation necessary to insure that the requisite number of units will qualify as affordable dwelling units. If the documentation appears complete and adequate, the Board of Selectmen shall file an application with the DHCD for approval of the units as Local Initiative Units. Pursuant to the provisions of 780 C.M.R. § 120.1, an occupancy permit may not be issued for any of the dwelling units created by the development until the DHCD notifies the Town in writing that the requisite number of units qualify as Local Initiative Units under 760 C.M.R. § 45.03.

6.3 Conversion of Existing Buildings

6.3.1 A building in existence on May 1, 1981, may be converted into one (1) or more dwelling units than it originally contained, subject to the criteria and conditions specified in this section. The provisions of this section do not apply to building conversions approved under sections 6.2 or 6.7.

6.3.1.1 Minimum Lot Area.

6.3.1.1.1 In addition to the lot area required in Section 6.1.1. there shall be five thousand (5000) square feet for the second dwelling unit contained in a structure. For each additional unit the requirements of 6.2.1.1 shall be met.

6.3.1.2 No existing building shall be divided to contain more than two (2) dwelling units unless the Applicant complies with the requirements of sections 6.2. or 6.7.

6.3.1.3 The Board of Appeals may grant a permit for less than the required lot area for an existing building being converted to more than one (1) dwelling unit or for a multi-family dwelling provided that:

6.3.1.3.1 The Board of Health has approved the sewage disposal system in writing;

6.3.1.3.2 No more than twenty-five percent (25%) of the lot area is covered by structures;

6.3.1.3.3 There is at least one (1) off-street parking space for each bedroom and efficiency apartment contained in the structure;

6.3.1.3.4 There is a provision for screening by fencing or landscaping of outside storage areas;

6.3.1.3.5 The building is served by municipal water.

6.3.1.4 Minimum Floor Area

6.3.1.4.1 The structure to be converted shall contain at least eleven hundred (1100) square feet and no unit shall have a floor area of less than three hundred fifty (350) square feet plus one hundred (100) square feet for each bedroom over one (1)

6.4 Open Space Residential Development

6.4.1 Purposes

6.4.1.1 This section is intended to promote integrated, creatively-designed residential development that results in the preservation of open space and natural resources, the reduction of infrastructure and site development costs, and the promotion of attractive standards of appearance consistent with Town character.

6.4.2 Special Permit Authority

6.4.2.1 The Planning Board may grant a special permit for an Open Space Residential Development (“OSRD”) authorizing the construction of single family or townhouse dwellings in the Central District, the Residential District, the Outlying District, or the Coastal Conservation District, pursuant to the provisions of this section.

6.4.3 Eligibility

6.4.3.1 Any proposed development that would create two (2) or more single family dwellings or townhouse dwelling units on a parcel of land or set of contiguous parcels of land containing at least five (5) acres is eligible for consideration as an OSRD. Parcels separated by roadways shall be considered contiguous.

6.4.3.2 Any person that submits a conventional subdivision plan (preliminary or definitive) under the Subdivision Rules that would create five (5) or more single family dwelling lots on a parcel of land or set of contiguous parcels of land containing five (5) or more acres shall be required, simultaneously with the submission of such conventional subdivision plan, to submit an application for an OSRD special permit, together with an OSRD concept plan that meets the requirements of section 6.4.4.2, except that, at any time after the opening of the public hearing under section 6.4.5.2, the OSRD application and concept plan may be withdrawn.

6.4.3.3 Any application submitted under this section that involves a Subdivision of Land shall be subject to the approval of the Planning Board under the Subdivision Rules.

6.4.4 Submittal Requirements

6.4.4.1 All Applicants for an OSRD special permit shall submit the following to the Planning Board :

- (a)** An application on the form prescribed by the Board, and any fees determined by the Board under section 7.8.3.2.
- (b)** A Yield Plan. The Yield Plan shall establish the maximum number of single family dwellings that could be built under a conventional subdivision plan given the existence on the site of any topographical constraints and primary conservation areas. The Yield Plan shall also provide evidence acceptable to the Planning Board that on-site wastewater treatment and disposal systems would be permitted and constructed to serve such dwellings. Unless waived by the Planning Board , this evidence shall include a demonstration of suitable soil and groundwater conditions through representative sampling and testing of the buildable areas of the site by methods approved by the Board of Health , and shall at a minimum consist of one determination of soil permeability and one observation of maximum ground water elevation per two acres of buildable land, such tests being distributed with reasonable uniformity over the site.

6.4.4.2 For developments that involve a subdivision of land, the Applicant shall, in addition to the materials specified in section 6.4.4.1, submit an OSRD concept plan, except that, in lieu of an OSRD concept plan, the Applicant may submit an OSRD preliminary or definitive plan that meets the requirements of the Subdivision Rules. The OSRD concept plan shall address the general features of the land, and give approximate configurations of lots and roadways, and shall include all information required by the Planning Board under section 7.8.3.2.

6.4.4.3 For developments that do not involve a subdivision of land, the Applicant shall, in addition to the materials specified in section 6.4.4.1, submit an OSRD site plan. Such plan shall satisfy the requirements of section 7.6, and shall contain such additional information as may be required by the Planning Board under section 7.8.3.2

6.4.4.4 The plans required by section 6.4.4 shall be prepared by a team including a registered civil engineer, land surveyor, and landscape architect.

6.4.5 Procedures for Approval

6.4.5.1 Any person that is interested in obtaining an OSRD special permit is encouraged to arrange for a pre-application meeting with the Planning Board to discuss the proposed OSRD.

6.4.5.2 The Board shall hold a public hearing on the special permit application, and a concurrent public hearing on the applicable OSRD plan filed under section 6.4.4. The Board may issue the special permit , with or without conditions, if it determines that:

- (a) the proposed OSRD satisfies the requirements of this section, all other sections of the Bylaw, and any rules issued under section 7.8.3.2;
- (b) the proposed OSRD is superior to a conventional subdivision; and
- (c) the proposed OSRD promotes the purposes of this section.

6.4.5.3 For developments involving a subdivision of land, if the Planning Board issues a special permit on the basis of an OSRD concept or preliminary plan, the Applicant shall thereafter file an OSRD definitive plan. The Planning Board shall reconsider the special permit, in accordance with section 6.4.13, if there is any variation between the OSRD concept or preliminary plan that was submitted with the special permit application and the approved definitive plan.

6.4.6 Development Density

6.4.6.1 Unless a density bonus is permitted under section 6.4.7, the total number of dwelling units permitted in an OSRD shall not exceed the lesser of:

- (a) the number of dwelling units determined under section 6.4.6.2; or
- (b) the number of single family dwellings that would be allowed under a conventional subdivision plan, as determined by the Planning Board based on its review of the Applicant's yield plan. The Applicant shall bear the burden of proof regarding the permitted density.

6.4.6.2 The number of dwelling units determined under this section 6.4.6.2 shall be calculated by the following formula;

$$\text{Total Number of Units} = \frac{\text{TA} - (0.5 \times \text{PCA}) - (0.1 \times \text{TA})}{\text{District Minimum Lot Area}}$$

TA = Total Area of Parcel

PCA = Primary Conservation Areas

If a parcel lies in districts with different lot area requirements, a calculation should be made for each district.

6.4.7 Density Bonus

6.4.7.1 The Planning Board may authorize a density bonus in accordance with sections 6.4.7.2 and 6.4.7.3, except that the number of dwelling units awarded as a density bonus under such sections may not, in the aggregate, exceed thirty-five percent (35%) of the number of units permitted under section 6.4.6, and provided further that a density bonus may not be awarded under section 6.4.7.3 for an OSRD that would create three or more units in the Coastal Conservation District.

6.4.7.2 The Planning Board may authorize a density bonus of up to twenty percent (20%) if the Applicant proposes:

- (a)** on or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed OSRD; or
- (b)** townhouse dwellings constructed in a New England village style of architecture with a maximum of two bedrooms per unit.

6.4.7.3 For every one and one half (1.5) affordable dwelling units created by the OSRD, one (1) dwelling unit may be added as a density bonus, except that this density bonus may not exceed fifteen percent (15%) of the number of units permitted under section 6.4.6. The affordable dwelling units must qualify as Local Initiative Units under 760 C.M.R. § 45.03, and shall be constructed concurrently with the market rate units

6.4.8 Open Space Requirements

6.4.8.1 Except as provided by section 6.4.8.5 and section 6.4.8.6, a minimum of fifty percent (50%) of the OSRD shall be dedicated as permanent open space . Such open space shall be devoid of structures and impervious surfaces, and shall either be left in its undisturbed natural condition or developed to assure its use as an area for passive recreation or a visual amenity.

6.4.8.2 The percentage of the open space that is wetlands shall not exceed the percentage of the entire tract that is wetlands, except that a greater percentage of wetlands may be included in the open space if the Planning Board determines that such inclusion promotes the purposes of this section.

6.4.8.3 Open space shall be contiguous, except that the Planning Board may waive this requirement if it determines that allowing non-contiguous open space will promote the purposes of this section and/or protect primary and secondary conservation areas.

6.4.8.4 Unless conveyed to the Town, the open space shall be subject to a recorded restriction enforceable by the Town. The restriction shall provide that the open space will remain in an open state, will be used solely for the purposes allowed by this section, and will be maintained in a manner that will ensure its suitability for its intended purpose.

6.4.8.5 For an OSRD that creates only single family dwellings, the minimum open space requirement shall be forty-five percent (45%), as opposed to fifty percent (50%), of the OSRD, but only if an additional area of the OSRD is reserved for active or passive recreational activities by the residents of the OSRD. The square footage of this common recreational space shall equal or exceed the square footage of fifty percent (50%) of the OSRD, minus the square footage of the area dedicated as open space under section 6.4.8.1 (which must equal or exceed forty-five percent (45%) of the OSRD). Accessory buildings and structures are allowed in this common recreational space. Dwelling units and other principal structures, and paved driveways and parking lots, are not allowed in this space.

6.4.8.6 Notwithstanding the provisions of section 6.4.8.1, the dedicated open space of an OSRD may be used for the purpose of operating a golf course, subject to the following conditions:

- (a)** the dedicated open space of the OSRD must comprise at least seventy percent (70%) (not fifty percent (50%)) of the development;
- (b)** all fairways, greens, and other playable areas of the golf course, and all buildings and structures accessory to the golf course, shall be located in already-disturbed areas of the OSRD (unless this requirement is waived by the Planning Board); and
- (c)** the golf course shall comply with such conditions as the Planning Board may impose relating to water usage and to the application of fertilizers and pesticides

6.4.9 Dimensional Requirements

6.4.9.1 Except as provided by sections 6.4.9.2 and 6.4.9.3, the Planning Board may waive the minimum requirements for frontage, lot area, lot width, setbacks, and lot coverage that would otherwise apply to the parcel or portions of the parcel.

6.4.9.2 The Planning Board may not waive the frontage or setback requirement on a street that was not created by the OSRD.

6.4.9.3 At least fifty percent (50%) of the required front setback shall be maintained by the OSRD, unless the Planning Board determines that a further reduction would promote the purposes of this section.

6.4.10 Design Process and Development Standards

6.4.10.1 An Applicant shall determine the layout of streets, open space, and lots or building areas in the proposed OSRD in compliance with the following five-step design process:

- (a)** Step One: Identify primary and secondary conservation areas.

- (b)** Step Two: Identify the potentially developable area of the site. To the maximum extent feasible, the potentially developable area should consist only of land outside of primary and secondary conservation areas.
- (c)** Step Three: Locate house sites within the potentially developable areas, and delineate private yards and shared amenities, so as to reflect an integrated community.
- (d)** Step Four: Delineate the streets that will provide access to the house sites, and any desirable trails or walkways.
- (e)** Step Five: Delineate lot lines, except where condominium or cooperative ownership is used.

6.4.10.2 In addition to any development and design standards adopted under section 7.8.3.2, the following is required:

- (a)** To the maximum extent feasible, all utilities shall be located underground.
- (b)** Signage shall be limited to one sign at each entrance to the OSRD, of a maximum signboard area of twelve (12) square feet, with content limited to the name and address of the development.
- (c)** Each lot or dwelling shall be served by Town water, and a sewage treatment facility approved by the Board of Health.
- (d)** A minimum of one and one half (1.5) off-street parking spaces per dwelling unit shall be provided.
- (e)** Where townhouse dwellings are proposed, individual buildings shall contain no more than eight (8) dwelling units.
- (f)** Unbroken building facades longer than sixty (60) feet, and regular spacings and building placements, shall be avoided.
- (g)** Intensive, high quality landscaping of all open areas (excluding areas that will remain in an existing natural state) shall be provided.
- (h)** Where townhouse dwellings are proposed, the development shall provide for varied roofline articulation that stresses New England village-style architecture, and the use of building materials and colors that are compatible with other quality buildings of similar scale in the vicinity.

6.4.11 Ownership of Open Space

6.4.11.1 The open space shall be conveyed to one of the following:

- (a)** To the Town for park or open space use.
- (b)** To a nonprofit organization dedicated to the conservation of open space.

- (c)** To a corporation or trust comprising a homeowners' association whose membership is limited to the owners of all lots or dwelling units within the OSRD. The developer shall include in the deed to such owners beneficial rights in the open space , and shall grant a perpetual open space restriction to the Town to insure that it will remain in an open state and not be used for residential purposes or accessory uses. Such restriction shall be in the form and substance prescribed by the Planning Board , and may contain such additional restrictions on the use of the open space as the Board deems appropriate.
- (d)** To a corporation, trust, or other entity separate from the homeowners' association, if the open space of the OSRD is used for the purpose of operating a golf course, in accordance with section 6.4.8.6, provided:

 - (i)** the homeowners' association and its members have the perpetual right to use the golf course on terms no less favorable than other users;
 - (ii)** the open space is subject to a perpetual restriction enforceable by the Town that limits the use of the parcel to passive recreation or the operation of a golf course for use by the public, which operation may include a golf driving range, clubhouse, or other accessory use or structure; and
 - (iii)** the perpetual restriction is approved by the Planning Board and contains such additional restrictions on the use of the open space as the Board deems appropriate.

6.4.12 Revisions to the Special Permit

6.4.12.1 The Planning Board may make minor lot line changes and other minor revisions to an OSRD plan without a public hearing.

6.4.12.2 If the Planning Board determines that a proposed or required revision to the OSRD special permit or plan is substantial, it shall hold a public hearing on the revision. A substantial revision shall include the following: any reduction in size or change in location of the preserved open space ; any significant change in the layout of the ways or lots; an increase in the number of dwelling units or lots; or a significant change in the general development pattern.

6.4.13 Affordability Requirements

6.4.13.1 At least ten percent (10%) of the units in a development approved as an OSRD shall qualify as affordable dwelling units. If less than 10 residential units are proposed then at least one of the proposed units shall qualify as an affordable dwelling, except if the Planning Board determines that it is in the public interest, the applicant may make a cash contribution to the Rowley Affordable Housing Trust in an amount determined in consultation with the Affordable Housing Trust committee.

6.4.13.1 The provisions of 6.2.4.2, 6.2.4.3, 6.2.4.4 shall apply to an OSRD under this section.

6.5 General Requirements

6.5.1 Building Height

6.5.1.1 The height of any structure in all districts shall not exceed thirty-five (35) feet or two and one-half stories.

6.5.1.2 Building height shall be measured as the vertical distance from the average elevations of the existing lot grade at the front of the building to the highest point of the top story in the case of a flat roof, and to the mean height between the plate and the ridge in the case of a pitched roof.

6.5.1.3 Each story shall be deemed to be the portion of a building between the upper surface of any floor and the upper surface of any floor next above, having more than one-half of its height above the average elevation of the finished grade adjoining the building

6.5.1.4 Limitations of height shall not apply to flagpoles, chimneys, radio and television antennae, windmills, silos, water tanks, public utility structures, and similar non-inhabitable structures.

6.5.2 In all districts, no lot shall have more than one (1) foot of perimeter for every thirty-nine and six-tenths (39.6) square feet of lot area and shall not be less than forty (40) feet in width at any location within the lot except within a portion of the lot where two (2) lot lines meet at a point.

6.6 Accessory In-Law Apartments

6.6.1 Application

6.6.1.1 The Board of Appeals may issue a special permit authorizing an accessory in-law apartment within, or as an attached addition to, a single family dwelling, subject to the conditions and requirements specified in this section.

6.6.1.2 Any special permit issued under this section shall be consistent with the intent of this section, which is to provide an alternative housing option to the family members of individuals who own and occupy single family dwellings in the Town of Rowley, while maintaining the appearance and character of the Town's single family neighborhoods. The intent of this section is not to create new rental units in Town, or to provide owners of single family dwellings with an opportunity to earn rental income.

6.6.2 General Requirements

6.6.2.1 The principal dwelling must be located in the Central District, the Residential District, the Outlying District, or the Coastal Conservation District.

6.6.2.2 Except as provided by section 6.6.2.3, the apartment shall be a complete housekeeping unit that functions as a separate unit from the principal dwelling. The apartment shall contain a kitchen, and shall not have more than one bedroom and one bathroom. The floor area of the apartment may not exceed seven hundred (700) square feet, except that the Board may waive this limitation for an application involving a unit for which a special permit was issued under section 6.6 prior to February 8, 2012, but only if the floor area of such unit has not increased since the date of such special permit. Only one apartment is allowed per principal dwelling. Any stairway to the apartment located above the first floor of the building shall be enclosed within the exterior walls of the building. The principal dwelling and the apartment shall be served by the same driveway.

6.6.2.3 Utilities for the apartment shall be extensions of the existing utilities that serve the principal dwelling. No new utility service or meter may be installed for the use of the apartment.

6.6.3 Ownership and Use Requirements

6.6.3.1 The apartment shall not be held in separate ownership from the principal dwelling, under a condominium form of ownership or otherwise.

6.6.3.2 The special permit shall be issued to the record owner of the lot, and shall specify that one or more of the record owners (if title is held by a natural person, or by natural persons in joint tenancy or other form of common ownership), or one or more of the natural persons who are beneficiaries (if title is held by a trust), or the natural person owning fifty percent (50%) or more of the entity (if title is held in any other form of ownership), must occupy either the principal dwelling or the apartment as his or her primary residence.

6.6.3.3 The record owner shall simultaneously record the special permit and a declaration of covenants, in a form approved by the Board of Appeals, with the Registry of Deeds. The declaration shall be in favor of the Town, and shall include the following statement: "The special permit for an accessory in-law apartment shall terminate upon a transfer of ownership of the subject premises, or upon the undersigned's termination of his/her use of the subject premises as a primary residence." Proof of recording of the special permit and the declaration shall be provided to the Building Inspector and the Board before a building or occupancy permit may be issued for the apartment.

6.6.3.4 Occupancy of the apartment shall be limited to a maximum of two persons. At least one of the occupants of the principal dwelling and one of the occupants of the apartment must be related by blood or marriage.

6.7 New England Village Development

6.7.1 Application

6.7.1.1 The Planning Board may issue a special permit for a New England Village Development (“NEVD”) on a parcel of land located in the Central District , subject to the criteria and conditions specified in this section.

6.7.1.2 An NEVD proposed under this section that involves a Subdivision of Land shall be subject to the approval of the Planning Board under the Subdivision Rules.

6.7.2 Permitted Uses and Density

6.7.2.1 Multi-family dwellings , and the non-residential uses described in section 4.2.3, may be developed as part of an NEVD. Such non-residential uses may be located on the same lot or in the same building as dwelling units, except that non-residential uses may not occupy more than fifty percent (50%) of the floor area of any building that is also used for residential purposes.

6.7.2.2 The maximum number of dwelling units allowed in an NEVD will be determined in the following manner: ten thousand (10,000) square feet of area for each of the first six (6) dwelling units, plus twenty thousand (20,000) square feet of area for each additional unit is required, except that the Board may increase the number of units allowed, if the Applicant proposes additional affordable housing than that required by section 6.7.3, the preservation or renovation of historic structures, or on-site or off-site public improvements or amenities that result in substantial benefit to the Town and which are beyond those necessary to mitigate the impacts of the proposed development. The square footage of any primary conservation areas shall not be considered in determining the maximum number of dwelling units allowed under this section. The requirements of this section may not be circumvented by the development of a parcel or parcels in phases.

6.7.3 Affordability Requirements

6.7.3.1 A minimum of ten percent (10%) of the dwelling units in an NEVD shall qualify as affordable dwelling units. If less than 10 residential units are proposed then at least one of the proposed units shall qualify as an affordable dwelling, except if the Planning Board determines that it is in the public interest, the applicant may make a cash contribution to the Rowley Affordable Housing Trust in an amount determined in consultation with the Affordable Housing Trust committee.

6.7.3.2 The provisions of sections 6.2.4.2, 6.2.4.3, and 6.2.4.4 shall apply to an NEVD approved under this section.

6.7.4 Design and Development Standards

6.7.4.1 In addition to any design and development standards adopted under section 7.8.3.2, the proposed NEVD shall comply with the following requirements:

- (a)** All proposed buildings and structures shall be compatible with the existing buildings and structures in the neighborhood and with the historic development pattern of a New England town center. The compatibility of such buildings and structures shall be analyzed in terms of the following factors: size and bulk; orientation to the street; distance from the street; height and roof-line articulation; the pattern of window, door, and other building openings; architectural styles; and exterior building materials and colors.
- (b)** The Board shall determine the number and location of on-site parking spaces to adequately serve the NEVD; on-site parking spaces shall be located to the side and rear of, and not in the front of, the proposed principal buildings.
- (c)** Front yard areas shall be designed and landscaped to promote pedestrian comfort, access, and visual interest;
- (d)** Side and rear yard areas shall be landscaped to screen on-site parking and adjacent properties.
- (e)** Proposed principal buildings may not be located further than twenty-five (25) feet from the street line, except that this requirement may be waived or changed by the Planning Board , based on a consideration of the alignment of the existing buildings on the street.

6.7.4.2 The Planning Board may, with respect to an NEVD, waive the following requirements of the Bylaw: the minimum setback requirements established by section 6.1.3.1, the minimum lot size and frontage requirements established by section 6.1.1.1(a), and the maximum lot coverage requirement established by section 6.1.5.2.

6.7.5 Special Permit Criteria

6.7.5.1 The Planning Board may issue a special permit for an NEVD, if the Board determines that the development complies with all of the criteria of this section, as well as the special permit criteria stated in section 7.8.2, and that the development is designed in a manner that is compatible with the historic development pattern of a New England town center.

6.7.5.2 In deciding whether to issue a special permit under this section, the Board shall consider any written recommendations or comments submitted by the Rowley Historic District Commission.

7.0 ADMINISTRATION

7.1 Board of Appeals

7.1.1 A Board of Appeals consisting of five members and three associate members shall be appointed as provided in M.G.L., Ch. 40A, § 12. The Board of Appeals shall act on all matters within its jurisdiction in the manner prescribed in said section. The members and associate members of the Board of Appeals shall be inhabitants of the Town, and shall serve for five-year terms.

7.1.2 The Board of Appeals shall have jurisdiction to hear and decide the following matters:

- (a)** appeals under M.G.L., Ch. 40A, § 8;
- (b)** petitions for variances under M.G.L., Ch. 40A, § 10;
- (c)** applications for those uses for which approval of the Board of Appeals is required by this Bylaw; and
- (d)** applications for an expansion of a non-conforming use, or a change of a nonconforming use to another non-conforming use, under section 5.2 of the Bylaw and M.G.L., Ch. 40A, § 6.

7.1.3 In exercising its powers under section 7.1.2, the Board of Appeals shall act in accordance with M.G.L., Ch. 40A, § § 9, 11, 15, and 16, as applicable.

7.2 Board of Health Approval

7.2.1 No construction of a structure for dwelling purposes shall be started, and no building or structure shall be converted to a multi-unit dwelling without the approval of the Board of Health having first been obtained.

7.3 Enforcement

7.3.1 This Bylaw shall be enforced by the Building Inspector.

7.4 Deleted

7.5 Amendment

7.5.1 This Bylaw may from time to time be changed by amendment, addition or repeal in the manner provided in Section 5 of Chapter 40A of the General Laws.

7.6 Site Plan Review

7.6.1 Application

7.6.1.1 A site plan shall be submitted to the Planning Board , the Board of Appeals, or the Board of Selectmen , as applicable, for all uses, or changes of uses, for which the approval of such Board is required by this Bylaw.

7.6.1.2 No building permit may be issued for any structure for which site plan approval is required unless such approval has been obtained under this section.

7.6.2 Form and Content of Site Plans

7.6.2.1 The Site Plan shall be prepared by a registered professional architect, landscape architect, or civil engineer, and shall be drawn as follows: on a scale of one (1) inch equals forty (40) feet, or one (1) inch equals twenty (20) feet; on a sheet or several sequentially numbered sheets not exceeding twenty-four (24) by thirty-six (36) inches in size; and, in compliance with the current rules of the Registry of Deeds.

7.6.2.2 Whether or not development is to be phased, the site plan shall show or include the following for the entire site, unless an item or items are waived by the applicable Board.

- (a)** All property boundaries and dimensions, and the name of the owner of each property shown.
- (b)** The use and ownership of adjacent land, and the location and use of any buildings within two hundred (200) feet of the boundary of the subject property.
- (c)** All existing and proposed buildings and structures, covered areas, parking spaces, driveways, driveway openings, loading areas, and service areas on the subject property.
- (d)** Provisions for external lighting and signage. For the purpose of determining compliance with section 8.6.4 ("Standards Pertaining to Luminaires"), the Applicant shall include a photometric plot of the site delineating external illumination levels in foot-candles with a schedule listing of luminaires (cutsheets).
- (e)** A separate landscaping plan, prepared by a registered landscape architect, at the same size and scale as the site plan, providing the following information: existing and proposed location of trees, shrubs, planting areas, fences, walls, open spaces, walkways, and any unusual natural features or vegetation.
- (f)** Provisions for water disposal, drainage, erosion control, and utilities, including proposed connections and exterior appurtenances (e.g., poles and fire alarm boxes).
- (g)** Existing and proposed topography of the lot and adjacent lots, and boundaries of all primary conservation areas.

- (h)** Architectural drawings showing facades, cross-sections, and floor plans of proposed buildings, additions, or reconstructions.
- (i)** Easements, right-of-ways, and zoning district lines.
- (j)** Walls, fences, ditches, ponds, streams, outdoor storage areas, and known surveyors' monuments of bounds.

7.6.3 Criteria for Evaluation

7.6.3.1 The applicable Board shall evaluate the site plan on the basis of the following criteria:

- (a)** Protection of adjoining premises and the neighborhood from detrimental impact resulting from the use of the subject property, including the creation of a nuisance by virtue of noise, odor, unsightliness, vibration, or light trespass.
- (b)** Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets.
- (c)** Adequacy of methods for water supply, sewage disposal, and surface drainage.
- (d)** Adequacy of off-street parking and loading areas.
- (e)** Signage and exterior lighting, and visual impact of parking, storage, or other outdoor service areas.
- (f)** Consistency of the proposed development with the character, scale, and design of surrounding buildings.
- (g)** Adequacy of landscaping plans, including the use of natural land features, plantings, and screening materials.
- (h)** Compliance with the provisions of this Bylaw.
- (i)** Adequacy of all required documents, such as easement and condominium documents, to assure the maintenance of buildings and structures and public and common lands.
- (j)** Adequacy of the measures proposed by the Applicant to buffer or screen any commercial activities or structures shown on the site plan from nearby residential neighborhoods or residentially-zoned areas.

7.6.4 Procedures and Fees

7.6.4.1 An application for site plan approval and six (6) copies of the site plan shall be submitted to the appropriate Board. The Applicant shall also submit the minimum filing fee, as determined by the Board, to cover processing costs.

7.6.4.2 The appropriate Board shall, within ten (10) days of receiving the application, submit one (1) copy of the site plan to the Planning Board (if the Planning Board is not the appropriate Board), the Board of Health, the Building Inspector, and the Conservation Commission. The appropriate Board shall hold a public hearing on the plan within 65 days of its filing, and shall, within 90 days of the hearing, render its decision, except that these time limits may be extended by agreement of the Board and the Applicant. In its decision, the Board may reject the plan or approve the plan with or without conditions. The Board may, as a condition of approval, require that the site plan be registered by the Registry of Deeds.

7.6.4.3 The appropriate Board may engage the services of a registered civil engineer, architect, landscape architect, traffic engineer, planner, or other professional consultant to obtain an independent review of the site plan. The costs of such reviews shall be borne by the Applicant.

7.6.5 Compliance With Approved Site Plan

7.6.5.1 Except as provided in section 7.6.5.2, no occupancy permit may be issued for any building subject to the approval of the Planning Board under this section until: (a) a registered architect or engineer certifies to the Planning Board that all construction and improvements have been completed in accordance with the approved site plan and any approved field changes; and (b) the Board, through its technical consultant, verifies that all conditions of the approved site plan and any approved field changes have been met.

7.6.5.2 An occupancy permit may be issued for a building prior to the completion of all construction and improvements in accordance with the approved site plan and any approved field changes, if the only incomplete work is landscaping or roadway top course, and surety in an amount determined by the Planning Board is posted to ensure that such work is completed within a reasonable time. The Board may allow surety to be posted for work in addition to landscaping or roadway top course, if an unexpected event prevents the Applicant from completing the work.

7.7 Penalty

7.7.1 Any person who shall violate any of the provisions of the Bylaw shall be fined a sum not exceeding one hundred dollars (\$100.00) which may be recovered by indictment or on complaint to a district court and shall ensure to the benefit of the Town or to such uses as it may direct. Each 24 hour of continued violation shall be considered a separate offense.

7.8 Special Permits

7.8.1 General

7.8.1.1 Certain classes of special permits may be issued by the special permit granting authority (the “SPGA ”), which will be the Planning Board , the Board of Appeals, or the Board of Selectmen , as designated by this Bylaw.

7.8.1.2 The SPGA shall review the special permit application in conjunction with a site plan filed under section 7.6.

7.8.2 Special Permit Criteria and Conditions

7.8.2.1 Except as provided by section 7.8.2.2, the SPGA may issue a special permit only upon its written determination that the benefits of the proposed use outweigh any adverse effects or impacts of such use. In making this determination, the SPGA shall consider, to the extent applicable, the following criteria:

- (a)** the social, economic, or community needs that would be served by the proposed use;
- (b)** the impact of the proposed use on public health and safety;
- (c)** the impact of the proposed use on town services and the tax base;
- (d)** the adequacy of utilities and water supplies, and the impact of the proposed use on stormwater drainage systems;
- (e)** the impact of the proposed use on traffic flow and safety, on the site and throughout the Town, and the adequacy of parking and loading facilities;
- (f)** the impact of the proposed use on the character and natural environment of the Town;
- (g)** the compatibility of all proposed buildings and structures with the character, scale, and design of existing buildings and structures in the neighborhood;
- (h)** the impact of the proposed use on adjacent properties and the neighborhood; and
- (i)** any other criteria specified by other sections of this Bylaw, applicable to the proposed use.

7.8.2.2 The provisions of section 7.8.2.1 shall not apply to special permits issued under sections 4.11.4.3, 6.1.1.2(b), 6.6, 8.6.5, and 8.8.3.

7.8.2.3 The SPGA may impose such conditions on the special permit as it deems necessary to protect the Town, the public, or other properties in the area from detrimental impact. The conditions that may be imposed include, but are not limited to, conditions relating to noise, traffic control, dust control, sanitation, number of occupants, hours of operation, deliveries, water quality testing and monitoring, police details, and performance bonds.

7.8.3 Miscellaneous Provisions

7.8.3.1 The SPGA shall issue special permits in accordance with M.G.L., Ch. 40A, § 9. In deciding whether to issue a special permit, the SPGA shall consider any comments or recommendations submitted by other town departments, boards, or commissions.

7.8.3.2 The SPGA may, after notice and hearing, adopt rules and regulations specifying the content and number of required plans, application procedures, filing and review fees, design and development standards, and other general requirements to be applied with respect to the proposed use.

7.8.3.3 The Board of Selectmen may appoint a resident of the Town to serve as an associate member of the Planning Board for a two-year term. The Chairperson of the Planning Board may appoint the associate member to act on special permit applications, in the case of absence, inability to act, or conflict of interest, on the part of a regular member of the Planning Board, or in the event of a vacancy on the Board.

7.8.3.4 Any special permit granted under the provisions of this Bylaw shall lapse within a period of two years from the grant hereof, if a substantial use thereof has not sooner commenced or, in the case of a permit for construction, if construction has not begun by such date, except for good cause shown, and provided further that such two-year period shall not include the time required to pursue or await the determination of an appeal under M.G.L., Ch. 40A, § 17.

7.9 Adult Entertainment & Establishments

7.9.1 Purpose and Intent This subsection is enacted pursuant to Massachusetts General Laws Chapter 40A, Section 9 and the Home Rule Amendment to the Massachusetts Constitution with the purpose and intent of Regulating and limiting the location of Adult Entertainment Establishments (as defined herein) so as to prevent the secondary effects associated with these establishments, and to protect the health, safety, and general welfare of the present and future inhabitants of the Town of Rowley. The provisions of this subsection have neither the purpose nor effect of imposing a limitation on or restriction on the content of any communicative matter or materials, including sexually oriented matter or materials, similarly, it is not the intent or effect of this subsection to restrict or deny access by adults to sexually oriented matter or materials protected by the Constitution of the United States or Commonwealth of Massachusetts nor restrict nor deny rights that distributors or exhibitors or such matter or materials may have to sell, distribute or exhibit such matter or materials. Neither is it the intent or effect of this subsection to legalize the distribution of obscene matter or materials.

7.9.2 Applicability This subsection applies to all Adult Entertainment Establishments as defined in Massachusetts General Law Chapter 40A , Section 9A.

7.9.3 Regulations and Standards

No special permit may be granted by the Planning Board for any Adult Entertainment Establishment unless the following conditions are satisfied:

- (a)** Adult Entertainment Establishments shall not be located within (50) fifty feet of a public or private way from the nearest property line of:
- (1)** Residentially zoned property
 - (2)** Another Adult Entertainment Establishment
 - (3)** Public or Private Nursery School, Day Care Center or Kindergarten
 - (4)** Public or Private Elementary or Secondary Schools
 - (5)** Playgrounds
 - (6)** Churches or other religious facilities
 - (7)** Library
 - (8)** Any establishment licensed under the provisions of Massachusetts General Law Chapter 138, Section 12.
- (b)** All building openings, entries and windows shall be screened in such a manner as to prevent visual access of the public to the interior of the establishment.

- (c)** All parking areas for Adult Entertainment Establishments shall be in the side or front yards and shall conform to the requirements outlined in the Rowley Planning Board Rules and Regulations.
- (d)** The proposed use and all associated advertising signs shall not be located within fifty (50) feet of a public or private way and must be set back a minimum of fifty (50) linear feet from all property lines.
- (e)** The application of a Special Permit for an Adult Entertainment Establishment under this subsection must include the following information:
 - (1)** Name and address of the legal owner of the establishment
 - (2)** The number of employees
 - (3)** Proposed security precautions
 - (4)** The physical layout of the premises
 - (5)** Nature of the business
- (f)** No Special Permit shall be issued to any person convicted of violating the provisions of Massachusetts General Laws Chapter 119, Section 63 or Chapter 272, Section 27.

8.0 SPECIAL REQUIREMENTS

8.1 Soil Suitability

(This section repealed at May 2010 Special Town Meeting, Article 17)

8.2 Hazardous Materials

8.2.1 All hazardous materials used, created, stored, processed, disposed of by processing, diluting, burying, or containment, leaching or any other manner, or transported, including piping in the Town of Rowley, shall be used, stored or transported in accord with all applicable federal and state regulations.

8.2.2 A notice for use, creation, storage, processing and transport shall be filed with the Board of Selectmen on such form as it shall require. Notification shall include, as a minimum, identification of material, the amount involved, the process, if any, and the routes of transport, carrier and conveyance, if any. The Board may require a bond be posted to cover any and all possible damage to person, property and environment.

8.2.3 All radioactive materials, including but not limited to low level radioactive materials, used, stored, disposed of or transported in the Town of Rowley shall in addition to the requirements of paragraphs 8.2.1 and 8.2.2 require a Special Permit to be granted by the Board of Selectmen after a public hearing subject to such conditions and limitations as it shall establish, which relate to but not be limited to an emergency plan, approved by the Board of Selectmen ; methods of incineration and provision for perpetual care and monitoring of disposal sites.

8.3 Earth Removal

8.3.1 Extraction is prohibited from all Districts, except as permitted by the Earth Removal Bylaw of the Town of Rowley. The removal of rocks, minerals, clay and sod shall be subject to the same restrictions as for the removal of “earth” as defined and governed by that Bylaw.

8.4 Signs

8.4.1 General Requirements All Districts

8.4.1.1 No sign or other advertising device with visible moving or movable parts or with flashing animated or intermittent illumination shall be erected, with the exception of such during the holiday season.

8.4.1.2 No sign shall be permitted which is visible from any portion of a public way so as to create a traffic hazard.

8.4.1.3 No sign or other advertising device attached to a building shall project above the roof or parapet line.

8.4.1.4 No sign or other advertising device attached to a building shall project more than five (5) feet from a building or one-third (1/3) width of the sidewalk, whichever is less.

8.4.1.5 No more than one (1) free standing sign shall be placed on the property unless such property fronts upon more than one street, in which event one (1) such sign may be erected on each frontage .

8.4.1.6 Petitions for variances to the requirements of this Section 8.4. shall be in accordance with "Section 7.0 Administration" of the Protective Zoning Bylaws of the Town of Rowley.

8.4.2 Outlying District Sign Regulations

8.4.2.1 Total area of a sign shall not be larger than twelve (12) square feet in area, and no one (1) side shall be larger than six (6) square feet in area.

8.4.2.2 No free standing sign , or other advertising device, shall be more than eight (8) feet above the ground.

8.4.3 Residential District Sign Regulations

8.4.3.1 Total area of a sign shall not be larger than sixteen (16) square feet in area, and no one (1) side shall be larger than eight (8) square feet in area.

8.4.3.2 No free standing sign , or other advertising device, shall be more than ten (10) feet above the ground.

8.4.4 Central District Sign Regulations

8.4.4.1 Each business within a building will be allowed to have ten (10) square feet of sign area attached to the building. Total area of a free standing sign shall not exceed forty (40) square feet in area.

8.4.4.2 No free standing sign , or other advertising device, shall be more than ten (10) feet above the ground.

8.4.5 Retail District or the Business/Light Industry District Sign Regulations

8.4.5.1 Each business within a building will be allowed to have ten (10) square feet of sign area attached to the building. Total area of a free standing sign shall not exceed eighty (80) square feet in area; The maximum area shall not exceed five (5) percent of the projected vertical area of the side of the building facing the street, (Maximum Area equals $.05 H/L$ where H and L are the height and length of the building expressed in feet), whichever is greater.

8.4.5.2 In no event shall the length or width of a free standing sign or a sign attached to the building be greater than fifteen (15) feet.

8.4.5.3 No sign, or other advertising device, shall be more than twenty (20) feet above ground level.

8.4.6 Temporary Signs

8.4.6.1 Temporary signs which comply with this Bylaw shall be permitted. Temporary signs for political or charitable purposes or public organizations and temporary window signs are exempt from the provisions of Section 8.4.

8.5 New Single Family Dwelling Limitation

(This section repealed at April 30, 2012 Special Town Meeting, Article 16)

8.6 Outdoor Illumination Standards, Including Standards for Illuminated Signs

8.6.1 Purpose: The purpose of this section is to establish standards pertaining to the outdoor illumination of commercial and industrial uses, and multi-family dwellings, so as to minimize light trespass and glare visible from abutting parcels and the the public right-of-way, to promote traffic and pedestrian safety, to protect property values, and to enhance the aesthetic appearance of the town by minimizing light pollution throughout the town.

8.6.2 Definitions

“Lumen”: The basic unit of measurement for light at its source. For the purposes of this bylaw, the lumen output shall be the initial lumen rating listed by the bulb manufacturer’s specification data sheet at the rated voltage and power (watts).

“Luminaire”: A complete lighting unit or fixture, consisting of a lamp or lamps, ballast (when applicable), and any part designed to distribute the light, position the unit, protect the lamps (housing), and connect lamps to the power supply.

“Full cut-off fixture design (fully shielded)”: A luminaire which is designed, constructed, and installed so that no light is emitted at an angle above the horizontal plane through the lowest light emitting part (including refractors, reflectors, or other devices) of the luminaire.

“Light Trespass”: Illumination from a luminaire on a property with a commercial or multifamily use where the light is emitted, without shielding, filtering, or refraction, pointed directly skyward, or pointed directly into the space beyond the luminaire and which then goes beyond the parcel lot lines on which the luminaire is located, to abutting parcels with an residential use or into the public right-of-way.

“Glare”: A level of illumination from a property with a commercial or multifamily use which projects directly into the public right-of-way, or projects directly onto an abutting property with a residential use, which impairs or interferes with visual performance, or results in a nuisance.

8.6.3 Application

- 8.6.3.1 Except as provided in section 8.6.3.2, the illumination standards established by this section apply to any outdoor luminaire, or to any outdoor illuminated sign, that is maintained by or in connection with, or for the purpose of illuminating or promoting, any commercial or industrial use, or any multi-family residential dwelling, in the Town of Rowley.
- 8.6.3.2 Any outdoor luminaire or outdoor illuminated sign that was in existence prior to February 13, 2001 shall be exempt from the standards established by this section, until such time as the luminaire or sign is replaced or redesigned. A luminaire or sign shall be considered to have been replaced if any part of the luminaire or sign (e.g., starter, mounting arm, reflector, hardware, wiring, sign structure) is replaced, except that a replacement of any bulb used in a luminaire or sign will not by itself be considered a replacement of such luminaire or sign.

8.6.4 Standards Pertaining to Luminaires

- 8.6.4.1 Free-standing luminaire shall be installed in a horizontal orientation and shall utilize full cut-off fixture design so that the focal area of the light source is directed generally downward, and illumination levels lessen the further you get from the center of the luminaire focal area.
- 8.6.4.2 Wall-mounted (wall-pack) luminaire shall utilize full cut-off fixture design.
- 8.6.4.3 Free-standing and wall-mounted luminaires shall not exceed thirty (30) feet in height.
- 8.6.4.4 Light trespass or glare onto residential property is prohibited.

- 8.6.4.5 When a commercial or industrial use is closed for business, illumination levels for general parking or pedestrian areas shall be reduced from the above specified levels to a partial level required for security. For any activity not addressed by this section, luminaries shall be designed and maintained so that the average illumination level does not exceed the average illumination level published for such activity by the IESNA Handbook.
- 8.6.4.6 No luminaire shall be installed or maintained so that its light output is aimed, directed, or focused at motor vehicle or pedestrian traffic.
- 8.6.4.7 In regards to the external illumination of displays, buildings, and architectural features lighting shall be specifically targeted at the particular architectural or landscape features, and shall not project beyond such features.
- 8.6.4.8 Search light or laser light skyward display is prohibited.

8.6.5 Standards Pertaining to Illuminated Signs

- 8.6.5.1 Sign illumination may be permitted subject to a design review and the issuance of a special permit by the Planning Board, and subject to compliance with the illumination standards established by section 8.6.5.
- 8.6.5.2 All sign illumination shall be turned off after closing time.
- 8.6.5.3 No off-premises illuminated signs are allowed.
- 8.6.5.4 Externally-illuminated, free-standing signs shall be illuminated from the top pointing downward (luminaires mounted from below the sign are not permitted) except that the Planning Board may waive this requirement and permit a free-standing sign to be illuminated from the bottom pointing upward if the Board finds that the proposed fixtures comply with section 8.6.5.5 and are otherwise consistent with the intent of the Zoning Bylaw.
 - 8.6.5.4.1 Building-mounted facade signs may be illuminated from the bottom of the sign under the following conditions: (a) the sign must be mounted on the building at least eight (8) feet above ground level (as measured from the bottom of the sign), but below the roof line; (b) only fluorescent tube lighting with concentric metallic opaque shielding is allowed; and (c) the luminaire or luminaires must be shielded to direct the light onto the sign only with no projection beyond the building face.
- 8.6.5.5 The fixtures used to illuminate externally-illuminated signs must be fully shielded to prevent glare to pedestrian and vehicular traffic - i.e., such fixtures must be designed to ensure that motorists and pedestrians in the area do not have a direct view of the light source.

8.6.5.6 Box signs (luminous element signs) shall utilize a dark (density) translucent or opaque background color (not white) with lighter (color and density, not clear) translucent or opaque lettering, and/or graphics.

8.6.5.7 Animated or motion signs are prohibited.

8.6.6 Verification of Compliance

The lighting enforcement agent, under supervision by the zoning enforcement agent specified under section 7.3.1 of the zoning bylaw, shall verify compliance of luminaires associated with Special Permit and Site Plan approvals for commercial, industrial, or multi-family uses and shall otherwise enforce the terms of this Section 8.6.

8.6.7 Enforcement

Upon lighting enforcement agent determination that luminaire is non-compliant, the agent shall then send written notice of the violation to the property owner who shall then have 90 days to bring said luminaire into compliance. If violator fails to correct violation in 90 days, then said property owner shall be subject to penalties specified under Section 7.7.1 of the zoning bylaw.

8.6 Personal Wireless Service Facilities

8.6.1 Purpose: The purpose of this Bylaw is to minimize the impacts of personal wireless service facilities (PWSFs). The Bylaw establishes standards for the review and approval of PWSFs by the Planning Board (PB), and is intended to be used in conjunction with site-plan and special-permit requirements, and other Bylaws designed to encourage appropriate land use, adequate infrastructure, and environmental protection.

8.6.2 Definitions

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

Antenna: The surface from which wireless radio signals are sent and received by a PWSF.

Camouflaged: A PWSF that is disguised by, part of, or placed within a structure is considered “camouflaged”.

Carrier: A company that provides wireless services.

Co-location: The use of a single mount on the ground by more than one carrier or several mounts on an existing building or structure by more than one carrier.

Elevation: The measurement of height above mean sea level.

Equipment Shelter: An enclosed structure at the base of the mount within which are housed batteries and electrical equipment.

Fall Zone: The area on the ground within a prescribed radius of a PWSF within which there is a hazard from falling debris or collapsing material.

Monopole: The type of mount that is self-supporting with a single shaft of wood, steel or concrete and a platform (or racks) for panel antennas arrayed at the top.

Mount: The structure or surface upon which antennas are mounted, including mounts located on the ground, the roof or side of a building, or on a structure other than a building.

PWSF: A facility for the provision of personal wireless services, as defined by the Telecommunications Act.

Radio Frequency Radiation (RFR): The emissions from PWSFs.

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

8.6.3 District Regulations

8.6.3.1 Use Regulations.

8.6.3.1.1 A PWSF may locate on any existing guyed or lattice tower, monopole, or electric utility transmission tower, provided the PWSF does not increase the height of the tower. Such installation shall not require a Special Permit but shall require site plan approval by the PB.

8.6.3.1.2 A PWSF involving construction of a ground or building (roof or side) mount shall require a Special Permit. Subject to the provisions of this section, and all other sections of this Bylaw, PWSFs may locate by special permit in all zoning districts. The Special Permit Granting Authority for PWSFs shall be the Planning Board .

8.6.3.2 Height Limitations.

8.6.3.2.1 Ground-mount PWSFs shall not project more than ten feet above the average height of buildings within 300 feet of the proposed PWSF or, if there is no building within 300 feet, ten feet above the average tree canopy height.

8.6.3.2.2 Side-and roof-mounted PWSFs shall not project more than ten feet above the height of the existing building.

8.6.3.2.3 New antennas located on any towers, monopoles, or utility structures existing on January 18, 2000 shall be exempt from the height restrictions of this Bylaw, provided there is no increase in height of the tower as a result of the installation of a PWSF.

8.6.3.3 Setbacks and Fall Zones. A PWSF shall comply with the setback provisions of the zoning district in which it is located. In addition, the minimum distance from the base of any ground-mounted PWSF to any property line, sideline of a road, habitable dwelling, business use, institutional use, or public recreational area shall be equal to 120% of the vertical height of the facility (including any antennas or other appurtenances), as measured from the mean finished grade at the base of the facility. Notwithstanding the foregoing, no principal part of a PWSF may be located within 300 feet of a residential dwelling or within 200 feet of a residential lot line.

8.6.3.4 Location and Co-location.

8.6.3.4.1 If technologically feasible, PWSFs shall be located in the Retail District or the Business/Light Industry District. In addition, PWSFs shall, to the maximum extent practicable and technologically feasible, be co-located with existing PWSFs or located on existing towers, buildings or other structures whose height, location, and characteristics meet the needs of the proposed PWSF.

8.6.3.4.2 An applicant must demonstrate that it made a good faith effort to co-locate. Such effort includes: a survey of all existing structures that may be feasible sites for co-location; contact with all other carriers in the County; and sharing information to determine if co-location is feasible under the design configuration most accommodating to co-location.

8.6.3.4.3 If the applicant determines that co-location or the location of its proposed PWSF within the Retail District or the Business/Light Industry District is not technologically feasible, it shall file a statement of the reasons for such determination. The Town may, at the applicant's expense, retain a radio frequency (RF) engineer to determine whether co-location or location within the Retail District or the Business/Light Industry District is feasible.

8.6.3.4.4 If the applicant intends to co-locate, it shall submit drawings which show the ultimate appearance and operation of the PWSF at full build-out. If the PB approves co-location, the Special Permit shall specify the number and types of facilities that will be permitted on the site.

8.6.3.4.5 New PWSFs or support structures for PWSFs shall be designed, to the maximum extent practicable and technologically feasible, for the co-location of antennas and other necessary facilities, and shall offer space to all carriers at market rates. Any Special Permit granted under this Bylaw may be conditioned on the applicant's written agreement to allow the co-location of other PWSFs on commercially reasonable terms.

8.6.3.5 Design, Environmental, and Safety Standards.

8.6.3.5.1 Towers. After January 18, 2000, only monopoles may be constructed for use as PWSFs. New lattice towers or towers requiring three or more legs and/or guy wires for support are not allowed.

8.6.3.5.2 Visual Impact, Camouflage, and Screening

8.6.3.5.2.1 An Applicant shall demonstrate to the Planning Board 's satisfaction that the proposed PWSF will have minimal visual impact.

8.6.3.5.2.2 PWSFs shall be camouflaged or screened as follows:

- (a)** PWSFs in the Historic Districts shall be completely hidden within a steeple, cupola, or similar structure;
- (b)** Building-mounted PWSFs shall be designed so as to appear as an integral part of the architecture of the building, and shall be painted to match the color of the building;
- (c)** Roof-mounted PWSFs shall be stepped back from the facade to limit the impact on the building's silhouette;
- (d)** To the extent a ground-mounted PWSF is not camouflaged by existing structures, the PWSF shall be surrounded by buffers of dense tree growth and understory vegetation (the Planning Board shall determine the types of plants and the depth of the buffer required); and
- (e)** To the extent a PWSF extends above the surrounding vegetation, it shall be painted in a light grey or blue hue.

8.6.3.5.3 Equipment Shelters. Equipment shelters shall be: (a) located in underground vaults, (b) designed consistently with traditional New England architectural styles and materials (with a pitched roof and wooden clapboards or shingles), or (c) screened behind a landscape buffer and/or wooden fence. The PB shall determine the style of building materials, buffer, or fencing that is compatible with the neighborhood.

8.6.3.5.4 Lighting, Signs , and Security Barriers. PWSFs may be lighted only if required by the FAA, and any lighting shall be shielded from abutting properties. Signs shall be limited to those needed to identify the property/owner and to warn of dangers. Ground-mounted PWSFs shall be surrounded by security barriers.

8.6.3.5.5 Scenic Vistas and Open Areas. PWSFs shall not be located in open areas (e.g., marshes, fields) that are visible from public roads, recreational areas, or residential development. Any PWSF located within 300 feet of a scenic vista or scenic road designated by the Town shall not exceed the average height of vegetation at the proposed location.

8.6.3.5.6 Environmental Standards. No hazardous waste shall be discharged on the site of any PWSF. There shall be provisions for full containment of any hazardous materials used on site. An enclosed containment area shall be provided with a sealed floor, designed to contain at least 110% of the volume of the hazardous materials stored or used on site. Stormwater run-off shall be contained on-site. Ground-mounted PWSFs shall not generate noise in excess of 50 dB at the property line, and roof- or side-mounted equipment shall not generate noise in excess of 50 dB at ground level at the base of the building closest to the antenna.

8.6.3.5.7 RFR Standards. All equipment proposed for a PWSF shall be authorized by the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation.

8.6.4 Application Procedures. In addition to the requirements generally applicable to site plan approval and special permits issued by the PB, the following applies to PWSF applications:

8.6.4.1 General. The application shall include the name, address and telephone number of the applicant and any co-applicants. A licensed carrier shall either be an applicant or a co-applicant. An applicant proposing to erect a PWSF on Town-owned land shall provide evidence of contractual authorization from the Board of Selectmen to operate the PWSF. The PB may require the applicant to pay reasonable fees for review of the proposal by a RF engineer or other qualified professional.

8.6.4.2 Location. The applicant shall identify the location, tax map/parcel number, and zoning district designation of the subject property. The applicant shall submit (1) a line map to scale showing the lot lines of the property and all properties within 300 feet, and the location of all structures on such properties, and (2) a Town-wide map showing existing PWSFs in the Town and outside the Town within one mile of its corporate limits.

8.6.4.3 Vicinity Plan. The applicant shall file a one inch equals 40 feet vicinity plan showing the following: (1) property lines, tree cover (by dominant species and height), buildings, roads, and driveways for the subject property, and all adjacent properties within 300 feet; (2) proposed location of antenna, mounts, shelters, and security barriers (showing type and extent, as well as point of controlled entry); (3) distances, at grade, from the proposed PWSF to each building on the vicinity plan; (4) contours at each two feet AMSL for the subject property and adjacent properties within 300 feet; (5) proposed changes to the property, including grading, driveways, and vegetation removal; (6) representations, dimensioned and to scale, of the proposed mount, antennas, equipment shelters, cable runs, parking areas, and all construction attendant to the PWSF; and (7) lines representing sight lines showing viewpoint (point from which view is taken) and visible point (point being viewed).

8.6.4.4 Sight Lines and Photographs. The applicant shall provide sight lines and photographs as follows: (1) a sight line representation shall be drawn from any public road within 300 feet, and from the closest facade of each residential building within 300 feet, to the highest point of the PWSF; each sight line shall be depicted in profile, drawn at one inch equals 40 feet; the profiles shall show intervening trees and buildings; (2) each sight line shall be illustrated by one four inch by six-inch color photograph of what can currently be seen from the viewpoint; each of these existing condition photographs shall have the proposed PWSF superimposed on it to show what would be seen if the PWSF is built; (3) siting elevations, or views at-grade from the north, south, east and west for a 50-foot radius around the proposed PWSF, plus from all existing public and private roads that serve the subject property; elevations shall be at either one-quarter inch equals one foot or one-eighth inch equals one foot scale and shall show the following: antennas, mounts, and shelters, with total elevation dimensions and AGL of the highest point, security barrier, and any structures; existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of planting, with approximate elevations dimensioned; and grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.

8.6.4.5 Design. The applicant shall provide or specify:

- (1) equipment brochures (e.g., manufacturer's specifications or trade journal reprints) for antennas, mounts, shelters, cables, cable runs, and security barrier;
- (2) materials of the proposed PWSF by generic type and specific treatment (e.g., anodized aluminum, stained wood);
- (3) colors of the PWSF represented by a color board showing actual colors proposed;
- (4) dimensions of the PWSF for all three directions (height, width and breadth);
- (5) appearance of the PWSF by two photographic superimpositions of the PWSF within the subject property;
- (6) a landscape plan including existing trees and shrubs and those proposed to be added, identified by size of specimen at planting and species; and
- (7) if lighting is proposed, a manufacturer's computer-generated point-to-point printout, showing the locations and types of luminaires proposed, and indicating the horizontal footcandle levels at grade, within the subject property and 25 feet beyond the property lines.

8.6.4.6 Balloon or Crane Test. Within 21 days of filing the application, the applicant shall arrange for a balloon or crane test to illustrate the height of the proposed PWSF. The date, time, and location of such test shall be advertised in a newspaper of general circulation in the Town at least 14, but no more than 21, days prior to the test.

8.6.4.7 Noise. The applicant shall provide a statement listing the existing and future maximum projected measurements of noise from the proposed PWSF (including noise measurements of all emergency, auxiliary, and ancillary equipment), measured in decibels Ldn (logarithmic scale, accounting for greater sensitivity at night), for the following: existing or ambient: the measurements of existing noise; existing plus proposed PWSFs (maximum estimate of noise from the proposed PWSF plus the existing noise environment). An acoustical engineer shall certify that the statement is accurate and meets the standards of this section.

8.6.4.8 RFR. The applicant shall provide a statement listing the existing and future maximum projected measurements of RFR from the proposed PWSF for the following situations: existing, or ambient: the measurements of existing RFR; existing plus proposed PWSFs (maximum estimate of RFR from the proposed PWSF plus the existing RFR environment). An RF engineer shall certify that the RFR measurements are accurate and meet FCC Guidelines and the standards specified in this section.

8.6.4.9 Removal Bond. The Applicant shall provide evidence of written authority from the record owner(s) of the subject property to bind successors and assigns to allow the Town to enter the property to remove the PWSF if the carrier fails to remove the facility in accordance with the requirements of this Bylaw. The PB may require the applicant to post a bond at the time of construction to cover the costs of removing the PWSF.

8.6.5 Monitoring and Maintenance

8.6.5.1 The applicant shall submit, within 90 days of beginning operations, and annually thereafter,

- (1) existing measurements of RFR (an RF engineer shall certify that the measurements are accurate and meet FCC Guidelines and the requirements of this Bylaw), and
- (2) existing measurements of noise from the PWSF (an acoustical engineer shall certify that the noise measurements are accurate and meet the noise standards of this Bylaw).

8.6.5.2 The applicant and co-applicant shall maintain the PWSF in good condition. Such maintenance shall include painting, structural integrity of mounts, support structures, and security barriers, and maintenance of the buffer areas and landscaping .

8.6.6 Abandonment or Discontinuation. If a carrier decides to abandon or discontinue a PWSF, it shall notify the Town, by certified mail, of the proposed date of abandonment or discontinuation. If the carrier fails to give such notice, the PWSF shall be considered abandoned upon discontinuation of operations. Within 90 days of abandonment or discontinuation, the carrier shall remove the PWSF and restore the site to its natural state, except that landscaping and grading shall remain in place. If a carrier fails to remove a PWSF within this period, the Town shall have the authority to remove the facility; and to charge the carrier and/or record owner for the costs of removal.

8.6.7 Reconstruction or Replacement of Existing Towers. Towers in existence as of January 18, 2000, may be reconstructed, altered, or replaced by Special Permit, if the PB finds that such reconstruction, alteration, or replacement will not be substantially more detrimental to the neighborhood and/or the Town than the existing structure. In making such determination, the PB shall consider whether the proposed reconstruction, alteration, or replacement will create public benefits, such as reductions in visual and environmental impacts.

8.6.8 Modifications/Waivers. The PB, by a vote of at least four members, may modify/waive one or more of the requirements of this Bylaw if (1) the applicant demonstrates that it is technologically infeasible to meet such requirements, that the requirements are unduly burdensome, or that a modification/waiver would promote the purposes of this Bylaw, and (2) the PB finds that the proposed modification/waiver would be consistent with the visual, safety, and environmental concerns reflected in this Bylaw. The Town, at the applicant's expense, may retain an RF engineer or other qualified professional to determine whether modification/waiver is warranted.

8.6.9 Permit Term A Special Permit issued for a PWSF shall be valid for up to a maximum of fifteen years. At the end of that time, the PWSF shall be removed by the carrier or a new permit shall be required. Any substantial modification to a PWSF shall be considered a new PWSF and will require a new special permit .

8.7 Driveways and Common Driveways

8.7.1 Any driveway that provides vehicular access to a single lot , and that is not an extension of a common driveway , shall connect with the street entirely over the frontage of the lot .

8.7.2 Except as provided by section 8.8.3, common driveways are prohibited.

8.7.3 The Planning Board may issue a special permit authorizing the construction of a common driveway that serves up to three lots on which single family dwellings will be located, or up to two lots on which buildings for non-residential uses will be located, if the Board determines that the following requirements have been met:

- (a)** each lot served by the common driveway must satisfy the applicable requirements of section 6.0;
- (b)** the common driveway, in the opinion of the Planning Board, shall provide for adequate sight distances and a safe approach to the street, and for safe and convenient access for fire, police, ambulance, and other vehicles, and shall be constructed in accordance with the provisions pertaining to common driveways in the Subdivision Rules;
- (c)** the common driveway shall connect with the street over the frontage of one or two of the lots served by the driveway;
- (d)** the owner of each lot served by the common driveway shall have the benefit of, and shall be subject to, recorded covenants and agreements governing the use and maintenance of the common driveway; such covenants and agreements shall provide for the following: the right of each owner to use the common driveway for all purposes for which private driveways are customarily used; the obligation of each owner to repair and maintain the common driveway, and to keep it reasonably free of snow and ice; and the right of each owner to enforce such rights and obligations, including the right of equitable contribution for the expenses of such repair, maintenance, and snow removal;
- (e)** the deed for each lot served by the common driveway shall specify that vehicular access to the lot shall be provided exclusively by the common driveway, and any extension of such common driveway;
- (f)** the common driveway may not be located within fifteen (15) feet of the property line of any lot that is not served by the common driveway; and
- (g)** the use of a common driveway will promote the character of the neighborhood and enhance the natural environment by reducing impervious surface coverage, eliminating unnecessary curb cuts on streets, and/or minimizing the impact of development on primary or secondary conservation areas.

8.9 Large-Scale Solar Photovoltaic Installations

- 8.9.1** The purpose of this Bylaw is to establish some minimal standards to be implemented as determined necessary by the Planning Board in conjunction with the special permit and site plan review criteria so as to minimize the impact of large-scale solar photovoltaic installations (LSSPVIs) on abutting properties, to minimize the view of LSSPVIs from public rights-of-way, and to maximize the protection of public health, safety and welfare.
- 8.9.2** All solar panels, buildings, structures, and equipment related to an LSSPVI shall be setback at least 150 feet from a public right-of-way and at least 150 feet from any property boundary shared with a residential use, except that the Planning Board may waive this requirement if it determines that a reduced setback would be consistent with the purposes of this Bylaw.
- 8.9.3** An applicant shall demonstrate to the Planning Board's satisfaction that the proposed LSSPVI will have minimal visual impact on abutting residential uses and on public rights-of-way. The Planning Board shall have the discretion to require visual screening in the form of fencing and/or vegetative landscape as necessary to adequately minimize such visual impacts.
- 8.9.4** In the event that operation of the LSSPVI ceases, the LSSPVI owner shall, within 90 days of the cessation of operations, remove the LSSPVI. The LSSPVI owner shall be responsible for the work associated with the removal of the LSSPVI, and the subsequent site restoration.
- 8.9.5** The Planning Board shall have the option to require that the applicant post a bond to cover the cost of removing the LSSPVI prior to approval of the special permit application. If the LSSPVI owner has not removed the LSSPVI within the 90-day period prescribed by section 8.9.4, the Town shall be authorized to use the posted bond funds to commence the removal. At the time of special permit approval, the applicant shall provide evidence of written authority from the record owner(s) of the subject property to bind successors and assigns to permit the Town to enter the property in order to carry out said removal.

ZONING AMENDMENTS

The following summary of amendments to the Rowley Protective Zoning Bylaw since its adoption in 1960 is included only for ease of reference.

IN THE EVENT OF INCONSISTENCIES BETWEEN THE FOLLOWING ZONING AMENDMENT SUMMARY AND THE TRUE ADOPTION DATE AND/OR TEXT OF THE AMENDED BYLAW(S), THE ACTUAL BYLAW(S) SHALL BE CONTROLLING.

1960 This Bylaw was adopted at the Annual Town Meeting convened on March 7, 1960, and it was approved by the Attorney General on March 16, 1960. It has been amended as follows:
1964 Amendments voted at the Annual Town Meeting convened on March 2, 1964, and approved by the Attorney General on May 26, 1964.
1. "Mink farm" added to end of Sections A & B in Section II as a prohibited use in Central & Outlying Districts.
1970 Amendments voted at the Annual Town Meeting convened on March 2, 1970, and approved by the Attorney General on April 28, 1970.
1. Added area and frontage requirements for multi-family dwellings to Section IV. 2. Allowed for Board of Appeals exceptions to conversions in Section IV 3. Added minimum floor areas for multifamily dwellings and hotels in Section IV 4. Added Board of Health Approval for multifamily dwellings in Section V 5. Added definitions to section V: apartment, apartment house, dwelling, dwelling unit, hotel, inn, motel, tourist home, lodging house, floor area, amendment.
1972 Amendments voted at the Annual Town Meeting convened on March 6, 1972, and approved by the Attorney General on July 11, 1972.
1. Added a new district to Section I: Flood Plain and Water Protection District 2. Added a new Section C to Section II entitled: Flood Plain and Watershed Protection District 3. A new Section VI is added entitled : General Requirements
1973 Amendments voted at the Annual Town Meeting on March 5, 1973, and approved by the Attorney General on May 24, 1973 (Multi-Family).
1. Added a multifamily dwelling section to Section IV 2. Added prohibition against sand/gravel extraction under General Requirements (Sec VI) 3. Revised definition of Apartment House in Section VI 4. Amend Section V by adding requirements for "Site Plan Approval" as V.6: "Site Plan Approval".
1976 Amendments voted at the Annual Town Meeting convened on May 3, 1976, and approved by the Attorney General (Minimum Lot Areas).
1. Added a moratorium on multi-family building permits for three years. 2. Increased the lot area requirement in the Central District (for single and multifamily dwellings) from 15,000 sf to 20,000 sf. 3. Increased the lot area requirement in the Outlying District (for single and multifamily dwellings) from 30,000 sf to 40,000 sf

1978

Amendments voted at the Annual Town Meeting convened on May 1, 1978, and approved by the Attorney General on September 17, 1978 (Purpose and Authority, Definitions, Non-Conforming Use, Special Permits, Lot Width, Site Plan, Parking Spaces).

1. Changes made to conform with provisions of Chapter 808 of the Acts of 1975
2. Added "Purpose & Authority paragraph before Section I
3. Increased the time to act on Floodplain permits from 45 days to 60 days in Section II.C.2
4. Revising Section V: Amendment to refer to MGL Chapter 40A
5. Adding accessory uses in connection scientific research to permitted uses under Section V
6. Changing the word "building permit" to "special permit" under Section IV.B.1: Moratoriums on multi family dwellings
7. Procedures regarding nonconforming uses added, first paragraph of section II deleted.
8. definition of frontage and lot width added to Section V.4.
9. Section V, paragraph 1 deleted and replaced with a new Board of Appeals and Special Permit Granting Authority section
10. Automotive and vehicular sales, etc; and commercial entertainment, restaurants, and overnight lodging added to Section II A & B as uses allowed by Special Permit
11. Added Sections IV.A.1.c & d – the minimum lot width at the setback line will be 75 ft in all districts
12. Penalty for violations increased from \$50 to \$100 dollars in Section V, paragraph 7
13. New Site Plan Review section replaces all of Section V.6
14. Revised Section IV.B.9 (Multifamily Off Street Parking)

1981

Amendments voted at the Annual Town Meeting of 1981, and approved by the Attorney General in August of 1981 (Multi-Family).

1. Following definitions added to section V.E.4.a.: Condominium, Cooperative
2. Added a new paragraph to Section IV.B.14 (Maintenance of Multi Family Dwellings) pertaining to ownership agreements to be filed with Town Clerk.
3. Inserted paragraph regarding condominium ownership proof into Section V.E.6 "Site Plan Review" as "V.E.6.c"
4. Amended Section IV.B "Multi Family" as follows: renumbered sections; moved limitation of # of units in Central District from one section to another; water and swamp lands can't be used for minimum lot area require; allowed for maximum height exception; struck Board of Selectmen from text; no building can be placed on soils listed as "severe"; parking requirement exception added; requirement for "structural style" added; revised "maintenance" section; Elevations required for site plan review; Environmental Impact Statement required for more than 4 units.
5. Added Section IV.E: Cluster Development
6. Revised purpose of Site Plan Review; added Site Plan Review fee.
7. Renumbered Section V from numbers to letters
8. Change the paragraph designation system to the decimal system and correct all typographical and punctuation errors.

1982

Amendments voted at the Annual Town Meeting convened on May 3, 1982, and approved by the Attorney General on September 21, 1982 (Hazardous Materials).

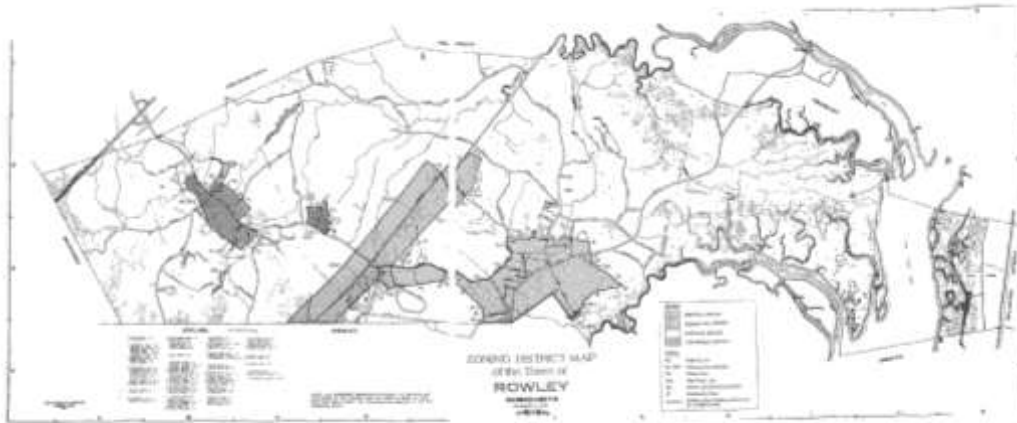
1. Added "Hazardous Materials" to Section 6.4 "Definitions"
2. Add Section 7.2 to Section 7.0 General Provisions called "Hazardous Materials".

1983

Amendments voted at the Special Town Meeting convened on December 5, 1983, and approved by the Attorney General on January 10, 1984 (Establishment of Commercial and Residential Districts, added Home Occupations).

1. Added the following new Districts to the Bylaw and Map under Section 2.0 "Establishment of Districts": Commercial District, Residential District.
2. Deleted references to district description and inserted reference to zoning map
3. Added Residential District to Use Regulations (Section 3.0). Uses allowed: one dwelling unit, structures containing more than one dwelling unit subject to provisions of Section 5.0, accessory buildings or uses including home occupations.
4. Added "Residential District and" before the words "Outlying District wherever they appear in Sections 5.1(Single Family and Non-Residential Uses) and 5.4(Cluster Development) and changing the words "Outlying District" to "Residential District" in Section 5.2.
5. Replace the first 23 words in Section 5.1.1.1. with " Each principle building or structure for non-residential use and each single family dwelling shall be located on a lot in conformance with the following:"
6. Add "Commercial District" to Section 2.0
7. Add Commercial District to Section 3.0 (Use Regulations) including uses allowed: Special Permit PB needed: hotels etc., gift shops etc., restaurants etc., research labs, office buildings, manufacturing, warehouses etc, cafeterias, enclosed storage yards, salesrooms, drive in or fast food restaurants. Special Permit Selectmen needed: retail of petroleum products, places of amusement.
8. Add lot coverage maximum (70%) to Section 5.1.5 for Commercial District
9. Revised uses allowed in Outlying District by not allowing multi-family residences, uses permitted in the Commercial District, and all other uses except for single family dwellings and cultural uses exempt by General Laws, and requiring a special permit for country clubs, day camps, and other non-profit recreation areas without over-night lodging.
10. Changed special permit granting authority in section 5.0 and 6.0 from the Board of Selectmen to the Planning Board.
11. Added Sections 3.6 (Exempt Uses) and 3.7 (Uses Permitted in All Districts). Under 3.7: cemeteries, municipal buildings, conservation areas, equipment necessary for these uses stored in an enclosure.

Dec. 1983 Map



1985

Amendments voted at the Special Town Meeting convened on September 9, 1985, and approved by the Attorney General on January 2, 1986 (Zoning Map-Central, Outlying, and Commercial Districts).

1. Added land between Wethersfield Street and the existing Commercial District on Newburyport Turnpike from the Outlying District to the Commercial District.
2. Replaced all of Section 3.1 (Central District) with new text. Changes included a description of the Central District. Added following uses by right: 2 family conversions, customary home occupations; with a Site Plan PB the following allowed: museums, retail businesses, etc.; Site Plan PB and Special Permit from Board of Selectmen for Automotive Uses, commercial entertainment, restaurants, overnight lodging, etc.
3. Replaced all of Section 3.3 (Outlying District) with new text. Changes included a description of the district, two family conversions, customary home occupations, agriculture; with a Special Permit the following allowed: country clubs, landing fields, veterinary hospitals and kennels
4. Replaced all of Section 3.4 (Commercial District) with new text. Changes included: Site Plan Review required for retail, gift shops etc, restaurants without live entertainment; (changed) Uses allowed with SP PB: retail business, office buildings; (changed) Uses allowed with SP Selectmen: Parking and loading areas and enclosed accessory uses permitted in Commercial District.
5. Added to Section 3.6.1.1 (Exempt Uses under MGL Chapter 40A, Section 3 the following: "and further provided that, if new or additional off-street parking is required, a site plan is approved in accord with Section 6.6"
6. Added the following definitions to Section 6.4 "Definitions" abandonment, alteration, buildable area, certificate of use and occupancy, commercial forestry, drive-in establishment, filling, hotel, home occupation, historic building, junk, loading space, lodging unit, medical clinic, office, screening, service station, structure, use, accessory; use, principal; uses subject to other regulations, wind energy conversions system.
7. Adding section 1.2 to "Purpose and Application": All buildings erected, etc shall conform with provisions of bylaw.

Sept. 1985 Map



1986

Amendments voted at the Annual Town Meeting convened on May 5, 1986, and approved by the Attorney General on June 20, 1986 (Perimeter Requirement).

1. Added office parks and shopping centers to uses allowed by SP PB in the Commercial District
2. Added maximum perimeter ratio for all lots under Section 5.0 "Intensity of Land Use" as Section 5.5.2 under General Requirements

1987

Amendments voted at the Special Town Meeting convened on November 23, 1987, and approved by the Attorney General on December 21, 1987 (Zoning Board of Appeals).

1. Replaced text of Section 6.1.1 "Board of Appeals" with new text that describes the makeup and appointment of members.

1988

Amendments voted at the Annual Town Meeting convened on May 2, 1988, and approved by the Attorney General on September 12, 1988 (Cluster Development, Multi-Family, Signs, Kennels, and Entertainment in Commercial District).

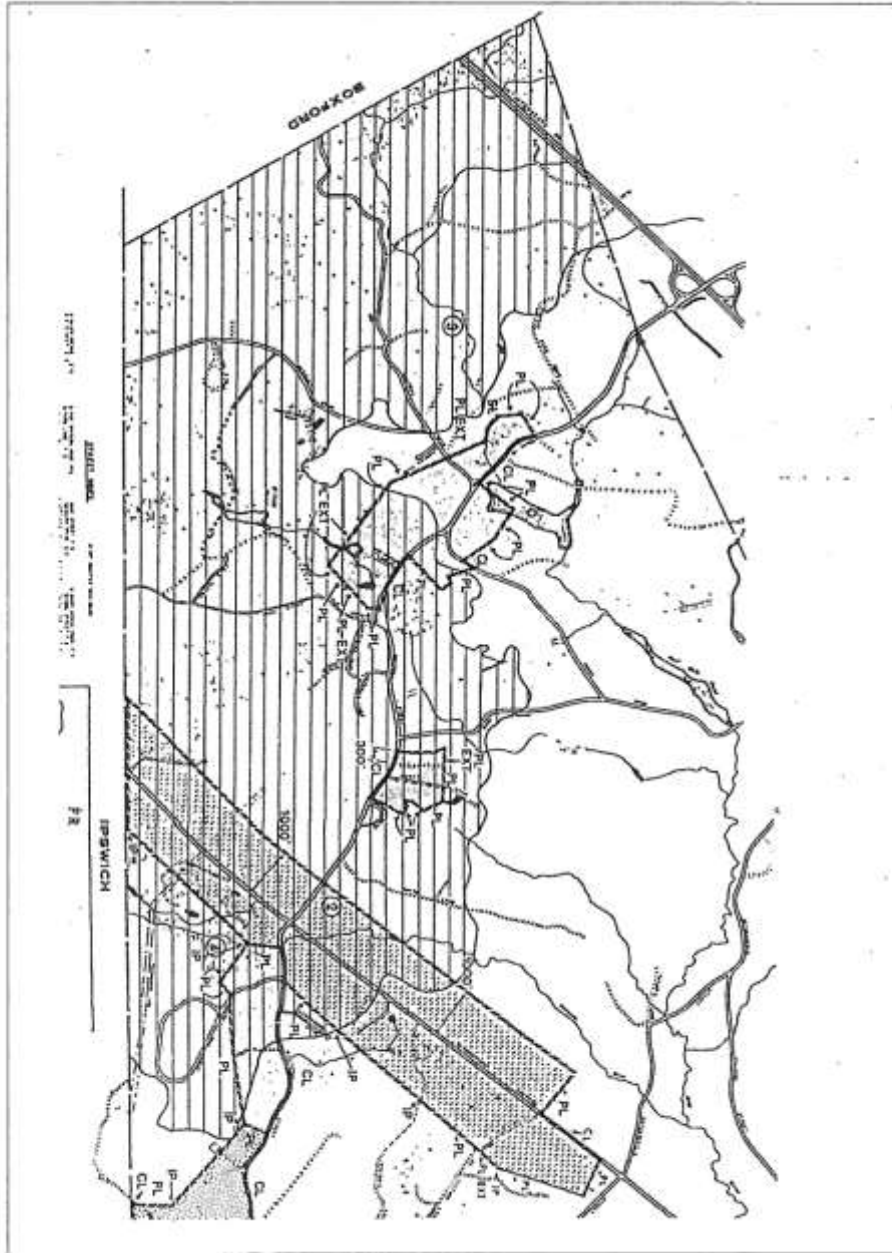
1. Added Section 7.4 "Signs" for all districts and "temporary signs"
2. Removed Veterinary hospitals and kennels from allowed uses in the Outlying District and added this use to those allowed in the Commercial District by SP PB.
3. Removed Commercial entertainment uses in the Central District and replaced with "restaurants and overnight lodging including but not limited to hotels, motels, and inns."
4. Added Section 4.5 "Change in Non-conforming Use" which allows one non conforming business to change to another if Building Inspector decides the new business will have less impact on the neighborhood

1989

Amendments voted at the Annual Town Meeting convened on May 1, 1989, and approved by the Attorney General in October 1989 (Water Supply Protection District, Zoning Enforcement Officer).

1. Added new Section 3.6: "Municipal Water Supply Protection District"; added definitions pertaining to MWSPD to Section 6.4: "Definitions" and description of new district to section 2.0 "Establishment of Districts"
2. Created a new overlay district: "Municipal Watershed Protection Overlay District".

May 1989 Map



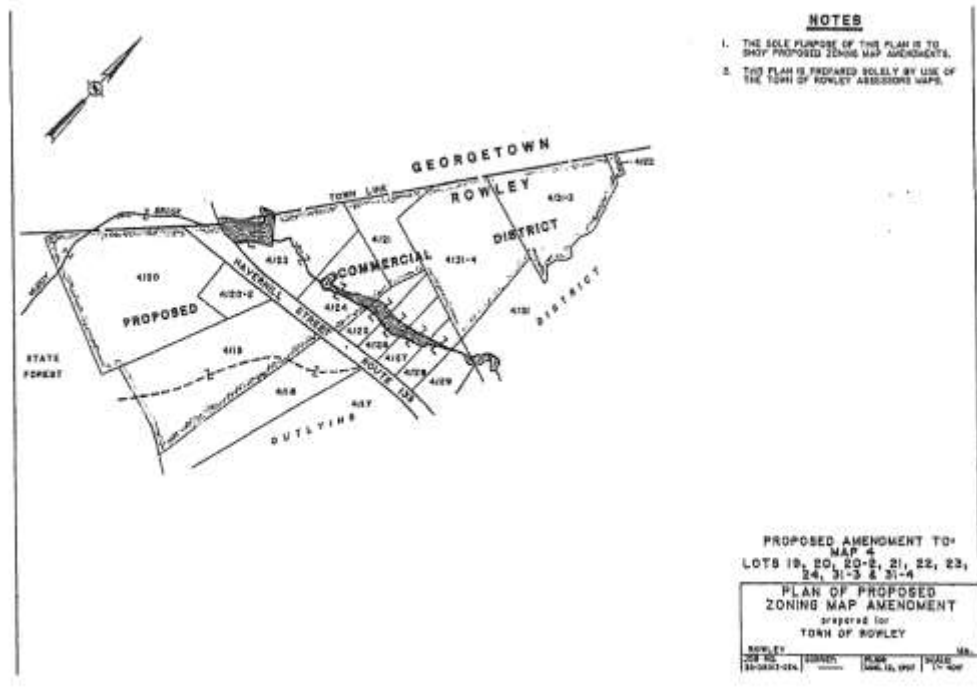
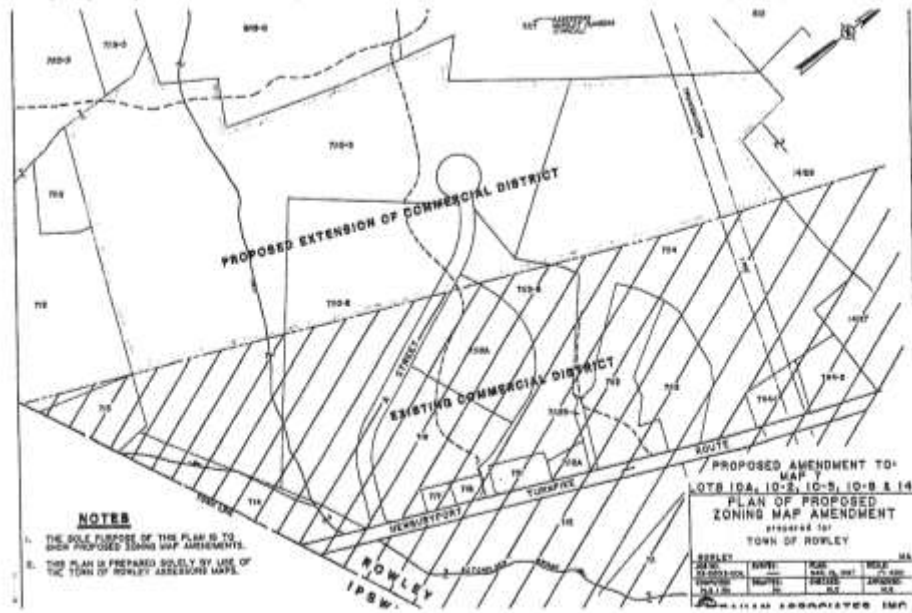
<p>1989 Amendments voted at the Special Town Meeting convened on October 30, 1989, and approved by the Attorney General on February 5, 1990 (Fast Food and Vehicle Sales in Commercial District, Accessory In-Law Apartments).</p>
<p>1. Add "Accessory In-Law Apartments" as a use allowed in the Central, Outlying, and Residential Districts by Special Permit from Board of Appeals as Section 5.2.2: "Intensity of Land Use, Multifamily".</p> <p>2. Deleted drive-in or fast food establishments" as a permitted use in Commercial District but adding "Drive-in banks provided that no vehicles park or stand in a public way"</p> <p>3. Deleting automobile sales from uses allowed in Commercial District and replacing it with "Salesrooms for bicycles, boats, and farm implements with incidental outdoor display."</p>
<p>1990 Amendments voted at the Special Town Meeting convened on October 2, 1990, and approved by the Attorney General on January 9, 1991 (added text to FloodPlain and Watershed Protection District pertaining to excavation and filling)</p>
<p>1. Add following words to Section 3.5.1.1.1.: "addition, placement, filling,"</p>
<p>1995 Amendments voted at the Annual Town Meeting convened on May 1, 1995, and approved by the Attorney General on June 20, 1995 (Municipal Water Supply Protection District).</p>
<p>Replaced Section 3.6 "Town Water Supply Protection District" with an entire new section entitled "Municipal Water Supply Protection District bylaw".</p>
<p>1996 Amendments voted at the Annual Town Meeting convened on May 6, 1996, and approved by the Attorney General on August 14, 1996 (New Dwelling Unit Schedule).</p>
<p>1. Added Section 7.5 "New dwelling unit scheduling" which limited the number of residential building permits issued in any given year.</p>

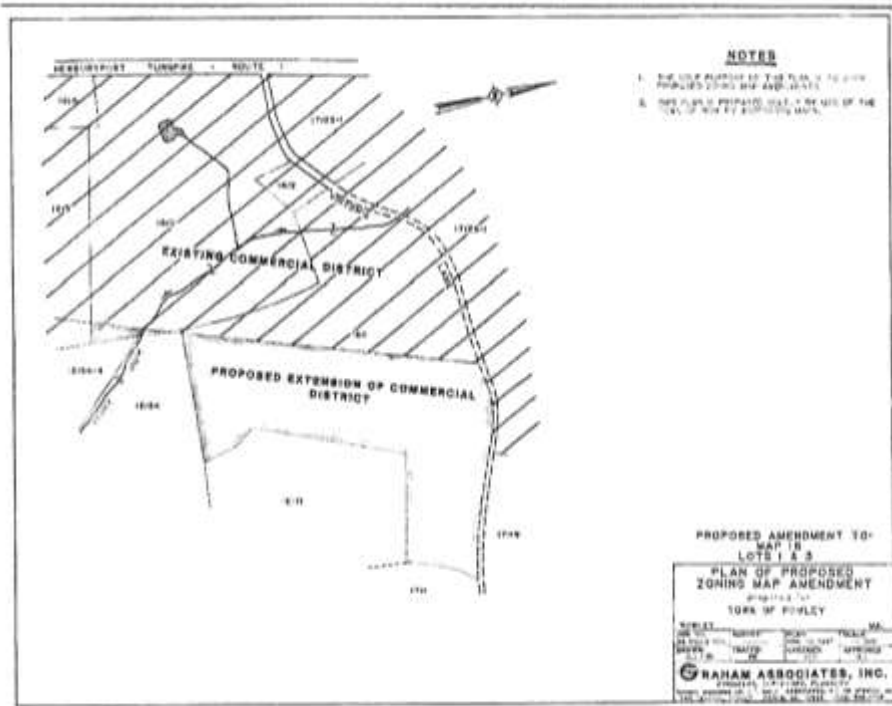
1997

Amendments voted at the Annual Town Meeting convened on May 5, 1997, and approved by the Attorney General on August 28, 1997 (Zoning Map-Commercial District).

1. Land west of the Newburyport Turnpike converted from Outlying District to Commercial District
2. Land north and south of Haverhill Street converted from Outlying District to Commercial District
3. Land east of Newburyport Turnpike converted from OD to Commercial

May 1997 Maps





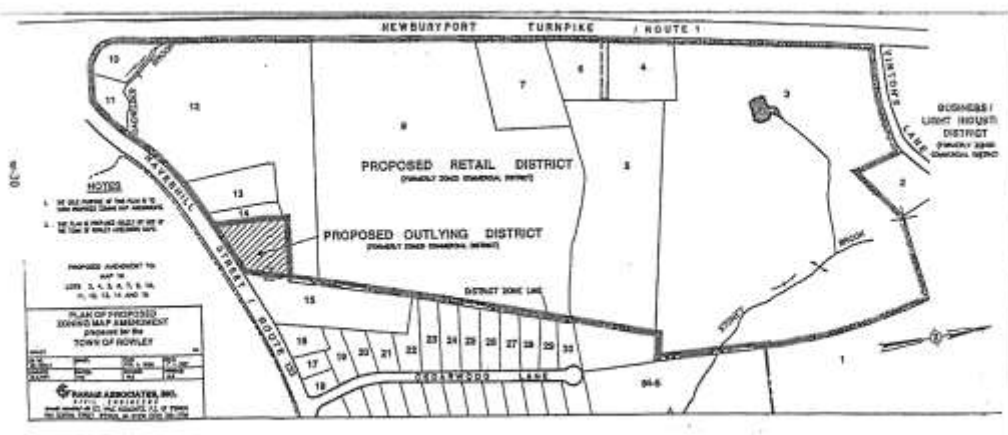
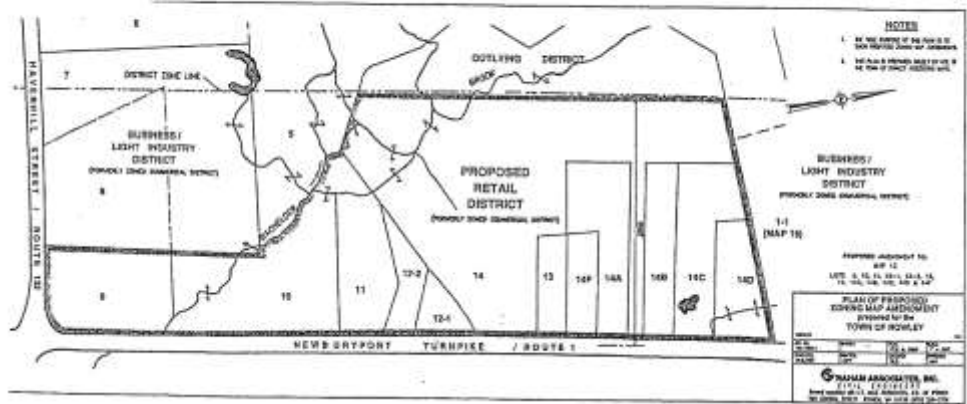
<p>1998 Amendments voted at the Annual Town Meeting convened on May 4, 1998, and approved by the Attorney General on August 24, 1998 (Adult Entertainment).</p>
<p>1. Changed setbacks under Adult Entertainment & Establishments to delete 50 ft side/year setback requirements</p>
<p>1999 Amendments voted at the Annual Town Meeting convened on May 10, 1999, and approved by the Attorney General on September 1, 1999 (Lot Area and Frontage, Yard Area, Building Height, Cluster Development, Site Plans, Outdoor Lighting, Signs).</p>
<p>1. Increased minimum area and frontage for Central District from 20,000 sf and 100 ft frontage to 30,000 sf and 125 ft of frontage. 2. Increased minimum area and frontage for Outlying District from 40,000 sf and 125 ft frontage to 60,000 sf and 150 ft of frontage. 3. Increased "lot width" in all districts from 75 ft to 100 ft. 4. Increased setbacks in all districts from 20 ft from street line to 50 ft from street line. 5. Decreased maximum lot coverage in the Commercial District from 70% to 50%. 6. Created a maximum building/lot coverage ratio of 25% for all districts. 7. Created maximum height of any structure in all districts of 35 ft. along with definition of height. 8. Added a new section entitled "Open Space Residential Development" 9. Added requirement that all driveways must cross the lot line that serves as legal frontage. 10. Revised Site Plan requirements for screening, surfacing, lighting, and landscaping. 11. Added new section entitled "Outdoor Lighting Specifications" 12. Added internally/externally illuminated sign requirements to Section 7.4 "Signs" (requiring Special Permit and Design Review by Board of Selectmen.)</p>
<p>1999 Amendments voted at the Annual Town Meeting convened on November 15, 1999, and approved by the Attorney General on February 18, 2000 (Non- Conforming Use, Municipal Watershed Protection District, Soil Suitability).</p>
<p>1. Added Sections to "Changes in Non-Conforming Use" to allow for "findings" by either the Zoning Administrator or the Board of Appeals for changes in non-conforming uses/structures 2. Moved definition of "nonconforming Structure of Use" from section on Non-conforming Use to the Definitions Section in bylaw. 3. Added the notation: "as amended" to the Flood Plan and Watershed Protection District section. 4. Increased time limit for decisions re: Floodplain permits to be made from 5 days to 14 days.</p>
<p>2000 Amendments voted at the Annual Town Meeting convened on May 1, 2000, and approved by the Attorney General on July 18, 2000 (Lot Area and Frontage, Cluster Development, Personal Wireless Service Facilities).</p>
<p>1. Added new section: Personal Wireless Service Facilities 2. Following uses added to those allowed within front and side setbacks in all districts except for Commercial: public & private utility lines, septic systems, water supplies. 3. Created new section for Commercial District setback requirements. 4. Added requirement that permanent open space required for Cluster Developments may not exceed a finished grade of 20%.</p>
<p>2001 Amendments voted at the Annual Town Meeting convened on May 7, 2001, and approved by the Attorney General on September 6, 2001 (Signs, Outdoor Lighting).</p>
<p>1. Deleted "outdoor lighting specs" section and illuminated signs sections and replaced with a new section: Outdoor Illumination Standards, Including Standards for Illuminated Signs.</p>
<p>2002</p>

Amendments voted at the Annual Town Meeting convened on May 15, 2002, and approved by the Attorney General on October 7, 2002 (Zoning Map, Purpose and Application, Establishment of Districts, Validity, Definitions, Use Regulations, Earth Removal, Multi-Family, Site Plan Approval, Open Space Residential Development, Outdoor Lighting, and Personal Wireless Service Facilities).

1. Created two new districts called "Business/Light Industry District" and "Retail District" and split all currently zoned "Commercial District" properties into either of these two new districts.
2. Revised following sections in their entirety: Purpose and Application, Establishment of Districts, Validity, Definitions, Use Regulations.
Adopted a new "Earth Removal Bylaw"
3. Revised parking requirements and underground utility requirements for Multi-Family Uses
4. Completely revised Site Plan Review section.
5. Replaced existing "Cluster Development" section with new section entitled "Open Space Residential Development".
6. Added the word "special" to type of permit needed for illuminated signs, also specified that internally illuminated signs shall not use white as background color for face of sign.
7. Changed Personal Wireless Section to allow location in the Historic District (previously prohibited from this district). Also added special requirements when located in the Historic District.

May 2002 Maps

Article 45 of the Annual Town Meeting of May 2002, Maps 13, 14 and 16; (1) transferring areas to a Retail District,

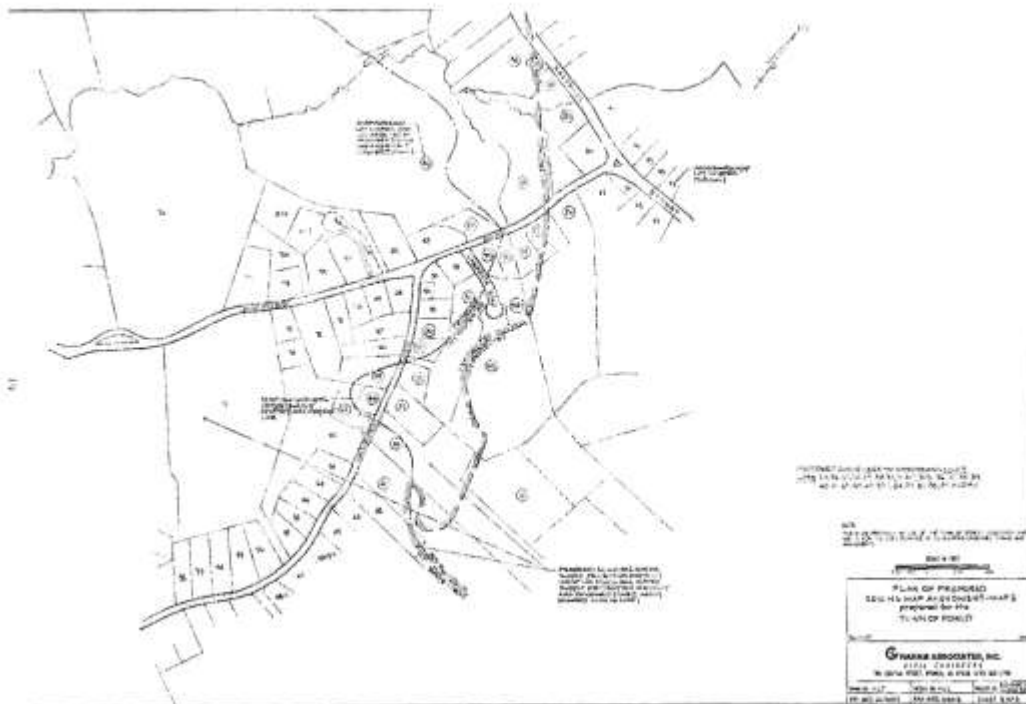


2002

Amendments voted at the Special Town Meeting convened on November 18, 2002, and approved by the Attorney General on February 20, 2003 (Zoning Map- Municipal Water Supply Protection District, Lot Area & Frontage, Board of Appeals, Special Permits, New Single Family Dwelling Limitation, and Affordable Dwelling Units).

1. Extended the Municipal Watershed Supply Protection District extensively.
2. Deleted disclaimer regarding lots not under common ownership in "Lot Area and Frontage" section and added exemption for personal wireless service facilities.
3. Revised Section 7.1: "Board of Appeals and Special Permit Granting Authority"
4. Added a "New Single Family Dwelling Limitation" as Section 8.5

Nov. 2002 Maps



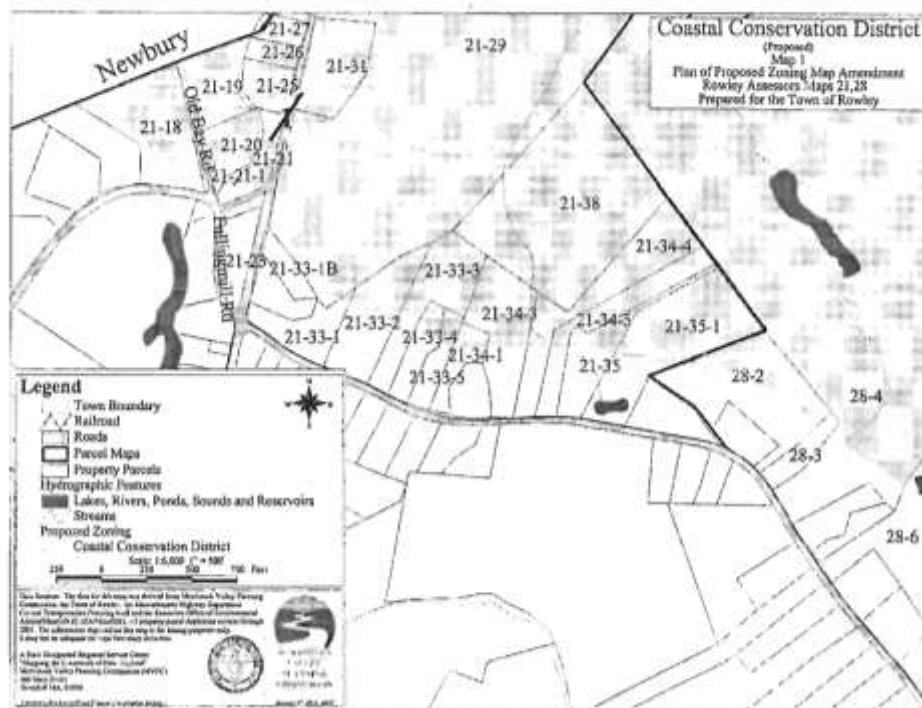
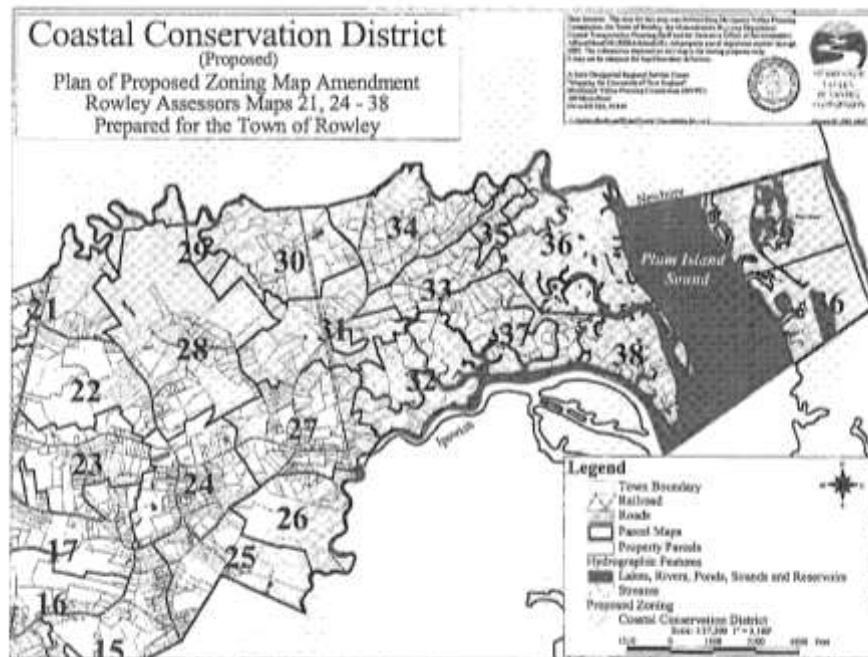
2003

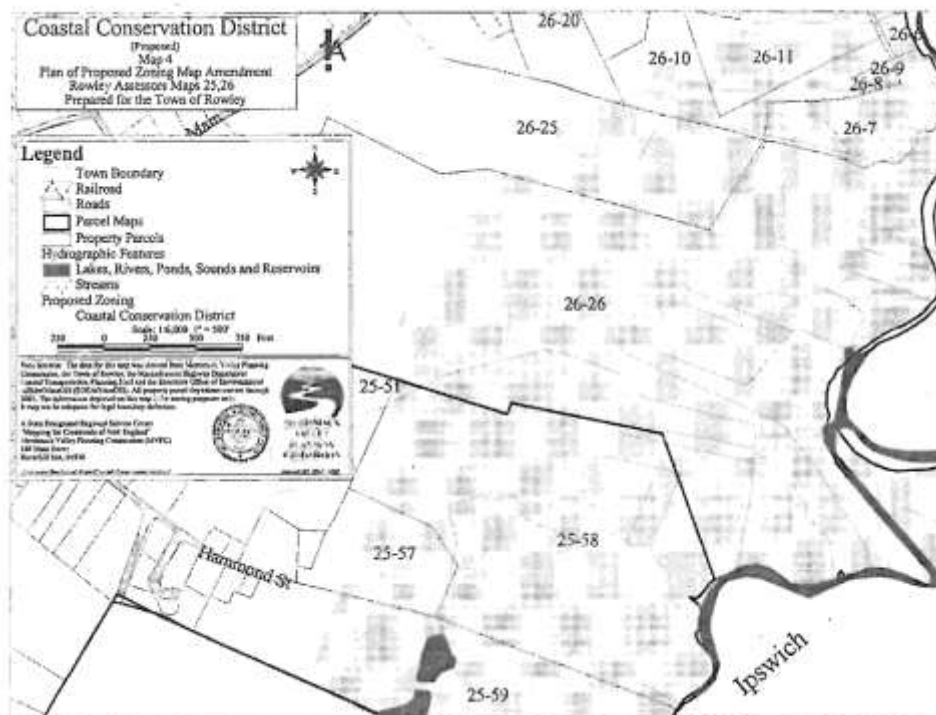
Amendments voted at the Special Town Meeting convened on May 12, 2003, and approved by the Attorney General on August 27, 2003 (Retail District Uses, Municipal Water Supply Protection District, Zoning Map-Coastal Conservation District, Definitions, Single Family and Non-Residential Uses, Open Space Residential Development, Common Driveways, Multi Family, Special Permit Granting Authority, Outdoor Lighting).

1. Changed SPGA from Selectmen to Planning Board for following uses in Retail District: filling stations, video game machines, dance halls, theaters, skating rinks, restaurants with live entertainment
2. Changed SPGA from Selectmen to Planning Board in the Business/Light Industry District for: Establishment for repair of motor vehicles
3. Added following use in the Business/Lt Industry: construction yards with screened open storage
4. Added prohibited uses to Municipal Water Supply Protection District: Storage of liquid petroleum, petroleum bulk stations and terminals
5. Deleted following uses from those requiring SP in the MWSPD: Pesticides, fertilizers
6. Added guidelines for ZBA when granting a SP in the MWSPD.
7. Created a new district: Coastal Conservation District and transferred parcels currently in the Outlying and Central Districts to this new district.
8. Added the following definitions to the bylaw: driveway, driveway, common; lot, reduced frontage
9. Amended definition of "lot width"
10. Added "Reduced frontage lots" to section 6.0 "Intensity of Land Use"
11. Amended definition of "affordable dwelling Unit and added following new definitions to bylaw: bedroom, dwelling unit, market rate; subdivision of land, Subdivision Rules.
12. Deleting Multi-Family Dwelling section and replacing it with a newly revised Multi-Family Section (changes too substantial to summarize here)
13. Added associate member to Planning Board

14. Added line to "Outdoor Illumination Standards": for any activity not addressed by this section, illumination levels shall not exceed those levels published for such activity by the IESNA Handbook.
15. Changed density bonuses and open space requirements in OSRD

May 2003 Maps



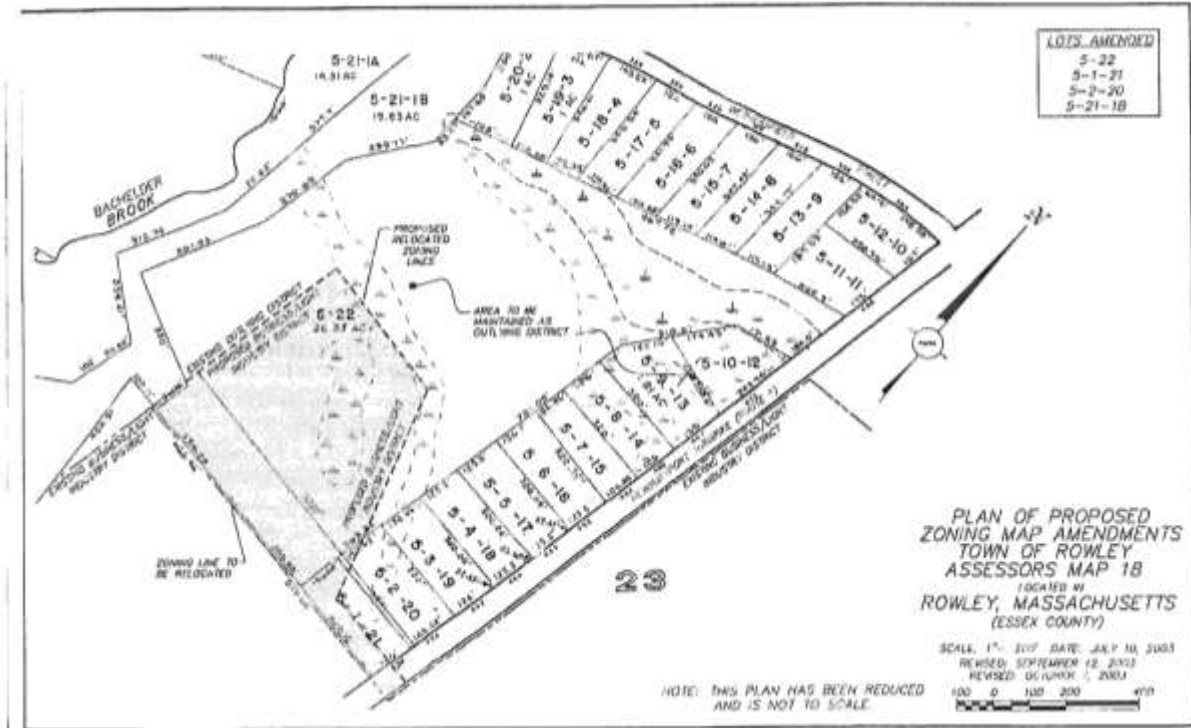


2003

Amendments voted at the Special Town Meeting convened on November 17, 2003, and approved by the Attorney General on January 23, 2004 (Site Plan Review, Municipal water Supply Protection District, and Zoning Map- Business/Light Industry District).

1. Transferred some land located in the Outlying District near the junction of Wethersfield and Nbpt Tnpk to the Business/Light Industry District.
2. Added Screening requirements to Site Plan Review between Commercial activities and residential uses/zones.
3. Made text changes to MWSPD

Nov. 2003 Map

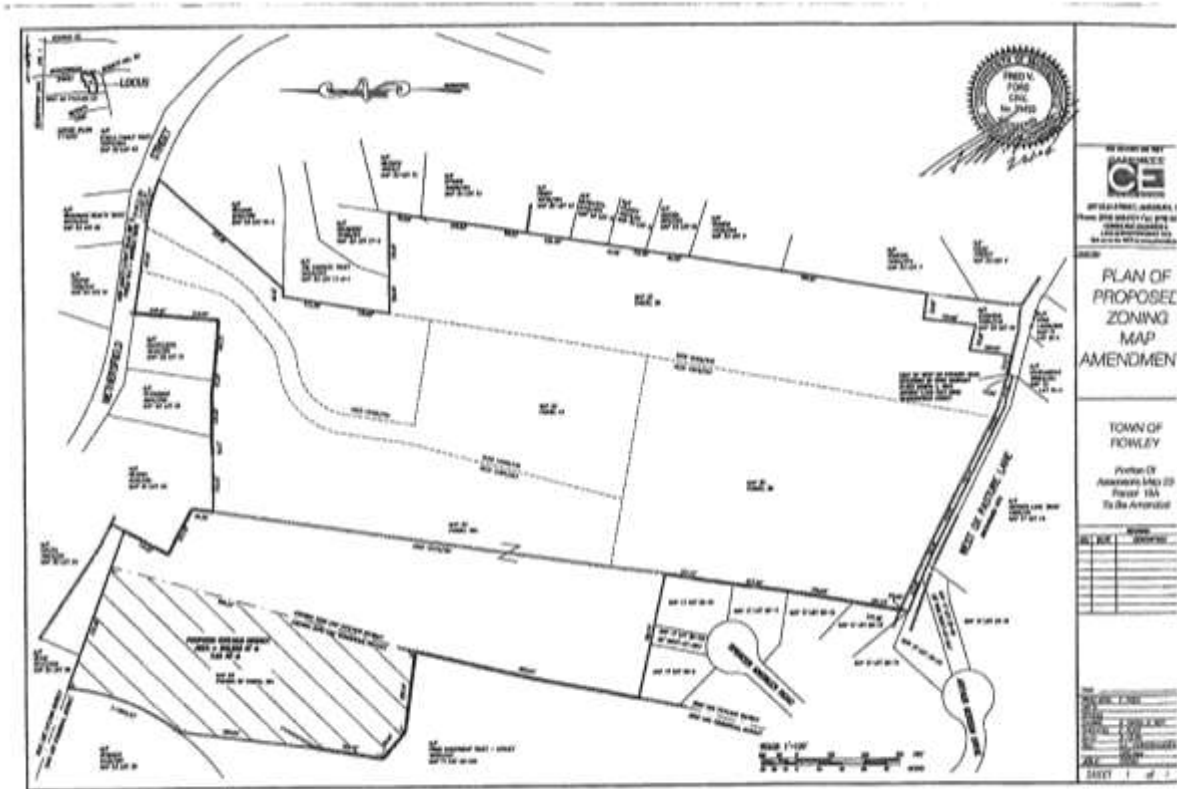


2004

Amendments voted at the Annual Town Meeting convened on May 10, 2004, and approved by the Attorney General on July 1, 2004 (Zoning Map-Business/Light Industry District, Use Regulations, Non-Conforming Uses and Structures, Intensity of Land Use).

1. Changed portion of parcel 23-19A from Bus/Lt Industry to OD.
2. Added requirement that large residential accessory structures need SP from PB.
3. Revised Non-Conforming Uses and Structures Section
4. Added requirement that Primary conservation areas cannot be used when considering density in multi-family developments.
5. Consolidated Special Permit provisions and added criteria for SPGA to make decisions.

May 2004 Map



2004

Amendments voted at the Special Town Meeting convened on November 15, 2004, and approved by the Attorney General on January 7, 2005 (Open Space Residential Development, Soil Suitability, New Single Family Dwelling Limitation).

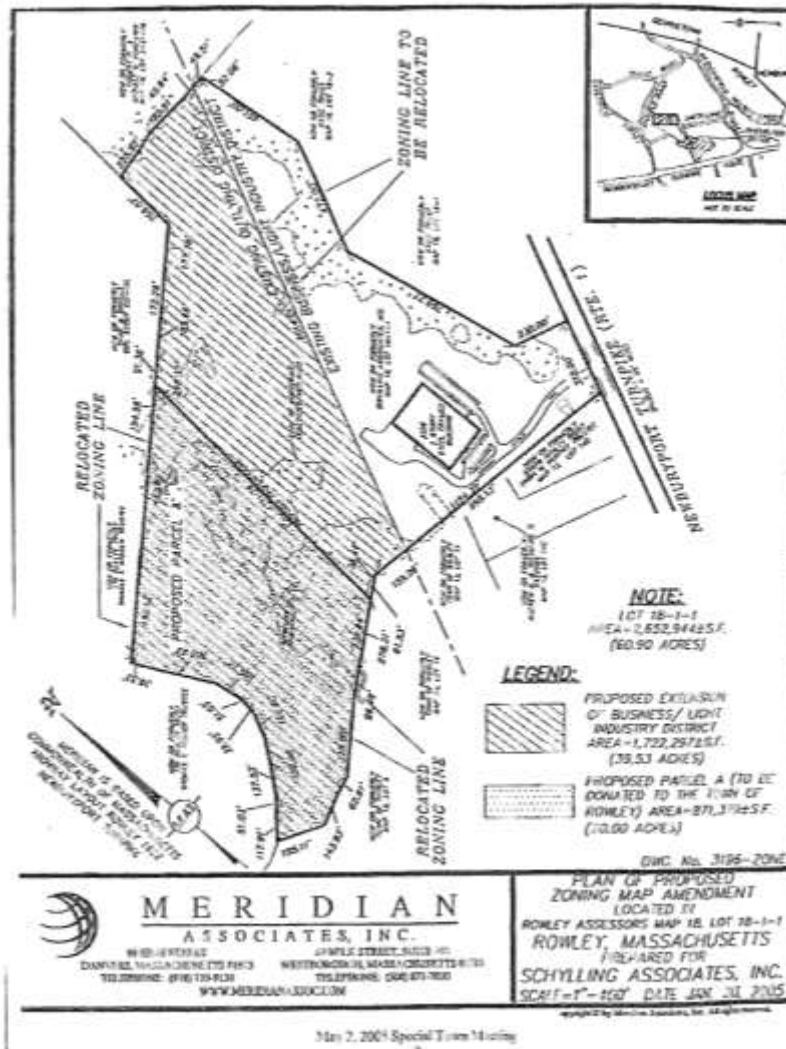
1. Made changes to open space dedication for OSRD
2. Added expiration date of May 6, 2009 for Single Family Dwelling Limitation bylaw

2005

**Amendments voted at the May 2, 2005 Special Town Meeting (zoning map changes)
Amendments voted at the Special Town Meeting convened on November 14, 2005, and
approved by the Attorney General on February 28, 2006 (New England Village Development).**

1. Zoning Map Change (OD to BLI District)
2. Added New England Village Development as a use allowed in the Central District

May 2005 Map



<p>2006 Amendments voted at the Special Town Meeting convened on May 1, 2006, and approved by the Attorney General on July 27, 2006 (Non-Conforming Uses and Structures).</p>
<p>1. Added limits on the ability of a non-conforming use to expand or be changed and also revise criteria for determining whether a non-conforming use has been abandoned.</p> <p>2. Revised definition of frontage by exempting common driveways easements from frontage calculation.</p>
<p>2006 Amendments voted at the Special Town Meeting convened on November 13, 2006, and approved by the Attorney General on March 5, 2007 (Zoning Map- Rowley Floodplain District, Floodplain District).</p>
<p>1. Comprehensive revision to the Floodplain District Section and added Floodplain District to Zoning Map.</p>
<p style="text-align: center;">Nov. 2006 Map (FEMA Floodplain information added to Zoning Map)</p>

2012

Amendments voted at the Special Town Meeting convened on April 30, 2012, and approved by the Attorney General on June 16, 2012 (Regulation of outdoor retail sales, Deletion of Section 8.5: "Single Family Dwelling Limitation", Revision of Section 6.6: "Accessory in-Law Bylaw", Floodplain District text changes.

1. Single Family Dwelling bylaw removed as it had expired.
2. Newly revised Accessory In-Law Bylaw (homes of all ages are allowed to apply for permit)
3. Outdoor retail sales, formerly prohibited, are now allowed under new regulations.
4. Small text changes to Floodplain District Bylaw.

2013

Amendments voted at Special Town Meeting convened on May 6, 2013 (Sign Illumination Special permit granting authority, Solar Photovoltaic Uses and Definition, Accessory In-Law "grandfather" provision, Non-conforming Uses, Multi-family Density formula).

1. Changed SPGA for illuminated signs from Selectmen to Planning Board.
2. Text changes to Section 4.0: Use Regulations
3. Added "solar photovoltaic use to Section 4.0 "USE REGULATIONS" and to Section 2.0 "DEFINITIONS."
4. Added a "grandfather" provision to Section 6.6 "ACCESSORY IN-LAW APARTMENTS."
5. Made revisions to Section 5.0 "NONCONFORMING USES."
6. Changed the formula used to calculate Multi-family density allowances.

**May 2013 Map
(Retail District Expanded at 406 Haverhill Street)**

**2013**

Amendments voted at the Special Town Meeting convened on November 4, 2013, and approved by the Attorney General on March 5, 2013 (Temporary Moratorium on Registered Marijuana Dispensaries).

1. Adoption of this bylaw allows the Town a period of time during which to develop a zoning bylaw that adequately addresses the requirements of Registered Medical Marijuana Dispensaries specifically for the Town of Rowley.

2014

May 5 Annual Town Meeting –

Amendments voted at the Town Meeting convened on May 5, 2014, and approved by the Attorney General on August 12, 2014 (

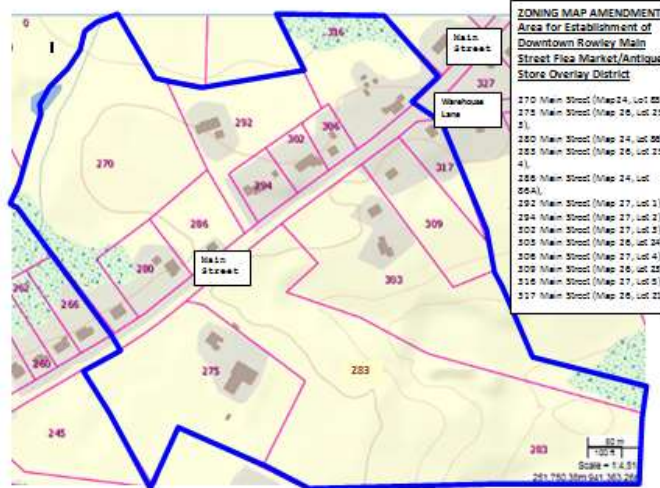
1. Repeal of the Temporary Moratorium on Registered Marijuana Dispensaries adopted at the November 4, 2014 Special Town Meeting.
2. Adoption of requirements for Registered Medical Marijuana Dispensaries located in the Retail (RE) Zoning District.
3. Adopting language pertinent to the inclusion of “other indoor recreational facilities” in the Retail (RE) Zoning District in addition to the established uses “Fitness Centers” and “Indoor Skating Rinks” with the stipulation that all such facilities may not exceed twenty-thousand (20,000) square-feet.

2015

Amendments voted at the May 4, 2015 Special Town Meeting (zoning map changes)

1. Zoning Map Change for the establishment of the Downtown Rowley Main Street Flea Market/Antique Store Overlay District (FMASOD).
2. Add Section 4.12 Flea Market/Antique Store Overlay District (FMASOD) to the Zoning Bylaw

Flea Market/Antique Store Overlay District (FMASOD) Map



Amendments passed at the May 1, 2017 Annual Spring Town Meeting

- ## 2018 - Amendments passed at the April 30, 2018 Spring Town Meeting

- ### **2019 – Amendments passed at the May 6, 2019 Special Town Meeting**

-

2020 - Amendments passed at the June 22, 2020 Special Town Meeting

1. Amend definition of Large-Scale, Solar Photovoltaic (SPV) installation, and add language to Sections 4.6.2 (Retail Uses) and 4.7.2 (Business Light Industry) to permit SPVs in those commercial districts with only by-right site plan review approval by the Planning Board.
2. Amend section 6.1.3 to give the ZBA an option for reducing the 50-foot front setback on properties located in the Central (Cen-D) zoning district
3. Amend section 8.6 (Outdoor Illumination Standards) to remove requirements for foot-candle illumination metrics and for prohibiting glare visible from the public right-of-way, or light trespass onto properties with residential uses.

2021 – Amendments passed at the May 3, 2021 Special Town Meeting

1. Amendment to the Retail Village Overlay Zoning District (RVOD) passed in May 2019 to include revised language and add a new RVOD area along Route 1 just north of the Route 133 intersection:



2. Added new item (d) under Section 4.4.3 to permit (with Planning Board Special Permit approval) the outdoor cultivation of marijuana on parcels 4 acres or greater in the Outlying (OD) Zoning District provided that the canopy area to be cultivated is no larger than 5,000 square feet, at least 300 feet from an abutting residential structure, at least 400 feet from a public right-of-way, not located within two hundred (200) feet of a day care facility, elementary or secondary school, or church or religious assembly, and complies with all State regulations for outdoor marijuana cultivation.

2022 – Amendments passed at the May 3, 2021 Special Town Meeting

1. Established an Affordable Housing Trust that can allocate funds to affordable housing projects.
2. Added language to Zoning Bylaw Sections 6.2 (Multifamily), 6.4 (OSRD), and 6.7 NEVD to require a minimum 10% affordable housing and to permit (at the discretion of the Planning Board) the option for applicant's to make a cash donation to the town's Affordable Housing Trust fund.
3. Update Zoning Bylaw Section 4.14 (Floodplain Overlay District) with FEMA's current standard definitions and requirements.

INDEX

A

Abandonment, 3, 68
Accessory, 5, 9, 15, 39, 43
accessory in-law apartment, 43, 44
Adult Entertainment Establishments, 53, 54
Affordable, 3, 34
Agriculture, 14
Alteration, 3
Antique, 10
Apartment, 3
Aquifer, 3

B

Banks, 9, 13
Bars, 13
Bedroom, 3
Board of Appeals, 15, 20, 22, 23, 25, 31, 35, 43, 44, 47, 48, 51
Buildable Area, 3
Building height, 42
Business/Light Industry District, 7, 13, 14, 31, 32, 56, 63

C

Car washes, 15
Cemeteries, 14
Central District, 7, 9, 10, 29, 32, 33, 36, 43, 44, 56
Coastal Conservation, 7, 11, 29, 36, 38, 43
common driveway, 3, 4, 30, 68, 69
Consumer service establishments, 9

D

Dance halls, 13
Disposal, 3
Drive-through windows, 15
Driveway, 3
Dwelling Unit, 3, 4

E

Earth Removal Bylaw, 55
electronic game machines, 13

F

Filling, 4, 10, 13
filling stations, 9, 15, 25
FillingStation, 4
Floodplain District, 7, 15, 16, 17, 18, 19
Floor Area, 31, 35
Floor Areas, 4
Formula Fast Food Restaurant, 4
Frontage, 4, 29

G

Groundwater, 4

H

Hazardous, 5, 23, 55
hazardous materials, 5, 21, 22, 23, 55, 65
Historic Building, 4
Home Occupation, 4
Hotel, 4

I

Illuminated Signs, 57, 59
Impervious Surfaces, 4

L

landscaping, 34, 35, 41, 48, 49, 50, 68
Leachable Wastes, 4
light manufacturing, 13
Loading Space, 4
Lot Area, 29, 35, 38
Lot Coverage, 32
lot width, 29, 40
Lot Width, 4, 30

M

Market Rate, 4
Medical, 9
Mining, 4
Multi-family dwellings, 9, 32, 44

Municipal Water Supply Protection District, 7, 14, 19, 20
Museums, 10

N

New England Village Development, 9, 32, 44
non-conforming, 25, 26, 47
Nonconforming, 4

O

Open Space Residential Development, 9, 32, 36
outdoor illumination, 57
outdoor retail display, 9
Outlying District, 7, 11, 29, 36, 43, 56

P

parking, 3, 10, 13, 15, 16, 25, 26, 31, 34, 35, 39, 41, 45, 48,
49, 51, 54, 59, 65
personal wireless service facilities, 30, 61
Personal wireless service facilities, 15
Principal, 5
Professional and business offices and services, 9

R

Recharge, 4
reduced frontage lot, 29, 30
religious, 15, 53
repair of motor vehicles, 9, 10, 20, 25
Research laboratories, 10, 13
Residential District, 7, 10, 29, 32, 33, 36, 43, 56
Restaurants, 10
Retail District, 7, 12, 31, 32, 56, 63
Retail Sales, 4, 5

S

Single family dwellings, 9
site plan, 9, 10, 12, 13, 15, 17, 22, 32, 37, 48, 49, 50, 51,
62, 65
skating rinks, 13
Solar Photovoltaic Installation, 5
solar photovoltaic installations, 11, 12
Solid Wastes, 5
special permit, 9, 10, 11, 12, 13, 14, 15, 17, 19, 20, 22, 23,
25, 26, 30, 32, 36, 37, 38, 42, 43, 44, 46, 51, 52, 53, 60,
62, 68, 69
Storage Trailer for Permanent Use, 5
Storage Trailer for Temporary Use, 5
Structure, 4, 5
Subdivision, 5, 19, 29, 32, 36, 37, 44, 69

T

taverns, 13
theaters, 13

W

Watershed, 3, 5, 14
Wholesale trade, 13

Y

Yield Plan, 37

Z

Zoning District Map, 7, 20

