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| Town of Russell |
| Zoning Bylaw Book |
| September 2023 |

Russell Zoning By-Laws

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**Section I: PURPOSE**

This by-law shall be known and may be cited as the Zoning Law of the Town of Russell.

The Zoning regulations and restrictions in the Town of Russell are designed among other purposes to lessen congestion in the street, to conserve health, to secure safety from fire, panic, and other dangers, to provide adequate light, air and open space, to prevent over-crowding of the land, to avoid undue concentration of the population, to facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements, to conserve the value of land and buildings to encourage the most appropriate use of the land throughout the Town of Russell and to preserve and increase its amenities.

**Section II: ESTABLISHMENT OF DISTRICTS**

**2.0** **CLASSES OF DISTRICTS**

For the purpose of this zoning By-Law the Town is hereby divided into six classes of districts, to be known as:

R - Residential Districts: All land, excluding the industrial district, that is served by the Town sewer systems including branches and mains in existence as if July 1, 1991.

RR - Rural Residential District: All other land that is not in business, industrial or residential districts as indicated on the Zoning Map and is located outside the Town sewer systems.

B - Business Districts: Business districts are shown on the Zoning Map and are based on the descriptions provided in the 1974 Zoning By-law and the May 8. 1978 Zoning By-law amendment to the business district.

I - Industrial District: Industrial districts are as previously established by boundaries following those delineated by the 1974 Zoning By-law and Zoning Map.

FP - Floodplain District: Floodplain districts are designated on the Town of Russell Flood Insurance Rate Map (FIRM) issued by FEMA, dated July 16, 2013 as a Zones A and AE.

MROD – An overlay district as defined in Section IV, Special District Regulations, Subsection 4.1, Mill Reuse Overlay District

**2.1** **LOCATION ON DISTRICTS AND BOUNDARIES**

All districts, RR, R, B, and I defined as follows are shown on a map entitled “Zoning Map of Russell, Massachusetts, October, 1991” , ( the Zoning Map) , and filed in the office of the town clerk, which map, and all of its contents, is hereby made a part of this Zoning By-law. The Floodplain District is defined on maps described in Section 4.0.

**2.1.1** Lots in two districts. Where a district boundary line divides any lot existing at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty feet into the more restricted district, provided the lot has frontage in the less restrictive district.

**Section III: USE REGULATIONS**

**3.0** **SCHEDULE OF USE REGULATIONS**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Except as provided elsewhere in this By-Law, no building or structure shall be erected or altered, and | | | | | |
| no building structure or land shall be used for any Purpose other than as provided for in this section. | | | | | |
| The restrictions and control intended to regulate development in each district are set forth in | | | | | |
| Table 1, Russell Schedule of Use Regulation: | | |
|  |
| Y= Yes- Use Permitted | |
| SP= Use Allowed by Special Permit issued by the Zoning Board of Appeals or, where designated, the Planning Board. | | | | |
| N= No- Use Prohibited | |
| SPR= Site Plan Review from the Planning Board | | | |
|  |
| Use permitted and uses allowed by Special Permit shall be in conformity with all density regulations | | | | | |
| and any other pertinent requirements of the By-law. | | | |
|  |
| See Section 4.0. The Floodplain District, to determine what uses are permitted in the Floodplain | | | | | |
| District. |

Table 1

Russell Schedule of Use Regulations

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Bylaw Number | Land Use Classification | Standards & Conditions | Zoning Districts | | | | | | |
|  |  |  | R | RR | B | | I | | MROD |
| **3.02** | **Residential** |  |  |  |  | |  | |  |
| 3.02.1 | Detached One -Family Dwelling |  | Y | Y | Y | | N | | Y |
| 3.02.2 | Detached Two -Family Dwelling |  | Y | Y | Y | | N | | Y |
| 3.02.3 | Housing for the Elderly |  | SP/SPR | SP/SPR | SP/SPR | | N | | SP/SPR |
| 3.02.4 | House Trailer or Mobile Home | If used as a permanent residence, it must be located in a licensed trailer park. | SP | SP | SP | | N | | SP |
| 3.02.5 | Multi-family dwelling | See section 4.1 of Russell Zoning Bylaw for additional regulations | N | N | N | | N | | SP/SPR |
| **3.03** | **Community Facilities** |  |  |  |  | |  | |  |
| 3.03.1 | Church or other Religious Use |  | Y | Y | Y | | Y | | Y |
| 3.03.2 | Educational Use |  | Y | Y | Y | | N | | Y |
| 3.03.3 | Municipal Recreational Use |  | Y | Y | Y | | N | | Y |
| 3.03.4 | Municipal Use |  | SP | SP | Y | | N | | SP |
| 3.03.5 | Non-Profit Private Club | Shall not contain sleeping quarters for more than four persons | Y | Y | Y | | N | | Y |
| 3.03.6 | Cemetery |  | SP | SP | SP | | N | | SP |
| 3.03.7 | Hospital, Convalescent Home, Sanitarium, Institution or Philanthropic Use. | Shall not contain sleeping quarters for more than four persons. | Y | Y | Y | | N | | Y |
| **3.04** | **Agricultural Uses** |  |  |  |  | |  | |  |
| 3.04.1 | Agricultural, Horticulture &Floriculture |  | Y | Y | Y | | Y | | Y |
| 3.04.2 | Forestry and Nursery Uses |  | Y | Y | Y | | Y | | Y |
| 3.04.3 | Establishment for the Breeding, Sale and Boarding of Dogs |  | SP/SPR | SP/SPR | SP/SPR | | N | | SP/SPR |
| 3.04.4 | Lumbering | Portable sawmills and portable planers are prohibited | N | Y/SPR | SP/SPR | | N | | Y/SPR |
| 3.04.5 | Riding Stables |  | Y | Y | Y | | Y | | Y |
| **3.05** | **Trailer Parks and Camps** |  |  |  |  | |  | |  |
| 3.05.1 | Trailer Camps, Overnight Camps | All incoming house trailers, travel trailers and mobile homes to be used as residences are to be restricted to licensed Trailer Parks within the bounds of the Town of Russell | N | N | SP/SPR | | N | | N |
| 3.05.2 | Trailer Parks and Mobile Home Parks | New trailer parks or mobile home parks are prohibited | N | N | N | | N | | N |
| **3.06** | **Retail, Service and Commercial Uses** |  |  |  |  | |  | |  |
| 3.06.1 | Telephone Exchange | Not including a service station or outside storage of supplies | Y | Y | Y | | Y | | Y |
| 3.06.2 | Office or Bank including ATM’s and banks including those with drive-through automatic teller machines and drive-through windows. | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | SP/SPR | | N | | Y/SPR |
| 3.06.3 | Retail Stores, Salesrooms, Shops for Custom Work, or the Making of Articles to be Sold at Retail | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | Y/SPR | | N | | Y/SPR |
| 3.06.4 | Restaurants and bars | Drive-ins or business using curb service are prohibited. For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | Y/SPR | N | | Y/SPR | |
| 3.06.5 | Filling Station or Garage |  | N | N | Y/SPR | | N | | N |
| 3.06.6 | Place of Amusements or Assembly | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | SP/SPR | | N | | SP/SPR |
| 3.06.7 | Golf Course | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | SP/SPR | SP/SPR | SP/SPR | | N | | SP/SPR |
| 3.06.8 | Newspaper or Job Printing | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | Y/SPR | | N | | Y/SPR |
| 3.06.9 | Bakery, deli, butcher shop, fish market, caterer or similar establishment for the production and sale of food and beverage | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | Y/SPR | | N | | N |
| 3.06.10 | Hotel | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | SP/SPR | | N | | N |
| 3.06.11 | Beauty or barber shop, hair salon, tanning salon, or similar establishment | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | Y/SPR | | N | | N |
| 3.06.12 | Laundry, or dry-cleaning establishment | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | Y/SPR | | N | | N |
| 3.06.13 | Athletic and other types of recreational membership clubs | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | Y/SPR | | N | | N |
| 3.06.15 | Professional studios, offices, businesses | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | Y/SPR | | N | | N |
| 3.06.16 | Outdoor amusement and recreation service | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | SP/SPR | | N | | N |
| 3.06.17 | Indoor amusement and recreation service | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | SP/SPR | | N | | N |
| 3.06.18 | Self storage | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | SP/SPR | | N | | N |
| 3.06.19 | Microbrewery | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards. | N | N | N | | N | | SP/SPR |
| **3.07** | **Industrial Use** |  |  |  |  | |  | |  |
| 3.07.1 | Excavation and Processing Earth Products | Earth products include sand, gravel, stone, loam. Peat and earth. See Section 5.2 of this By-law for regulations | SP/SPR | SP/SPR | SP/SPR | | N | |  |
| 3.07.2 | General Manufacturing | Includes industries, and any other trade or use that is not injurious, noxious, or offensive to a neighborhood by reason of odor, fumes, dust, smoke, vibration or noise | N | N | N | | SP/SPR | | N |
| 3.07.3 | Scientific Research, Scientific Development or Related Production Activities | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | SP/SPR | | SP/SPR | | N |
| 3.07.4 | Aviation Field |  | SP/SPR | SP/SPR | SP/SPR | | N | | N |
| 3.07.5 | Wholesale trade and distribution | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | N | | N | | SP/SPR |
| 3.07.6 | Publishing, data processing and computer software manufacturing | Includes associated offices and distribution facilities. For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | N | | N | | SP/SPR |
| 3.07.7 | Research offices or establishments devoted to research and development | For uses in MROD, see section 4.1 of Russell Zoning bylaw for additional standards | N | N | N | | N | | SP/SPR |
| 3.07.8 | Roof Mounted Solar Photovoltaic Installations |  | Y | Y | Y | | Y | | Y |
| 3.07.9 | Ground Mounted Solar Photovoltaic Installations | See Section 5.4 | SP/SPR | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.10 | Registered Marijuana Dispensary (RMD) | See section 5.5 | N | N | N | | SP/SPR | | SP/SPR |
| 3.07.11 | Off-Site Medical Marijuana Dispensary (OMMD) | See Section 5.5 | N | N | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.12 | Craft Marijuana Cooperative | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.13 | Marijuana Cultivator | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.14 | Marijuana Product Manufacturer | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.15 | Marijuana Retailer | See Section 5.6 | N | N | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.16 | Marijuana Independent Testing Laboratory | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.17 | Marijuana Microbusiness | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.18 | Marijuana Research Facility | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.19 | Marijuana Transporter | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| 3.07.20 | Any other type of licensed marijuana related business, except a medical marijuana treatment center | See Section 5.6 | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |
| **3.08** | **Accessory Uses** |  |  |  |  | |  | |  |
| 3.08.1 | Home Occupation | The use of a room or rooms in a dwelling for customary Home Occupation, or Home Occupations, or the office for the practice of a recognized professional carried on by persons or persons, residents therein, shall be permitted as an accessory use, provided that there be no display or advertising except for a sign of not more than three (3) square feet in area. A recognized profession includes doctors, lawyers and dentist. | Y | Y | Y | | N | | Y |
| 3.08.2 | Residential Accessory Uses | Accessory use on the same lot with and customarily incidental to any use allowed by right in the Residential Districts and are not determined to a residential neighborhood. None of these uses shall create offensive odors, noise or unsightly appearance noticeable off the premises | Y | Y | Y | | Y | | Y |
| 3.08.3 | Sign Advertising Goods or Services Offered by an Occupant of the Premises for sale, Hire or Use | See Section 5.0 for additional sign standards | N | N | Y | | N | | Y |
| 3.08.4 | Storage of Junk Inside Under Permanent Cover for Commercial Purposes |  | N | N | SP/SPR | | N | | SP/SPR |
| 3.08.5 | Common Driveways | See Town Bylaw Article 6, concerning Streets and Ways Section 1, Item 6 | Y | Y | Y | | Y | | Y |
| 3.08.6 | Residential Trailer or Mobile Home- Temporary Use While Residence is Being Rebuilt | Permitted as a temporary use by the owner and occupier of a residence which has been destroyed by fire or other natural disaster. Permitted only on the site of such residence for a period not to exceed 12 months while the residence is being built | Y | Y | Y | | Y | | Y |
| 3.08.7 | Land-Based Wind Energy Facility | See Section 5.3 for additional standards | N | SP/SPR | SP/SPR | | SP/SPR | | SP/SPR |

**3.1 Prohibited Uses**

The following uses are prohibited in all districts:

1. Trailer parks and mobile home parks
2. Outdoor storage of unregistered motor vehicles
3. The taking of more than four lodgers
4. Storage of more than one commercial automobile except on a farm
5. A garage for the storage of more than three (3) automobiles
6. Real estate sign over six (6) square feet in area advertising the sale or rental of only the premises on which they are located, and bulletin boards and signs over twelve (12) square feet accessory to uses permitted in Table 1, Russell Schedule of Use Regulation

**3.2** **Dimensional and Density Regulations**

A building or structure hereafter erected in any district shall be located on a lot having not less than the minimum requirements set forth in the table below. No more than one dwelling shall be built upon any such lot. No existing lot shall be changed as to shape as so result in the violation of the requirements set forth below in the Table of Dimensional Regulations.

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Table of Dimensional Regulations | | | | | | | | | | |
|  |  |  | Minimum Yard Dimensions | | |  |  |  | Max. Height  of Buildings |
| Districts | Use | Minimum  Lot Size  (Sq. ft.) | Frontage  (ft.) | Width  (ft.) | Front  (ft.) | Side  (ft.) | Rear  (ft.) | No. of  Stories | In Feet. |
| Residential | Any permitted use | 15,000 | 100 | 100 | 30 | 20 | 20 | 2 ½ | 35 |
| Rural  Residential | Any permitted use | 87,120 | 200 | 150 | 30 | 30 | 20 | 2 ½ | 35 |
| Business | Any permitted use\* |  |  |  |  |  |  |  |  |
|  | Within the Town  Sewer system | 15,000 | 100 | 100 | 30 | 30 | 30 | 2 ½ | 35 |
|  | Outside the Town  Sewer system | 87,120 | 200 | 200 | 30 | 30 | 30 | 2 ½ | 35 |
| Industrial | Any permitted use |  |  |  |  |  |  |  |  |
|  | Within the Town  Sewer system | 15,000 | 100 | 100 | 30 | 30 | 30 | 2 ½ | 35 |
|  | Outside the Town  Sewer system | 87,120 | 200 | 200 | 30 | 30 | 30 | 2 ½ | 35 |
| MROD | Any permitted use | 7000 | 50 | 50 | 0 | 10 | 20 | 2 ½ | 35 |
| Flood Plain | Any permitted use | Within the Floodplain district, the dimensional regulations of the underlying district shall remain in effect. | | | | | |  |  | |
|  |  |  | | | | | |  |  | |
| \* Note: The minimum ground floor area for a place of business shall be 600 square feet | | | | |  |  |  |  |  |
| 1 acre = 43,560 square feet | |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |

3.2.1 Additional Dimensional and Density Regulations

1. Front Yard Requirements in a Residential (R) or Rural Residential (RR) district. In a Residential (R) district and/or Rural Residential (RR), no building shall be built or placed with thirty (30) feet of the street line, except that no building need be set back more than average set-back of the building on the lots thereto on either side. A vacant lot or lot occupied by a building set back more than thirty (30) feet being counted as though occupied by a building set back thirty (30) feet.
2. Front Yard Requirements in a Business (B) District. In a Business district there shall be provided in the front of every building or structure a front yard extending the full width of the lot and equal in depth to the average of the depths of yards on adjoining lots, and no building or structure shall be erected, moved or altered, reconstructed, or enlarged to that the front yard less in a clear depth shall result. Where there are not sufficient buildings in the vicinity to determine an average, the minimum depth of the front yards shall be thirty (30) feet.
3. Non-Conforming Lots. This section shall not apply to any lot which in 1974 was narrower at the street line or was lesser area than the specifications herein provided but only one dwelling may be erected on a lot containing less than 15,000 square feet which is within the Town sewer systems or 87,120 square feet outside the Town sewer systems or having frontage of less than 200 feet, if such a lot was recorded with the Hampden County Registry of Deeds at the time of adoption of this By-law in 1974, and did not at the time of such adoption adjoin other land of the same owner available for use in connection with said lot.
4. Corner Clearance. Within the area formed by the lines of intersecting ways and a line joining points on such lines fifteen (15) feet distant from their point of intersection, or in the case of a rounded corner, the point of intersection of their tangents, no structure other than a building, and no foiage, shall be maintained between a height three and one-half (3 1/2) feet and a height eight (8) feet above the plane through their curb grades.
5. Projections. Nothing herein shall prevent the projections of steps, stoops, not exceeding thirty (30) square feet in the area, eaves, cornices, window sill, or belt courses into any required yard.
6. Height Exceptions. Chimneys, elevators, poles, spires, tanks, towers, and other projections not used for human occupancy may extend a reasonable height above the height limits herein fixed, subject to approval of the Building Inspector.
7. Business Ground Floor Minimum. The minimum ground floor area for a place of business shall be 600 square feet for the ground floor.

**3.3 NON-CONFORMING USES**

3.3.1 Continuing Use

The lawful use of any structure or land existing at the time of the enactment or subsequent amendment of the By-las may be continued although such structure or use does no conform with provisions in the By-law.

3.3.2 Alteration

A non-conforming structure may be altered, repaired or restored provided that no such alterations, repairs, or restoration shall be permitted unless the special permit granting authority makes a finding that such alteration, repairs, or restoration is not more detrimental than the existing con-conforming use is prior to such alteration.

3.3.3 Abandonment

A non-conforming use which has been abandoned for two years or more shall not be reestablished, and any further use shall conform with this By-law.

3.3.4 Changes

Once changed to a conforming use, no structure of land shall be permitted to revert to a non-conforming use.

**Section IV: SPECIAL DISTRICT REGULATIONS**

Approved at Annual Town Meeting May 13. 2013

**4.0 Flood Plan District**

4.0.1 Statement of purpose

The purposes of the Floodplain District are:

1. To provide that lands in the Town of Russell subject to seasonal or periodic flooding as described hereinafter shall not be used for residence or other purposes in such manner as to endanger the health or safety of the occupant thereof
2. To protect, preserve, and maintain the water table and water recharge areas withing the Town so as to preserve present and potential water supplies for the public health and safety of the Town of Russell
3. To assure the continuation if the natural flow pattern of the water course(s) within the Town of Russell in order to provide adequate and safe floodwater storage capacity to protect persons and property against the hazards of the flood inundation
4. Ensure public safety through reducing the threats of life and personal injury
5. Eliminate new hazards to emergency response officials
6. Prevent the occurrence of public emergencies resulting from water quality, contamination and pollution due to flooding
7. 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
8. Eliminate costs associated with the response and cleanup of flooding conditions
9. Reduce damage to public and private property resulting from flooding waters.

4.0.2 Scope of Authority

The Floodplain District is an overlay district and shall be superimposed on the other districts established by this by-law. All regulations on the town of Russell Zoning By-law applicable to such underlying districts shall remain in effect, except that where the Floodplain District imposes additional regulations, such regulations shall prevail.

4.0.3 Existing Regulations

All development in the district including structural and non-structural activities whether permitted by right or by special permit must be in compliance with the following:

* 780 CMR 2.102.0 of the Massachusetts State Building Code which address floodplain and coastal high hazard areas
* 310 CMR 10.00, Wetland protection, Department of Environmental Protection (DEP)
* 302 CMR 6.00, Inland Wetlands Restrictions, DEP
* 310 CMR 15, Title 5, minimum requirements for the Subsurface disposal of sanitary sewage, DEP

4.0.4 Definitions

Area of Special Flood Hazard is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A, AO, AH, A1-30, AE, A99, VO, V1-30, VE, or V

Basic Flood means that flood having a one percent chance of being equaled or exceeded in any given year.

Development means any manmade change to improved or unimproved rea estate, including but not limited to building or other structures, mining, dredging, filling, grading paving, excavation, or drilling operations.

District means floodplain district.

Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program. FEMA provides a nationwide flood hazard area mapping study program for communities as well as regulatory standards for development in the flood hazard areas.

Flood Insurance Rate Map (FIRM) means an official map of a community on which FEMA has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood Insurance Study means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevation, or an examination, evaluation and determination of mudslide (i.e. mudflow) and/or flood-related erosion hazards.

Floodway - See Regulatory Floodway

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.

Lowest Floor means the lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building’s lowest floor; PROVIDED, that such enclosure is not built so as to render the structure in violation of the applicable non- elevation design requirements of 60.3.

Manufactured Home means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plan management purposes the term “manufactured home” also includes park trailers, travel trailers, and other similar vehicles placed on a site greater than 180 consecutive days. For insurance purposes the term “manufactured home” does not include park trailers, travel trailers, and other similar vehicles.

Manufactured Home Park or Subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

New Construction means, for the purpose of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community.

100- Year Flood see base Flood.

Regulatory Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation.

Special Hazard Area means an area having special flood, mudslide ( i.e. , mudflow) and/or flood-related erosion hazards and shown on an FHBM or FIRM as Zone A, AO, A1-30, AE, A99, AH, or VE.

Structure means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home. Structure for insurance coverage purposes, means a walled and roofed building, other than a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on foundation. For the latter purpose, the term includes a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

Substantial Improvement means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) 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 building commences, whether or not that alteration affects the external dimensions of the structure.

Zone AE means the 100 year floodplain where the base flood elevation has been determined.

4.0.5 Floodplain District Boundaries and Base Flood Elevation Data, Floodway Data

1. The Floodplain District is herein established as an overlay district. The district includes all special flood hazard areas designated on the Town of Russell designated as Zone A or AE on the Hampden County flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Rate Program. The map panels of the Hampden County FIRM that are wholly or partially within the Town of Russell are panel numbers 25013C0135E, 25013C0142E, 25013C01144E, 25013C0151E, 25013C0153E, 25013C0155E, 25013C0161E, 25013C0162E, 25013C0163E, 25013C0164E, 25013C0170E, 25013C0335E, and 25013C0355E dated July 16, 2013. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Hampden County Flood Insurance Study (FIS) report dated July 16, 2013. The FIRM and FIS report are incorporated herein by reference and are on file with the Town Clerk, Planning Board and the Building Inspector.
2. Floodway Data. In Zone 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 encroachment in floodways which would result in any increase in flood levels within the community during the occurrence of the base flood discharge. In Zone AE, along watercourses that have not had a regulatory floodway designated, no new construction, substantial improvement, or other development shall be permitted unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood. In Zone AE, along watercourses that have regulatory floodways designated within the Town of Russell on the Hampden County FIRM map encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
3. Base Flood Elevation Data. Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, with unnumbered A zones.
4. Notification of Watercourse Alteration. In a riverine situation, Board of Selectmen shall notify the following of any alteration or relocation of a watercourse:
   * Adjacent Communities
   * NFIP State Coordinator

Massachusetts Department of Conservation and Recreation

251 Causeway Street, Suite 600-700

Boston, MA 02114-2104

* + NFIP Program Specialist

Federal Emergency Management Agency, Region 1

99 High Street, 6th Floor

Boston, MA 02110

4.0.6 Permitted Uses

The following uses of low flood damage potential and causing no obstructions to flood flows are encouraged provided they are permitted in the underlying district and they do not require structures, fill, or storage of materials or equipment:

1. Agricultural uses such as farming, grazing, truck farming, horticulture, etc.
2. Forestry and nursery use.
3. Outdoor recreational uses, including fishing, boating, play areas, etc.
4. Conservation of water, plants, wildlife.
5. Wildlife management areas, foot bicycle, and/or horse paths.
6. Temporary non-residential structures used in connection with fishing, growing, harvesting, storage, or sale of crops raised on the premises.
7. Building lawfully existing prior to the adoption of these provisions.

4.0.7 Uses by Special Permit

1. No structure or building shall be erected, constructed, substantially improved over 50 percent of assessed market value or otherwise created or moved; filled, excavated, or transferred, unless a special permit is granted by the Zoning Board of Appeals. Such permit shall be subject to the following provisions in addition to those set forth elsewhere in this be-law:

i. Application for special permit shall include plans showing all proposed with certification by a registered professional engineer that these plans show full compliance with Section 4.0.3 above. If any of the work shown on the plans is withing the floodway, the engineer shall certify that this work would not result in any increase in flood levels within the community during the base 100 year flood discharge;

ii. Within ten (10) days of receipt of application, a copy shall be transmitted to the Conservation Commission, Board of Health, Planning Board, Building Inspector, and Town Engineer. Final action shall not be taken until reports have been received all of the above, or until thirty-five (35) days from the date of transmission; and

iii. A special permit shall not be granted unless the issuing Board finds, on review of the application, submitted reports, and testimony before it, that the application shows full compliance with section 4.0.3 above, and that the proposed use would not create increased flood hazards which would be detrimental to the public health, safety or welfare.

1. The following uses may be allowed by Special Permit from the Zoning Board of Appeals in accordance with the Special Permit regulations on the By-law, and additional restrictions and criteria contained herein:
2. single family detached dwelling
3. commercial golf course, recreation, or camp facility
4. commercial landing strip or heliport
5. Within Zone A where base flood elevation is not provided on the FIRM the applicant shall obtain any existing base flood elevation data. This data will be reviewed by the Building Inspector for their reasonable utilization toward meeting the elevation or flood proofing requirements, as appropriate, of the State Building Code.
6. All subdivision proposals must be designed to assure that:
   1. Such proposals minimize flood damage;
   2. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
   3. Adequate drainage is provided to reduce exposure to flood hazards.
7. The following provisions apply in the floodway designated on the FIRM:

i. In Zone AE, within the floodway designated on the FIRM no encroachments (including fill, new construction, substantial improvements to existing structures, or other development) shall be allowed unless it is demonstrated by the applicant that the proposed development as a result of compensating actions will not result in any increase in flood levels within the Town during the occurrence of a 100 year flood in accordance with FEMA REGULATIONS FOR THE National Flood Insurance Program

ii. Any encroachment in the floodway meeting the above standard must also comply with the floodplain requirements of the State Building Code.

4.0.8 Additional Special Permit Criteria

In addition to the Special Permit criteria specified in the Zoning By-laws of the Zoning Board of Appeals may grant a Special Permit if it finds:

1. The proposed use will not create increased flood hazards which shall be detrimental to the public health, safety and welfare.
2. The proposed use will comply in all respects to the provisions of the underlying district or districts within which the land is located.
3. The proposed use in in compliance with all applicable state and federal laws, including the Massachusetts Building Code and Massachusetts Wetlands Protection Act. (M.G.L. Ch. 131, Section 40)

4.0.9 Prohibited Uses

The following uses are specifically prohibited and may not be allowed by special permit:

1. Solid waste landfills, junkyards and dumps
2. Business and industrial uses, not agricultural, which manufacture, use, process, store or of hazardous materials or wastes as a principal activity, including but not limited to metal plating, chemical manufacturing, wood preserving, furniture stripping, dry cleaning, and auto body repair.
3. The outdoor storage of salt, other de-icing chemicals, pesticides, or herbicides shall be prohibited without suitable overhead protection from weather and a impervious containment are to hold the volume of stored chemicals.
4. Within the flood way, any encroachments, including fill, new construction, substantial improvements, and other development that would result in any increase in flood levels in the community during the occurrence of the base 100 year flood discharge.

**4.1 Mill Reuse Overlay District**

Approved at Special Town Meeting July 15, 2013

4.1.1 Statement of Purpose

The purpose of this Section is to create an overlay district to:

1. To promote the economic health and vitality of the Town by encouraging the preservation, reuse and renovation of underutilized or abandoned historic mill properties;
2. facilitate and encourage the redevelopment and reuse of historic mill buildings while preserving the character of nearby residential and commercial neighborhoods;
3. to provide for regulatory flexibility and intensification of use in existing buildings in order to meet the Town’s housing and community development needs;
4. to prevent disinvestment and deterioration of buildings that have become obsolete for their original purposes; and
5. promote diversified bousing opportunities and uses such as community facilities, service establishments and commercial, retail and office uses; or a combination of such uses.

4.1.2 Establishment of District

The Mill Reuse District is hereby established as an overlay district. The District is bounded as shown on the map entitled, “Mill Reuse Overlay District”, dated January 3, 2013, incorporated by reference in the Zoning By-law and on file with the Town Clerk and Building Inspector.

4.1.3 Relationship to Existing Zoning

In the Mill Reuse Overlay District, all requirements of the underlying district(s) shall remain in effect except where these regulations supersede or provide an alternative to such requirements. If a property is developed consistent with the Mill Reuse Overlay District, the regulations of the Mill Reuse Overlay District shall apply and, notwithstanding anything to the contrary in this Zoning By-law, such development shall not be subject to any other provisions of the Zoning By-law, including limitations on the issuance of building permits for residential use or to building permit or dwelling unit limitations.

4.1.4 Definitions

The following definitions shall apply to development in the Mill Reuse Overlay District pursuant to this section of the Zoning By-law

Bedroom- Shall mean a separate room intended for, or which customarily could be used for sleeping

Dwelling Unit**-** Shall mean a residence, including studio units. Each residence shall contain a living area, bathroom and, except in studio units, one or more bedrooms, and may contain a kitchen area or combination kitchen/living area.

Maximum Gross Density-The total number of dwelling units on a parcel of land used for a Mill Reuse Project, divided by the size of the parcel in acres before dedication of any land for roads and other public uses and before the creation of common open space or other common amenities included or to be included as part of the development of the parcel of land.

Mill Reuse Project (MRP)- A mixed-use development comprised of one or more of the uses authorized under this By-law, on a parcel of land with an existing mill building or structure in the Mill Reuse Overlay District.

Mixed-Use- Development contained on a single parcel or adjoining parcels that includes different, complimentary uses (both residential and non-residential), which may provide for a variety of activities throughout the day.

Overlay Zoning District- A zoning district that encompasses one or more underlying zoning districts, and imposes additional or alternative requirements or provisions than required by the underlying zoning.

Primary Sign- A sign used for a non-residential or mixed use building that is the primary notification of the non-residential tenant(s) therein, and is generally located proximate to the main entrance(s) to said building.

4.1.5 Permitted Uses

In the Mill Reuse Overlay District, accessory commercial uses are encouraged for incorporation into a Mill Reuse Project, in order to make ordinary daily activities accessible to residents particularly to residents who do not drive, as well as for the surrounding community. A Mill Reuse Project comprised of one or more of the following uses shall be permitted in an existing mill building or structure:

1. Multi-family dwellings, with a gross density not exceeding thirty-five (35) dwelling units per acre.
2. Offices for administrative, business, executive, professional, sales and other similar uses.
3. Retail Sales and Services, including without limitation, a convenience store, florist shop, hairdresser, health club, indoor recreation and other similar uses.
4. Institutional uses, including, without limitation, museum, educational use, research and development facilities for scientific or medical research, charitable or philanthropic institution, municipal use, club or lodge, community room (including a kitchen and laboratories), and other similar uses.
5. Restaurants, including a patio adjacent to and directly accessible from the building, but not including the use of drive-up windows.
6. Medical offices or a medical clinic.
7. Sales by dispenser-type vending machines and Automatic Teller Units (ATM’s)
8. Accessory residential buildings such as tool shed, boathouse, playhouse, shelter for domestic pets, private greenhouse, private swimming pool and private detached garage for noncommercial vehicles.
9. Accessory uses and other uses customarily incidental to a permitted use.
10. Uses similar in nature and impact to those listed above, subject to such determination by the Planning Board.
11. Any combination of the uses shown above.

4.1.6 Uses Allowed by Special Permit

In the Mill Reuse Overlay District, a Mill Reuse Project comprised of one or more of the following uses shall be allowed only by Special Permit from the Zoning Board of Appeals:

1. Assisted elderly housing
2. Multi-family dwellings, with a gross density exceeding thirty-five (35) dwelling units per acre.
3. Continuing care retirement community or Nursing home.
4. Restaurants, with the use of d drive-up window(s)
5. Bars and lounges for the primary purpose of dispensing alcoholic drinks.
6. Supermarkets, wholesale food club stores, and department stores.
7. Publishing and or printing establishments.
8. Cinema or theater.
9. New construction for uses otherwise permitted under Section 4.1.5
10. Uses similar in nature and impact to those listed above, subject to such determination by the Planning Board.
11. Any combination of the uses shown above.

4.1.7 Procedures for Approval of Mill Reuse Projects

1. Pre-application review. The Applicant is encouraged to request a pre-application review at a at a joint business meeting of the Planning Board and Zoning Board of Appeals prior to submitting a formal application. The purpose of a pre-application review is to minimize the Applicant’s costs of engineering and to commence discussions with the Planning Board at the earliest possible stage in the development. At the pre-application review, the Applicant may outline the proposed project for Reused and seek preliminary non-binding feedback from the Planning Board and Zoning Board of Appeals. No formal filings are required for the pre-application review; however, the Applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the Planning Board and Zoning Board of Appeals of the scale and overall design of the proposed Mill Reuse Project (MRP).
2. Site Plan Review. All MRP uses in the Mill Reuse Overlay District require Site Plan Review by the Planning Board and must comply with the Site Plan Review bylaw and the following:
   1. Submittals. Submittals for Development Plan Approval for a Mill Reuse Project shall include:
      1. A site plan or plans, drawn at a maximum scale of 1”=40’, showing all current structures located upon the property, the topography of the site at a minimum of five foot intervals, vegetation and special features, including wetlands, perennial streams and ponds, waterways, waterfalls, canals and dams, trees of more than 8” caliper, rock outcroppings, slopes in excess of 15%, and existing trails and paths.
      2. A plan illustrating preliminary landscaping and architectural design, showing types, location and layout of buildings, parking areas and paths of travel by pedestrians and motorists, such items as required by the Design Standards section set forth herein, as well as the general height, bulk and appearance of structures.
      3. A floor plan to scale for each floor of each building indicating if applicable:
         1. Number of dwelling units by type;
         2. Number of bedrooms per dwelling unit; and
         3. Proposed use of floor space not used for dwelling units.
      4. Narrative description of any organization(s) the applicant proposes to form, if the development is to be a condominium or other ownership organization, including forms and plans to be used to organize and manage the same.
      5. Copies of all proposed covenants, easements, and other restrictions that the applicant proposes to grant to or for the benefit of the premises for adjacent or other properties, for such purposes as additional parking, open space, and other accessory uses.
      6. A Three-Dimensional pictorial image or images from multiple viewpoints as may be specified by the Permit Granting Authorities herein.
   2. Special Permits. The Zoning Board of Appeals shall be the Special Permit Granting Authority for uses requiring the issuance of a Special Permit in the Mill Reuse Overlay District. Applications for Special Permits shall be governed by the procedures set forth in section 6.4 of the Zoning By-law.
   3. Design Standards. The Mill Reuse Project shall conform to the following design standards, unless otherwise waived by the Planning Board:
      1. Emergency Systems. The MRP shall have an integrated emergency call, and/or telephone and/or other communications system for its residents and /or other tenants. There shall be sufficient site access for public safety vehicles. A plan shall be approved by the Russell Fire Department for the emergency evacuation of the residents, with emphasis on ensuring the safety of residents with physical impairments. This provision shall not be waived by the Planning Board.
      2. Lighting. Illuminated signs, parking lot lighting, building floodlighting, or other exterior lighting shall be so designed and arranged that the collective result does not create glare from unshielded light sources upon adjacent properties and nearby roadways.
      3. Roadways. The principal roadway(s) within the site shall be adequate for the intended use and vehicular traffic, and shall be maintained by the Applicant or its designee.
      4. Parking. The applicant shall provide adequate parking to serve all anticipated uses on the property, with information detailing the method of computation of parking spaces. The minimum number of parking spaces shall be:
         1. Dwellings. 1 parking space per studio dwellings, and 1.5 spaces per one bedroom dwelling, and 2.5 spaces per two or more bedroom dwellings;
         2. Retail, Service, Office, Business, Institutional Establishments, etc.: 1 space per 500 square feet of gross floor area, but not fewer than three spaces per separate enterprises;
         3. Restaurant: 1 space per four seats based on the legal seating capacity of the facility, including seasonal outdoor seating.
         4. All parking areas are required to comply with Americans with Disabilities Act (ADA) specifications and requirements
      5. Shared Parking. The use of shared parking to fulfill parking needs that occur at different times of the day is strongly encouraged. The foregoing minimum parking standards may be reduced by the Planning Board upon demonstration to its reasonable satisfaction that shared spaces will meet anticipated parking demands of the MRP.
      6. Reduced Parking. Notwithstanding anything to the contrary in this subsection, any minimum required amount of parking may be reduced upon a demonstration to the reasonable satisfaction of the Planning Board that a lesser amount of off street parking will not cause excessive congestion or endanger public safety, taking into consideration the availability of surplus off street parking in the vicinity of the use being served, the types of occupancy of the MRP which are likely to result in a lower level of auto usage, and the impact of the parking requirement of the physical environment of the affected lot, including the reduction in open space, or other factors as may be considered by the Planning Board.
      7. Paths. Paths shall be designed with proper regard for convenience, separation of vehicular, bicycle and pedestrian traffic, adequate connectivity, completeness of access to various amenities and facilities on the site and to pathways or sidewalks to adjacent sites.
      8. Setbacks. There shall be no minimum setback requirements. No expansion shall be made to any existing structure’s footprint within the MRP unless the applicant applies for and is granted a Special Permit by the Zoning Board of Appeals for said expansion. This Special Permit requirement does not apply to increase or decrease in building or structur4e height. No increase in building height may exceed that allowed by the Russell town bylaw.
      9. Signs. Structures within the MRP shall be allowed one primary sign, identifying the non-residential tenants located within the development. The maximum area of the sign face for the primary sign is sixty square feet, measured on one side. In addition, the MRP may include such other directional signs as may be needed to direct vehicular and pedestrian traffic, and such other signs as may otherwise be allowed.
      10. Common Open Space. Common open space shall be functional for passive recreation, access to open water resources, or preservation of views. The common open space in a Mill Reuse Project may include wetlands as defined in G.L. c. 131 Section 40, and may include such other conditions as may be imposed by the Town of Russell Conservation Commission.
      11. Waivers. Upon request of the Applicant, the Planning Board may waive one or more of the Design Standards set forth herein, in the interests of design flexibility and overall project quality.
   4. Decision Standards. The Planning Board shall approve an Application for Development Plan Approval for a Mill Reuse Project submitted in conformity with the requirements herein, unless the Board concludes to its reasonable satisfaction that:
3. The proposed MRP does not meet the Design Standards set forth herein, excepting those as may be otherwise waived by the Planning Board; or
4. The proposed MRP would:
   * + 1. cause significant adverse impacts to the substantial detriment to the neighborhood or Town, after considering the traffic, environmental, fiscal, and community impacts; and
       2. it is not possible to adequately mitigate any such significant adverse impacts by means of suitable and reasonable conditions as may be imposed by the Planning Board.
   1. Form of Decision. The Planning Board shall issue to the Applicant a copy of its decision containing the name and address of the owner, identifying the land affected, the Application and plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that the Application and all plans referred to in the decision are on file with the Planning Board. In the event that the Planning Board fails to render a decision within 120 days from the date which an Application is submitted, unless otherwise extended by agreement of the Planning Board and the Applicant in writing, it shall be deemed to constitute an Approval of the Applicant as submitted, and the Town Clerk shall issue a certification to the Applicant so stating. A copy of the decision or application bearing such or application bearing such certification approving the Application shall be recorded by the Applicant in the Hampden County Registry of Deeds, and indexed in the grantor index under the name of the owner of record, or noted on the owner’s certificate of title.
5. Change to Plans after Approval.
   1. Minor Change. After Development Plan Approval, an Applicant may make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other sites details that do not affect the overall build out of building envelope of the site, or provision of open space, or number or type of housing units. Such minor changes must be submitted to the Planning Board on a “red lined” print of the Approved Development Plan reflecting said change along with a narrative description of the proposed minor change. The Planning Board may authorize such minor changes to any regularly scheduled meeting. The Planning Board shall set forth any decision to approve or deny such a minor change by motion or written decision, and provide a copy to the applicant for filing with the Town Clerk. The Planning Board shall provide a copy of the decision to the Building Inspector.
   2. Major Change. In the event that the Applicant proposes to make a major change to the Approved Development Plan, or the Planning Board reasonably determines that a proposed minor change constitutes a major change to the Approved Development Plan because the nature of the change in relation to the prior approved plan, the Planning Board shall schedule a Public Hearing for determination of the Applicant’s request. Approval or denial of the proposed major change shall be made in conformity with the Design and Decision standards set forth herein.

4.1.8 Separability. The invalidity of any section or provision of this By-law shall not invalidate any other section or provision thereof.

**SECTION V: SPECIAL REGULATIONS**

**5.0 SIGNS**

5.0.1 Sign Size in Residential Areas

In residential areas, signs shall be no greater than three (3) square feet.

5.0.2 Signs for Home Occupations

Signs for home occupations shall be no more than three (3) square feet in area.

5.0.3 Signs in the Business and Industrial Districts

1. Signs for residential uses shall be no greater than (3) square feet in size.
2. Signs for business and industrial uses shall be no greater than six (6) square feet in size.

5.0.4 Location of Standing Signs

1. The minimum distance from the public right-of-way shall be twelve (12) feet for standing signs.
2. The minimum distance from an intersection shall be twenty five (25) feet for standing signs.

5.0.5 Temporary Signs

Temporary signs for sale or rental of property and temporary signs for contractor for buildings are permitted.

5.0.6. Prohibited Signs

Illuminated flashing signs are prohibited.

**5.1 OFF-STREET PARKING STANDARDS IN THE BUSINESS DISTRICTS**

5.1.1 Off-street parking shall be provided for a minimum of three (3) parking spaces per employee for places and business.

5.1.2 A minimum distance of ten (10) feet shall be maintained between the property line and the parking area.

**5.2 EARTH REMOVAL**

5.2.1 Before any excavation, removal or processing of earth products may be undertaken or continued, the property owner or his agent shall apply to the Board of Appeals for a Special Permit.

5.2.2 Application procedure

The application for a Special Permit shall be accompanied by a plan of operations including the following maps, plans and specifications as follows:

1. Location of the premises, names of abutting owners, and an estimate of the amount of material to be excavated or removed.
2. Grading plan showing existing contours in the area to be excavated and proposed contours for the area after operations. Such plans shall include the area to be excavated as well as the surrounding area within fifty (50) feet of the excavation and shall be drawn at a convenient scale.
3. Existing and proposed drainage of the site.
4. Proposed truck access to the excavation.
5. An estimate of the number and types of trucks and other machinery to be used on the site, hours of operation and the locations and types of any buildings to be erected.
6. No topsoil is to be removed from the Town of Russell.

5.2.3 Standards for Extractive Operations

The Board will hold a public hearing in accordance with the provisions of Chapter 40A, Section 17, of the General Laws of the Commonwealth of Massachusetts, and grant the Special Permit only when it is satisfied that the following conditions will be complied with in the undertaking of such excavation:

1. The premises shall be excavated and graded in conformity with the plan as approved and any deviation from the plan shall be a violation and cause for the Board of Appeals to revoke the permit.
2. The applicant shall file with the Board of Appeals a performance bond in such amount as the Board shall deem sufficient to insure completion of the work following excavation pursuant to the conditions as set forth below.
3. No washing, crushing, or other forms of processing except screening and sifting shall be conducted upon the premises unless located within an Industrial District.
4. No fixed machinery shall be erected or maintained within one hundred (100) feet of any property or street line.
5. No excavation shall take place within fifty (50) feet of a property line or of a street line if below the established grade of the street or property line.
6. Subject to approval by the Board of Appeals, temporary shelter for machinery and field office may be provided.
7. At all stages of operations, proper drainage shall be provided to prevent the collection and stagnation of water and to prevent harmful effects upon surrounding properties.
8. During the period of excavation and removal, barricades or fences may be required by the Board of Appeals.
9. The truck access to the excavation shall be so arranged as to minimize danger to traffic and nuisance to surrounding properties. The Board of Appeals may require that access roads be provided with a dustless surface.
10. Proper measure, as determined by the Board of Appeals, shall be taken to minimize nuisance and noise, flying rock or dust and unsightly or dangerous conditions. Such measures may include, when considered necessary, limitations upon the practice of stockpiling excavated materials upon the site and hours of work.
11. When excavation and removal operations or either of them are completed, the excavated area shall be graded so that slopes in the disturbed areas shall be no steeper than 1:2 (vertical: horizontal). A layer of topsoil shall be spread over the excavated area, except exposed rock surfaces, to a minimum depth of four inches in accordance with the approved final grading plan.

5.2.4 Permit Expiration

Any such permit shall expire one year from the date of issuance unless renewed by the Board of Appeals. The Board shall not renew or extend any permit unless the operator is able to show through the report of a registered engineer, that the excavation already completed, conforms with the plan of operations as approved.

5.2.5 Abandonment of Operations

If for any reason the operation of the bank is abandoned for twelve (12) months, the Special Permit is void and the owner or his agent must apply for a new Special Permit and furnish such engineering data and bond as may be required by the Board of Appeals, or conform with the finishing requirements of this section.

5.2.6 No special Permit shall be required for the following in any district provided that no permanent damage is done to the landscape:

1. Necessary foundation and trench excavation or other site grading in connection with work on the premises for which a Building Permit has been issued; and
2. Excavation and removal of sand, loam, gravel, peat. Stone or other earth products by the Town of Russell for its use.

**5.3 ACCESSORY USE OF WIND ENERGY FACILITIES**

Approved Special Town Meeting 4/23/2009

5.3.1 Purpose and Intent

It is the express purpose of this bylaw to accommodate commercially scaled distributed generation wind energy facilities (not residentially scaled facilities) in appropriate locations, while minimizing any adverse visual, safety and environmental impacts of the facilities. The bylaw enables the review of wind energy facilities by the Town of Russell’s Planning Board, select Board and Zoning Board of Appeals in keeping with the town’s existing bylaws. This bylaw is intended to be used in conjunction with other regulations adopted by the town, including historic district regulations, site plan review and other local bylaws designed to encourage appropriate land use, environmental protection, and provisions of adequate infrastructure development.

5.3.2 Definitions

Clear Area: Area surrounding a wind turbine to be kept free of habitable structures.

Distributed Generation: Energy generation that is located at or near the end-user

Height: The height of a turbine measured to the tip of the blade at its highest point.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generator and protects them from the weather.

Rotor: The blades and hub of the wind turbine that rotate during the turbine operation.

Special Permit Granting Authority (SPGA): Board designated by zoning ordinance or bylaw with the authority to issue Special Permits.

Commercially Scaled Wind Energy Facility: All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, buyt is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, generators, site access, service roads and machinery associated with the use. A commercial wind energy facility may consist of one or more wind turbines having a rated nameplate capacity of 500 kW or more per turbine.

Wind Monitoring or Meteorological (“test” or “met”) Towers: Tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground.

Wind Turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

5.3.3 District Regulations

1. Use Regulations- All wind energy facilities or wind monitoring towers shall require a building permit and may be permitted as follows and irrespective of whether the use is a principal or accessory use:
   1. Wind Energy Facility- The construction of any wind energy facility shall be permitted in all rural residential, commercial, industrial and municipal zoning districts, subject to issuance of a Special Permit and provided the proposed use complies with all Dimensional and Special Permit Regulations set forth in Sections 5.4.3 and 5.4.4 of this bylaw (unless waived by the SPGA).
   2. Wind Monitoring or Meteorological Towers- Wind monitoring or meteorological towers shall be permitted in all rural residential, commercial, industrial and municipal zoning districts subject to issuance of a building permit for a temporary structure.
2. Site Control- The applicant shall submit documentation of the legal right to install and use the proposed facility at the time of application for a Special Permit. Documentation should also include proof of control over the setbafk or clear areas, if required under section 5.4.3 (c2). Control shall mean legal authority to prevent the use of any structure within the setback or clear area for human habitation or other use permitting human occupancy.
3. Dimensional Requirements- All wind energy facilities shall comply with the requirements set forth in this section, unless waived by the SPGA as part of the Special Permit review process.
   1. Height- Wind energy facilities shall be no higher than 500 feet above the natural grade. The height of all wind turbines shall be measured to the highest point reached by the rotor blades. The SPGA may allow this height to be exceeded as part of the Special Permit process if the project proponent can demonstrate that the additional height is needed and that the additional benefits of the higher tower outweigh any increased adverse impacts. Monopole towers are the required type of support for wind turbines. The Special Permit Granting Authority (SPGA) may waive requirements.
   2. Setback or Clear Area- Each wind energy facility and its associated equipment shall comply with the building setback provisions of the zoning district in which the facility is located unless waived by the SPGA. In addition, the following setback shall be observed:
      1. In order to ensure public safety and to protect the interests of neighboring property owners, the minimum distance from the base of any wind turbine tower to any property line, dwelling, business or institutional use shall be equal to the total height of structure to the highest point. This setback is considered a “clear area”.
      2. The setback or clear areas should be kept free of all human habitable structures so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the turbine tower. The SPGA may increase the clear area as appropriate based on site specific considerations and if the project is consistent with the Special Permit granting criteria of the town.

5.3.4 Special Permit Regulations

The SPGA shall grant a Special Permit only if it finds that the proposal complies with the provisions of this bylaw (unless waived) and is consistent with the applicable criteria for granting Special permits.

1. General-Proposed wind energy facilities shall be consistent with all applicable local, state and federal requirements, including but not limited to all applicable electrical, construction, noise, safety, environmental and communications requirements.
2. Design Standards
   1. Visual Impact- The proponent shall demonstrate through project siting and proposed mitigation that the wind energy facility minimizes any impact on the visual character of surrounding neighborhoods and the community. This may include, but not be limited to, information regarding site selection turbine design, buffering, lighting and cable layout.
   2. Color- Wind energy facilities shall be painted a non-reflective color that blends with the sky and clouds.
   3. Equipment Shelters- All equipment necessary for monitoring and operation of the wind energy facilities should preferably be contained within the turbine tower. If this is infeasible, ancillary equipment may be located outside the tower, provided it is contained either within an underground vault, or enclosed within a separate structure or behind a year-round landscape or vegetated buffer.
   4. Lighting and Signage:
      1. Wind turbines shall be lighted only if required by the Federal Aviation Administration (FAA). The proponenbt shall provide a copy of the FAA’s determination to establish the required markings and/or lights for the structure;
      2. Lighting of equipment structures and any other facilities on site (except lighting required by the FAA) shall be shielded from abutting properties;
      3. Signs on the facility shall be limited to: Those needed to identify the property, and the owner and warn of any danger: and, educational sighs providing information on the technology and renewable energy usage;
      4. All signs shall comply with the requirements of the Town’s sign regulations.
3. Environmental Standards
   1. Wetlands- Wind energy facilities shall be located in a manner consistent with all applicable local and state wetlands regulations. Wetland buffer areas may be used for the purposes of providing a clear area.
   2. Land Clearing/Open Space/Rare Species- Wind energy facilities shall be designed to minimize land clearing and fragmentation of open space areas and shall avoid permanently protected open space when feasible. Wind turbines should be sited to make use of previously developed areas wherever possible. Wind energy facilities shall also be located in a manner that does not have significant negative impacts on rear species in the vicinity (particularly avian species, bats, etc.).
   3. Storm Water- Storm water run-off and erosion control shall be managed in a manner consistent with all applicable state and local regulations.
   4. Noise- The wind energy facility and associated equipment shall conform to Massachusetts noise regulations (310 CMR 7.10). An analysis, prepared by a qualified engineer, shall be presented to demonstrate compliance with these noise standards and be consistent with Massachusetts Department of Environmental Protection guidance for noise measurement.
   5. Shadowing/Flicker- Wind energy facility shall be sited in a manner that does not result in significant shadowing or flicker impacts. The proponent has the burden of proving that this effect does not have significant adverse impact on neighboring or adjacent uses either through siting or mitigation.
4. Safety Standards- No hazardous materials or waste shall be discharged on the site of any wind energy facility. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind energy towers shall also be designed to prevent unauthorized access (for example by construction of a fenced enclosure to locked access).

5.3.5 Use by Telecommunications Carriers

Wind energy facilities may be used to locate telecommunications antennas, subject to applicable regulations governing such uses, and subject to the following requirements:

1. All ground-mounted telecommunications equipment shall be located in either a shelter, within the wind turbine tower or otherwise screened from view year-round (either through effective landscaping or existing natural vegetated buffers).
2. Antennas shall be flush-mounted to be in keeping with the design of the wind turbine tower.
3. All cabling associated with the personal wireless facility shall be contained within the tower structure or enclosed within a conduit painted to match the turbine mount.
4. No hazardous materials or waste shall be discharged by Telecommunications Carriers on the site of any wind energy facility. If any hazardous materials or wastes are to be used on site, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The telecommunications carriers using the wind energy towers shall also be designed to prevent unauthorized access (for example, by the construction of a fenced enclosure or locked access).

5.3.6 Modifications

All modifications to a wind energy facility made after issuance of the Special Permit shall require approval by the SPGA in accordance with the town’s existing process for modifications to Special Permit approvals.

5.3.7 Monitoring and Maintenance

1. After the wind energy facility is operational, the applicant shall submit to the town at annual intervals from the date of issuance of the Special Permit, a report detailing operating data for the facility (including but not limited to days of operation, energy production, etc.).
2. The applicant shall maintain the wind energy facility in good condition. Such maintenance shall include, but not be limited to, painting, structural integrity of the foundation and support structure and security barrier (if applicable), and maintenance of the buffer areas and landscaping if present.
3. Notice shall be provided to the town of any change in owner of the facility

5.3.8 Abandonment or Discontinuation of Use

1. At such time that a wind energy facility is scheduled to be abandoned or discontinued, the applicant will notify the town by certified U.S. mail of the proposed date of abandonment or discontinuation of operations. In the event that an applicant fails to give such notice, the facility shall be considered abandoned or discontinued if the facility is inoperable for 180 days. In the case of a multi-turbine facility, the SPGA shall determine in its decision what proportion of the facility would be inoperable for the facility to be considered abandoned.
2. Upon abandonment or discontinuation of use, the owner shall physically remove the wind energy facility within 90 days form the date of abandonment or dis continuation of use. This period may be extended at the request of the operator and at the discretion of the SPGA. “Physically removed” shall include, but not be limited to:
   1. Removal of wind turbine and tower, all machinery, equipment, equipment shelters, security barriers and all appurtenant structures from the subject property.
   2. Proper disposal of all solid or hazardous materials and wastes from the site in accordance with local and state solid waste disposal regulations.
   3. Restorations of the location of the wind energy conversion facility to its natural condition, except that any landscaping, grading or below-grade foundation may remain in the after-condition.
3. If an applicant fails to remove a wind energy facility in accordance with this section of this bylaw, the town shall have the authority to enter the subject property and physically remove the facility. The SPGA will require the applicant to provide a form of surety (i.e. post a bond, letter of credit or establish an escrow account or other) at the SPGA’s election at the time of construction to cover costs of the removal in the event the town must remove the facility. The amount of such a surety shall be wqual to 150 percent of the cost of compliance with this section. The applicant shall submit a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer. The amount shall include a mechanism for a Cost of Living Adjustment after 10 and 15 years.

5.3.9 Term of Special Permit

A Special Permit issued for any wind energy facility shall be valid for 25 years, unless extended or renewed. The time period may be extended or the Special Permit may be renewed upon satisfactory operation of the facility. At the end of that time period, the wind energy facility shall be removed by the applicant.

5.3.10 Application Procedures

1. Special Permit Granting Authority (SPGA)- The SPGA for wind energy facilities shall be the Zoning Board.
2. Pre-Applications Conference- Prior to the submission of an application for a Special Permit under this regulation, the applicant is strongly encouraged to meet with the SPGA at a public meeting to discuss the proposed wind energy facility in general terms and to clarify the filing requirements. The SPGA shall meet with an applicant under this regulation within 21 days following a written request submitted to the SPGA and the Town Clerk. If the SPGA fails to meet with an applicant who has requested such a meeting within 21 days of said request and said meeting has not been postponed due to mutual agreement, the applicant may proceed with a Special Permit application
3. Pre-Application Filing Requirements- The purpose of the conference is to inform the SPGA as to the preliminary nature of the proposed wind energy facility. As such, no formal filings are required for the pre-application conference. However, the applicant is encouraged to prepare sufficient preliminary architectural and/or engineering drawings to inform the SPGA of the location of the proposed facility, as well as its scale and overall design.
4. Professional fees- The town may retain a technical expert/consultant to verify information presented by the applicant. The cost for such a technical expert/consultant will be at the expense of the applicant.
5. Application Filing Requirements- The following shall be included with an application for a Special Permit for each wind energy facility:
   1. General Filing Requirements:
      1. Name, address, telephone number and original signature (photo reproductions of signatures will not be accepted) of applicant and any co-applicants.
      2. If the applicant or co-applicant will be represented by an agent, the name, address and telephone number shall be provided as well as; original signature authorizing the agent to represent the applicant and/or co-applicant shall be provided. Photo-reproductions of signatures will not be accepted;
      3. Documentation of the legal right to install and use the proposed facility and proof of control over the clear area, per Section 5.3.3 (b) of these regulations.
   2. Location Filing Requirements:
      1. Identify the subject property by including the town as well as the name of the locality, name of the nearest road or roads, and the street address, if any;
      2. Tax map and parcel number of subject property;
      3. Zoning district designation for the subject parcel (submit copy of town zoning map with parcel identified);
      4. A line map to scale showing the lot lines of the subject property and all properties within 300 feet of the property lines, as well as the location of all buildings, including accessory structures, on all properties shown.
   3. Siting and Design Filing Requirements:
      1. VICINITY/SITE MAP- A one-inch-equals-40 feet (1”=40’) vicinity plan, signed and sealed by a Registered Professional Engineer or Licensed Surveyor showing the following:
         * Property lines for the subject property and all properties adjacent to the subject property within 300 feet.
         * Outline of all existing buildings, including purposed (e.g. residential buildings, garages, accessory structures, etc.) on subject property and all adjacent properties within 300 feet. Distances, at grade, from the proposed wind energy facility to each building on the vicinity plan shall be shown.
         * Proposed location of wind energy facility, including all turbines, fencing, associate ground equipment, transmission infrastructure and access roads.
         * Location of all roads, public and private, on the subject property and on all adjacent properties within 300 feet including driveways proposed to serve the wind energy facility.
         * All proposed changes to the existing property, including grading, vegetation removal and temporary or permanent roads and driveways.
         * Representations, dimensioned and to scale, of the proposed facility, including cable locations, parking areas and any other construction or development attendant to the wind energy facility.
         * Tree cover and average height of trees on the subject property and adjacent properties within 300 feet
         * Contours at each two feet Above Mean Sea Level (AMSL) for the subject property and adjacent properties within 300 feet.
         * Representation of location of viewpoint for the sight-line diagram referenced below.
      2. SIGHT LINES AND PHOTOGRAPHS- Sight lines and photographs as described below:
         * Sight-line representation. A sight-line representation shall be drawn from representative locations that show the lowest point of the turbine tower visible from each location. Each sight line shall be depicted in profile, drawn at one in equals 40 feet (1”=40’) The profiles shall show all intervening trees and buildings. There shall be at least two sight line representations illustrating the visibility of the facility from surrounding areas such as the closest habitable structures or nearby public roads or areas.
         * Existing (before condition) photographs. A color photograph of the current view shall be submitted from at least two locations to show the existing situations.
         * Proposed (after condition). Each of the existing-condition photographs shall have the proposed wind enery facility superimposed on it to accurately simulate the proposed wind energy facility when built and illustrated its total height, width and breadth.
      3. ELEVATIONS- Siting elevations, or views at-grade from the north, south, east and west for a 50 foot radius around the proposed wind energy facility. Elevations shall be at either one-quarter inch equals one foot (1/4”=1’) or one-eight inch equals one foot (1/8”=1’) scale and show the following:
         * Wind energy facility and if applicable the security barrier and associated equipment, with total elevations dimensions of all parts of the facility.
         * Security barrier: If the security barrier will block views of the wind energy facility, the barrier drawing shall be cut away to show the view behind the barrier.
         * Any and all structures on the subject property.
         * Existing trees and shrubs at current height and proposed trees and shrubs at proposed height at time of installation, with approximate elevations dimensioned.
         * Grade changes, or cuts and fills, to be shown as original grade and new grade line, with two-foot contours above mean sea level.
      4. MATERIALS
         * Specifications for the proposed wind energy facility shall be provided for all equipment and attendant facilities.
         * Materials of the proposed wind energy facility specified by type and specific treatment. These shall be provided for the wind turbine tower and all other proposed equipment/facilities.
         * Colors of the proposed wind energy facility represented by a color board showing actual colors proposed.
      5. LANDSCAPE PLAN- A landscape plan including existing trees and shrubs and those proposed to be added or removed, identified by size of specimen at installation and species.
      6. LIGHTING PLAN- If lighting of the site or turbine is proposed (other than FAA lights), the applicant shall submit a manufacturer’s computer-generated point-to-point printout, indicating the horizontal foot-candle levels at grade, within the property to be developed and 25 feet beyond the property lines. The printout shall indicate the locations and types of luminaries proposed.
   4. Environmental Requirements:
      1. NOISE FILING REQUIREMENTS- The applicant shall provide a statement listing the existing noise levels and the maximum future projected noise levels form the proposed wind energy facility. Such statement shall be certified and signed by a qualified engineer, stating that noise projections are accurate and meet the noise standards of this bylaw and applicable state requirements.
      2. OTHER- The applicant shall submit information illustrating how the project is consistent with the environmental standards of this bylaw.

5.3.11 Conflict with Other Laws

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

5.3.12 Severability

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section of sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the town’s Zoning Bylaw

**5.4 Ground Mounted Solar Photovoltaic Installations**

Approved at Special Town Meeting October 17, 2019

5.4.1 Purpose

The purpose of this Section is to provide standards for the placement, design, construction, operation, monitoring, modification and removal of Ground-Mounted Solar Photovoltaic installations that address public safety and minimize impacts on scenic, natural and historic resources.

5.4.2 Applicability

1. This section applies to all ground-mounted solar photovoltaic installations proposed to be constructed after the effective date of this Section. This section also pertains to physical modifications that materially alter the type, configuration, or size of these installations or related equipment. This section does not apply to ground mounted solar photovoltaic installations that have received Site Plan approval before the effective date of this section.
2. All Ground Mounted Solar Photovoltaic Installations (including Large Scale) shall require a Special Permit and Site Plan Approval in accordance with this section and Sections 6.4 and 6.5 with the exceptions of such installations that have received Site Plan approval prior to the effective date of this section.

5.4.3 General Requirements for all Ground Mounted Solar Photovoltaic Installations

1. Site Plan Review- All ground-mounted solar photovoltaic installations shall undergo a Site Plan Review, in accordance with Section 6.5, by the Site Plan Review Authority prior to construction, installation or modification as provided in this Section. For the purpose of this Section of the Zoning Bylaw, the Planning Board shall be the Site Plan Review Authority. In addition to the submission requirements of Section 6.5, the following shall also be required:
2. General- All plans and maps shall be prepared, stamped and signed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts
3. Required Documents- Pursuant to the site plan review process, the Project Proponent shall provide the following documents:
4. A site plan showing:

* Property lines and physical features, including roads, for the project site;
* Proposed changes to the landscape of the site, grading, vegetation clearing and planting, exterior lighting, screening vegetation or structures;
* Blueprints or drawings of the ground-mounted solar photovoltaic installations sighed by a Professional Engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the system and any potential shading from nearby structures.
* One or three-line electrical diagram detailing the ground-mounted solar photovoltaic installations, associated components, and electrical interconnection methods, with all Massachusetts Electrical Code compliant disconnects and overcurrent devices;
* Documentation of the major system components to be used, including the PV panels, mounting system, and inverter;
* Name, address, and contact information for proposed ground-mounted solar photovoltaic installation’s installer;
* Name, address, phone number and signature of the Project Proponent;
* The name, contact information and signature of any agents representing the Project Proponent;

1. Stormwater management plan;
2. Erosion & sediment control plan;
3. Documentation of actual or prospective access and control of the project site;
4. An operation and maintenance plan;
5. Proof of liability insurance and builder’s risk insurance;
6. A public outreach plan, including a project development timeline, which indicates how the project proponent will meet the required Site Plan Review notification procedures and otherwise inform abutters and the community.
7. Site Control- The Project Proponent shall submit documentation of actual or prospective access and control of the project site sufficient to allow for construction and operation of the proposed ground-mounted solar photovoltaic installations.
8. Operation & Maintenance Plan- The Project Proponent shall submit a plan for the operation and maintenance of the ground mounted solar photovoltaic installation, which shall include measures for maintaining safe access to the installation, storm water controls, as well as general procedures for operational maintenance of the installation.
9. Abandonment & Decommissioning Plan- The Project Proponent shall submit a Decommissioning Plan. Any ground-mounted solar photovoltaic installation which has reached the end of its useful life or has been abandoned (i.e. when either it fails to be completed within a commercially reasonable time (such that power generation can commence), or it fails to operate for an elapsed time of more than one year without the written consent of the Planning Board shall be removed. The owner or operator shall physically remove the installation within 150 days of abandonment or the proposed date of decommissioning. The owner or operator shall notify the Planning Board by certified mail of the proposed date of discontinued operations and plans for removal. The Abandonment & Decommissioning Plan shall include a detailed description of how all of the following will be addressed:

* Physical removal of all structures, equipment, building, security barriers and transmission lines from the site, including any materials used to limit vegetation.
* Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
* Stabilization or re-vegetation of the site as necessary to minimize erosion. The Planning Board may allow the owner or operator to leave landscaping or designated below-grade foundations in order to minimize erosion and disruption to vegetation.
* Financial surety for decommissioning- Proponents of ground-mounted solar photovoltaic installations shall provide a form of surety, either through escrow account, bond or other form of surety approved by the Planning Board to cover the estimated cost of removal in the event the Town must remove the installation and remediate the landscape, in an amount and form determined to be reasonable by the Planning Board, but in no event to exceed more than 125 percent of the cost of removal and compliance with the additional requirements set forth herein, as determined by the project proponent and the Town. Such surety will not be required for municipal or state-owned facilities. The project proponent shall submit a fully inclusive detailed itemized cost estimate of the town’s estimated costs (including “prevailing wages”) associated with removal and full decommissioning of the facility and site, prepared by a qualified engineer. The amount shall include a mechanism for calculating increased removal costs due to inflation at the end of the facility’s useful life. Said estimated cost shall not include or deduct the value of material recycling. Said surety in its full amount shall be presented to the Planning Board prior to the Project Proponent applying for Building Permits or the commencement of construction.
* All legal documents required to enable the Town to exercise its rights and responsibilities under the plan to decommission the site, enter the property and physically remove the installation.

1. Utility Notification- No ground mounted solar photovoltaic installation shall be constructed until evidence has been given to the Site Plan Review Authority that the utility company that operates the electrical grid where the installation is to be located has been informed of the ground-mounted solar photovoltaic installation Project Proponent’s intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
2. Dimension and Density Requirements- Ground-mounted solar photovoltaic installations shall comply with the same dimension and density requirements required in the underlying district, except that for such facilities over 16 KW DC the following shall apply:
3. Front, rear and side yard setbacks shall be a minimum one hundred (100) feet
4. Access roads or driveways shall be setback at least twenty-five (25) feet from side and rear lot lines
5. The height of the structures at the tallest point shall not exceed twenty-five (25) feet
6. The minimum lot size for a large scale ground mounted photovoltaic installation is twelve (12) acres
7. Structures- All structures for ground-mounted solar photovoltaic installations shall be subject to existing bylaws. All appurtenant structures, including but not limited to, equipment shelters, storage facilities, transformers, and substations, shall be architecturally compatible with each other.
8. Visual Impact Mitigation- The plan for a ground-mounted solar photovoltaic installation shall be designed to maximize the preservation of on-site and abutting natural and developed features. In natural (undeveloped) areas, existing vegetation shall be retained to the greatest extent possible, especially where such vegetation provides a benefit to the natural environment. In developed areas, the design of the installation shall consider and incorporate human-designed landscape features to the greatest extent, including contextual landscaping and landscape amenities that complement the physical features of the site and abutting properties. Whenever reasonable, structures should be screened from view by vegetation and/or joined or clustered to avoid adverse visual impacts and be architecturally compatible with each other. Vegetation shall be of varieties native to New England and a mix of deciduous and evergreen species. Vegetative screening shall reach a mature form of effectively screen the installation within five years of installation. The mature height of the vegetated screening shall be such that the installation’s structures are not apparent to a person upon any public road and viewing the installation from a height of ten (10) feet. Planting of the vegetative screening shall be completed prior to final approval of the photovoltaic installation by the Building Inspector.
9. Design Standards- Projects shall be designed to:
10. Minimize the volume of cut and fill, the number of removed trees ten (10) caliper or larger, the length of removed stone walls, the area of wetland vegetation displaced, the extent of stormwater flow increase from the site, soil erosion, and threat of air and water pollution;
11. Maximize pedestrian and vehicular safety both on the site and entering and exiting the site;
12. Minimize obstruction of scenic views from publicly accessible locations;
13. Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
14. Minimize glare from headlights and light trespass;
15. Ensure adequate access to each structure for fire and service equipment and adequate provision for utilities and storm water drainage.
16. Site Lighting- Lighting of solar photovoltaic installations shall be consistent with local, state and federal law. Lighting of other parts of the installation, such as appurtenant structures, shall be limited to that required for safety and operational purposes, and shall be reasonably shielded from abutting properties. Where feasible, lighting of the solar photovoltaic installations shall be directed downward and shall incorporate full cut-off fixtures to reduce light pollution.
17. Signage- No signage on ground mounted solar photovoltaic installations is permitted other than those required to identify voltage and electrocution hazards as well as the owner and provide a twenty-four (24) hour emergency contact phone number. Solar photovoltaic installations shall not be used for displaying any advertising except for reasonable identification of the manufacturer or operator of the solar photovoltaic installation.
18. Utility Connections- Reasonable efforts, as determined by the Site Plan Review Authority, shall be made to place all utility connections for the solar photovoltaic installation underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider.
19. Safety and Environmental Standards
20. Emergency Services- The ground mounted photovoltaic installation Project Proponent shall provide a copy of the project summary, electrical schematic, and site plan to the local Fire Chief. Upon request the Project Proponent shall cooperate with local emergency services in developing an emergency response plan. All means of shutting down the solar photovoltaic installation shall be clearly marked. The Project Proponent shall identify a responsible person for public inquires throughout the life of the installation
21. Land Clearing, Soil Erosion and Habitat Impacts- Clearing of natural vegetation shall be limited to what is necessary for the construction, operation and maintenance of the ground mounted solar photovoltaic installation or otherwise proscribed by applicable laws, regulations and bylaws. Such installations shall not occur on any slopes greater than fifteen (15) % in order to minimize erosion. No more than fifty (50) % of the land parcel utilized for ground mounted photovoltaic installations shall contain land requiring clearing of forest.
22. No topsoil shall be removed from the land parcel under consideration for ground mounted solar photovoltaic installations. If earthworks operations are required, topsoil shall be stockpiled within the property bounds and protected against erosion until such time earthwork operations are completed and topsoil can be re-spread over the parcel. Earthworks shall be planned to limit export of soil material (non-topsoil) to one thousand (1000) cubic yards per acre affected by installation. A detailed earthworks estimate is a required submittal component proving this quantity is maintained.
23. Impact on Agricultural and Environmentally Sensitive Land- The ground mounted photovoltaic installation shall be designed to minimize impacts to agricultural and environmentally sensitive land and to be compatible with continued agricultural use of the land whenever possible. No more than fifty (50) % of the total land area proposed for the solar electric field may be occupied by the solar panels, with the remainder of the land remaining as undeveloped open space left in its natural state.
24. Vegetation Management- Herbicides, pesticides or chemical fertilizers shall not be used to manage vegetation at the ground mounted solar photovoltaic installation. Mowing, grazing or using geotextile materials underneath the solar array are possible alternatives.
25. All land associated with the ground mounted solar photovoltaic installation shall be covered and grown in natural vegetation. All ground surface areas beneath solar arrays and setback areas shall be pervious to maximize on-site infiltration of stormwater. Impervious paving of areas beneath solar arrays is prohibited. To the greatest extent possible, a diversity of plant species shall be used, with preference given to species that are native to New England. Use of plants identified by the most recent copy of the “Massachusetts Prohibited Plant List” maintained by the Massachusetts Department of Agricultural Resources is prohibited.
26. Monitoring and Maintenance
27. Solar Photovoltaic Installation Conditions- Project Proponents shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, fencing and integrity of security measures. Site access shall be maintained to a level acceptable to the local Fire Chief and Emergency Medical Services. The Project Proponent shall be responsible for the cost of maintaining the ground mounted solar photovoltaic installation and any access road(s), unless accepted as a public way.
28. Modifications- All material modifications to a ground mounted solar photovoltaic installation made after issuance of the required Building Permit shall require approval by the Special Permit and Site Plan Review Authority.
29. Outside Consultant Fees- In addition to the normal filing fee, the Planning Board can charge the applicant with a fee to hire “outside consultants” to assist the Board in administering and reviewing applications.
30. Waivers- The Planning Board may, upon the prior written request of the applicant and by a 2/3 majority affirmative vote of the full complement of the Board, waive any of the requirements of this sub-section, but must state their reasons for doing so in writing as part of their decision.

**5.5 Registered Marijuana Dispensary (RMD) and Off-Site Medical Marijuana Dispensary (OMMD)**

5.5.1 Purpose

It is recognized that the nature of the substance cultivated, processed, and/or sold by medical marijuana treatment centers and off-site medical marijuana dispensaries may have objectionable operational characteristics and should be located in such a way as to ensure the health, safety and general well-being of the public as well as patients seeking treatment. The specific and separate regulations of Registered Marijuana Dispensaries (hereafter referred to as a RMD) as Medical Marijuana Treatment Centers and Off-site Medical Marijuana Dispensary (hereafter referred to as an OMMD) facilities is necessary to advance these purposes and ensure that such facilities are not located within close proximity of minors and do not become concentrated in any one area within the Town of Russell.

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, and 105 CMR 725.000, Registered Marijuana Dispensaries and Off-site Medical Marijuana Dispensaries will be permitted to provide medical support, security, and physician oversight that meet or exceed state regulations as established by the Massachusetts Department of Health (hereafter referred to as MDPH).

5.5.2 Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Approval the following shall also apply to all Registered Marijuana Dispensaries and Off-Site Medical Marijuana Dispensaries:

1. Use:
2. RMD and OMMD facilities may only be involved in the uses permitted by its definition and may not include other businesses or services.
3. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
4. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:00 a.m.
5. Physical Requirements:
6. All of aspects of the use/facility relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior or the business.
7. No outside storage is permitted.
8. No OMMD Facility shall have a gross floor area in excess of 2.500 square feet.
9. Ventilation- all RMD and OMMD facilities shall be ventilated in such a manner that no:
   1. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
   2. No odor from marijuana or its processing can be detected by a person with an unimpaired and other wise normal sense of smell at the exterior of the medical marijuana business or at any adjoining use of property.
10. Signage shall be displayed on the exterior of the RMD and OMMD facility’s entrance in plain sight of clients stating that “Registration Card issued by the MA department of Public Health required” in text two inches in height.
11. Location:
12. No RMD and OMMD facility shall be located on a parcel which is within five hundred (500) feet (to be measured in a straight line from the nearest points of each property line) of parcel occupied by:
13. a public or private elementary, junior high, middle, vocational or high school, college, junior college, university or childcare facility or any other use in which children commonly congregate in an organized ongoing formal basis, or
14. another RMD or OMMD facility
15. No RMD or OMMD facility shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
16. Reporting Requirements:
17. All Special Permit and Site Plan Approval holders for an RMD or OMMD facility shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and key-holders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall be updated as needed to keep it current and accurate.
18. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department, and Special Permit Granting Authority (in cases where a Special Permit or Site Plan Approval was granted) shall be notified in writing by an RMD or OMMD facility owner/operator/manager:
19. A minimum of thirty (30) days prior to any change in ownership or management of that facility
20. A minimum of twelve (12) hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the RMD or OMMD.
21. Permitted RMD and OMMD facilities shall file an annual report to and appear before the Special Permit Granting Authority no later than January 31st, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
22. The owner or manager is required to respond by phone or email within twenty-four (24) hours of contact by a town official concerning their RMD or OMMD at the phone number or email address provided to the Town as the contact for the business.
23. Issuance/Transfer/Discontinuance of Use
24. Special Permits/Site Plan Approvals shall be issued to the RMD Operator
25. Special Permits/Site Plan Approvals shall be issued for a specific site/parcel
26. Special Permits/Site Plan Approvals shall be non-transferable to either another RMD Operator or site/parcel
27. Special Permits/Site Plan Approvals shall have a term limited to the duration of the applicant’s ownership/control of the premises as an RMD or OMMD, and shall lapse:
28. If the permit holder ceases operation of the RMD, and/or the permit holder’s registration by MDPH expires or is terminated, the permit holder shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within forty-eight (48) hours of such lapse, cessation, discontinuance or expiration.
29. An RMD or OMMD facility shall be required to remove all materials, plants, equipment and other paraphernalia prior to surrendering its state Registration or ceasing its operation.
30. Prior to the issuance of a Building Permit for an RMD or OMMD the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant forty-five (45) days written notice in advance of taking such action. Should the applicant remove all materials, plants, equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the forty-five (45) days written notice, said bond shall be returned to the applicant.

5.5.3 Application Requirements

All Registered Marijuana Dispensaries (RMD) and Off-Site Medical Marijuana Dispensaries (OMMD) require a Special Permit and Site Plan Review issued by the Zoning/Planning Board respectively in accordance with Section XIV and IX. In addition to the standard application requirements for Special Permits and Site Plan Approvals, such applications for an RMD or OMMD facility shall also include the following:

1. The name and address of each owner of the RMD or OMMD facility/operation;
2. A copy of its registration as an RMD or OMMD facility, and its owner/operators, qualify and are eligible to receive a Certificate of Registration and meet all of the requirements of a RMD in accordance with 105 CMR 725.00 of the Massachusetts Department of Public Health.
3. Evidence that the Applicant has site control and right to use the site for a RMD or OMMD facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease, a notarized statement from the property owner and a copy of the lease agreement;
4. A notarized statement signed by the RMD or OMMD organization’s Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses.
5. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the RMD or OMMD including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
6. A detailed floor plan identifying the areas available and functional uses (including square footage)
7. All signage being proposed for the facility.
8. A traffic study to establish the RMD or OMMD impacts at peak demand times.
9. A management Plan including a description of all activities to occur on site, including all provisions for the delivery of medical marijuana and related products to OMMDs or off-site direct delivery to patients.

5.5.4 Findings

In addition to the standard Findings for a Special Permit or Site Plan Approval the Special Permit Granting Authority must also find all the following:

1. That the RMD or OMMD facility is designed to minimize any adverse visual or economic impacts on abutters and other parties in interest;
2. That the RMD or OMMD facility demonstrates that it will meet all the permitting requirements of all applicable agencies within the Commonwealth of Massachusetts and will be in compliance with all applicable state laws and regulations;
3. That the applicant has satisfied all of the conditions and requirements of this Section and other applicable Sections of this Bylaw/Ordinance;
4. That the RMD or OMMD project meets a demonstrated need;
5. That the RMD or OMMD facility provides adequate security measures to ensure that no individual participant will pose a direct threat to the health or safety of other individuals, and that the storage and/or location of cultivation is adequately secured;
6. That the RMD or OMMD facility adequately addresses issues of traffic demand, Circulation flow, parking and queuing, particularly at peak periods at the facility, and its impact on neighboring uses.

**5.6 Adult use Marijuana Establishments Bylaw**

5.6.1 Purpose

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

Subject to the provisions of this Zoning Bylaw, Chapter 40A of the Massachusetts General Laws, Chapter 94G of the Massachusetts General Laws and 105 CMR 725.00, Marijuana Establishments will be permitted to provide the opportunity for the legal cultivation, product manufacturing and retail sale of marijuana for non-medical adult marijuana use in a manner that complies with state regulations.

5.6.2 Applicability

Nothing in this section shall be construed to supersede federal and state laws governing the sale and distribution of marijuana.

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

5.6.3 Additional Requirements/Conditions

In addition to the standard requirements for uses permitted By-right or requiring a Special Permit or Site Plan Review, the following shall also apply to all Marijuana Establishments. For the purposes of this section, the Special Permit Granting Authority shall be the Zoning Board of Appeals of the Town of Russell. In addition Site Plan Review is provided by the Planning Board of the Town of Russell.

1. Use:
2. Any type of Marijuana Establishment may only be involved in the uses permitted by its definition and may not include other businesses or services.
3. No marijuana shall be smoked, eaten or otherwise consumed or ingested within the premises.
4. The hours of operation shall be set by the Special Permit Granting Authority, but in no event shall an RMD or OMMD facility be open to the public, and no sale or other distribution of marijuana shall occur upon the premises or via delivery from the premises, between the hours of 8:00 p.m. and 8:99 a.m.
5. No marijuana establishment may commence operation prior to its receipt of all required permits and approvals including, but not limited to its Final License from the Cannabis Control Commission (CCC). Marijuana establishments may apply for Special Permits and Site Plan Reviews upon receiving its provisional license from the CCC.
6. The number of adult use marijuana retail establishments permitted to be located within the Town of Russell shall not exceed twenty (20) % of the number of licenses issued within the town for retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws. For the purposes of determining this number, any fraction shall be rounded up to the next highest whole number.
7. Physical Requirements:
8. All aspects of any marijuana establishment, except for the transportation of product or materials, relative to the acquisition, cultivation, possession, processing, sales, distribution, dispensing, or administration of marijuana, products containing marijuana, related supplies, or educational materials must take place at a fixed location within a fully enclosed building (including greenhouses) and shall not be visible from the exterior of the business. They may not be permitted to be located in a trailer, storage freight container, motor vehicle or other similar type potentially movable enclosure.
9. No outside storage of cannabis or cannabis related product is permitted.
10. No marijuana Retailer shall have a gross floor area open to the public in excess of two thousand five hundred (2,500) square feet
11. Ventilation- all marijuana establishments shall be ventilated in such a manner that no:
12. Pesticides, insecticides or other chemicals or products used in the cultivation or processing are dispersed into the outside atmosphere, and
13. No odor from marijuana or its processing can be detected by a person with an unimpaired and otherwise normal sense of smell at the exterior of the marijuana business or at any adjoining use or property.
14. Signage shall be displayed on the exterior of the marijuana establishment’s entrance in plain sigh of the public stating that “Access to this facility is limited to individuals 21 years or older.” In text two inches in height. All other signage must comply with all other applicable signage regulations must comply with all other applicable signage regulations in the Zoning Bylaw/Ordinance and 935 CMR 500.
15. Cannabis plants, products and paraphernalia shall not be visible from outside the building in which the cannabis establishment is located and shall comply with the requirements of 935 CMR 500. Any artificial screening device erected to eliminate the view from the public way shall also be subject to vegetative screen and the Board shall consider the surrounding landscape and viewshed to determine if an artificial screen would be out of character with the neighborhood.
16. Location:
17. Marijuana establishments are encouraged to utilize existing vacant buildings where possible
18. No marijuana establishment shall be located on a parcel which is within three hundred (300) feet (to be measured in a straight line from the nearest pint of the property line in question to the nearest point of the property line where the Marijuana Establishment is or will be located) of a parcel occupied by a pre existing public or private school (existing at the time the applicant’s license application was received by the Cannabis Control Commission) providing education in kindergarten or any grades 1-12.
19. No marijuana retailer shall be located on a parcel which is within three hundred (300) feet (to be measured in a straight line from the nearest point of the property line in question to the nearest point of the property line where the marijuana retailer is or will be located) of a parcel occupied by another marijuana retail facility.
20. No marijuana establishment shall be located within three hundred (300) feet of a residential structure (including commercial residential uses such as hotels, motels, lodging houses, etc.).
21. No marijuana establishment shall be located inside a building containing residential units, including transient housing such as motels and dormitories.
22. No marijuana establishment is permitted to utilize or provide a drive-through service.
23. Reporting Requirements:
24. Prior to the commencement of the operation or services provided by a marijuana establishment, it shall provide the Police Department, Fire Department, Building Commissioner/Inspector and the Special Permit Granting Authority with the names, phone numbers and email addresses of all management staff and keyholders, including a minimum of two (2) operators or managers of the facility identified as contact persons to whom one can provide notice if there are operating problems associated with the establishment. All such contact information shall ve updated as needed to keep it current and accurate.
25. The local Building Commissioner/Inspector, Board of Health, Police Department, Fire Department and Special Permit Granting Authority shall be notified in writing by the marijuana establishment facility owner/operator/manager:
26. A minimum of thirty (30) days prior to any change in ownership or management of that establishment.
27. A minimum of twelve (12) hours following a violation or potential violation of any law or any criminal or potential criminal activities or attempts of violation of any law at the establishment.
28. Permitted marijuana establishments shall file an annual written report to, and appear before, the Special Permit Granting Authority no later than January 31st of each calendar year, providing a copy of all current applicable state licenses for the facility and/or its owners and demonstrate continued compliance with the conditions of the Special Permit.
29. The owner or manager of a marijuana establishment is required to respond by phone or email within twenty-four (24) hours of contact by a town official concerning their marijuana establishment at the phone number or email address provided to the Town as the contact for the business.
30. Issuance/Transfer/Discontinuance of Use
31. Special Permits/Site Plan Reviews shall be issued to the marijuana establishment owner.
32. Special Permits/Site Plan Reviews shall be issued for a specific type of marijuana establishment on a specific site/parcel
33. Special Permits/Site Plan Reviews shall be non-transferable to either another marijuana establishment owner or another site/parcel.
34. Special Permits/Site Plan Reviews shall have a term limited to the duration of the applicant’s ownership/control of the premises as a marijuana establishment, and shall lapse/expire if:
35. the marijuana establishment ceases operation (not providing the operation or services for which it is permitted) for three hundred sixty five (365) days, and/or
36. the marijuana establishment’s registration/license by the CCC expires or is terminated.
37. The marijuana establishment shall notify the Zoning Enforcement Officer and Special Permit Granting Authority in writing within forty-eight (48) hours of such lapse, cessation, discontinuance or expiration or revocation.
38. A marijuana cultivation or product manufacturing establishment shall be required to remove all material, plants, equipment and other paraphernalia prior to surrendering its state registration/license or ceasing its operation:
39. Prior to the issuance of a Building Permit for a marijuana establishment the applicant is required to post with the Town Treasurer a bond or other form of financial security acceptable to said Treasure a bond or other form of financial security acceptable to said Treasurer in an amount set by the Planning Board. The amount shall be sufficient to cover the costs of the town removing all materials, plants, equipment and other paraphernalia if the applicant fails to do so. The Building Inspector shall give the applicant forty-five (45) days written notice in advance of taking such action. Should the applicant remove all materials, plants equipment and other paraphernalia to the satisfaction of the Building Inspector prior to the expiration of the forty-five (45) days written notice, said bond shall be returned to the applicant.

5.6.4 Application Requirements

Applications for Special Permits and Site Plan Reviews for marijuana establishments will be processed in the order that are filed with the town. The approval of a Special Permit for any marijuana establishment is up to the discretion of the Zoning Board of Appeals who will be making its determination based on selecting the marijuana establishments that if finds are in the best interests of the town and best comply with the standards and intent of this Bylaw/Ordinance. While the Zoning Board of Appeal is authorized to approve Special permits for marijuana retail establishments in an amount up to, but not exceeding twenty (20)% of the number of licenses issued within the town for the retail sale of alcoholic beverages not to be drunk on the premises where sold under chapter 138 of the General Laws, the Zoning Board of Appeals is not obligated to approve an application for a marijuana establishment that it doesn’t find is in the best interests of the town and complies with the standards and intent of this Bylaw/Ordinance just because the maximum number of allowed Special Permits for a marijuana establishment haven’t been approved.

In addition to the standard application requirements for Special Permits and Site Plan Reviews, such applications for a marijuana establishment shall include the following:

1. The name and address of each owner and operator of the marijuana establishment facility/operation.
2. A copy of an approved Host Agreement between applicant and the Bussell Board of Selectmen.
3. A copy of its Provisional License from the Cannabis   
   Control Commission pursuant to 935 CMR 500
4. If it’s in conjunction with an approved RMD, a copy of its registration as an RMD from the Massachusetts Department of Public Health in accordance with 105 CMR 725.000 or from the Cannabis Control Commission in accordance with 935 CMR 500.
5. Proof of Liability Insurance Coverage of Maintenance of Escrow as required in 935 CMF 500
6. Evidence that the Applicant has site control and right to use the site for a marijuana establishment facility in the form of a deed or valid purchase and sales agreement or, in the case of a lease a notarized statement from the property owner and a copy of the lease agreement.
7. A notarized statement signed by the marijuana establishment organizations’ Chief Executive Officer and corporate attorney disclosing all of its designated representatives, including officers, directors, shareholders, partners, members, managers, or other similarly-situated individuals and entities and their addresses. If any of the above are entities rather than persons, the Applicant must disclose the identity of all such responsible individual persons.
8. In addition to what is normally required in a Site Plan, details showing all exterior proposed security measures for the marijuana establishment including lighting, fencing, gates and alarms, etc. ensuring the safety of employees and patrons and to protect the premises from theft or other criminal activity.
9. A detailed floor plan identifying the areas available and functional uses (including square footage).
10. All signage being proposed for the facility.
11. A pedestrian/vehicular traffic impact study to establish the marijuana establishment’s impacts at peak demand times, including a line queue plan to ensure that the movement of pedestrian and/or vehicular traffic, including but not limited to, along the public rights-of-way will not be unreasonably obstructed.
12. An odor control plan detailing the specific odor-emitting activities or processes to be conducted on-site, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative of odor control including maintenance of such controls.
13. A Management Plan including a description of all activities to occur on site, including all provisions for the delivery of marijuana and related products to marijuana establishment or off-site direct delivery.
14. Individual written plans which, at a minimum comply with the requirements of 935 CMR 500, relative to the marijuana establishment’s:
15. Operating procedures
16. Marketing and advertising
17. Waste disposal
18. Transportation and delivery of marijuana or marijuana products
19. Energy efficiency and conservation
20. Security and Alarms
21. Decommissioning of the marijuana establishment including a cost estimate taking into consideration the community’s cost to undertake the decommissioning of the site.

5.6.5 Findings

In addition to the standard Findings for a Special Permit or Site Plan Review the Special Permit Granting Authority must also find all the following:

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

**SECTION VI: ADMINISTRATION**

6.1 ENFORCEMENT

6.1.1 This Bylaw shall be enforced by a Zoning Enforcement Officer appointed by the Board of Selectmen. Upon any well-founded information as to a violation, the Zoning Enforcement Officer shall take immediate steps to enforce this bylaw in any manner provided by law.

6.1.2 Plans and Permits. No building or structure shall be erected, altered, re- constructed, moved to a new foundation or placed upon without a permit granted by the Building Inspector and the Board of Selectmen. Exempt from this provision are small unattached accessory buildings not used for the purpose of habitation, business, or public assembly and having a floor space of less than 150 square feet.

6.1.3 A percolation test and observation pit shall be taken in accordance with the state sanitary code under the observation of the Board of Health and sent to the Building Inspector and Board of Selectmen before a building permit shall be issued. No permit shall be issued until sewage disposal work permit, when applicable, had forst been obtained from the Board of Health and the proposed building and location thereof conform with the Town’s laws and Bylaws.

6.1.4 Any new building and/or structure shall conform to all adopted state and Town bylaws, codes, ordinances and regulations before a certificate of occupancy will be issued.

6.1.5 No building or structure shall be occupied until a Certificate of Occupancy has been issued by the Building Inspector where required.

6.1.6 The Building Inspector shall issue a cease and desist order on any work in progress or on the use of any premises, if either is in violation of the provisions of this Bylaw.

6.2 Penalties

6.2.1 Non-Criminal Disposition/Violations

Any violation of the provisions of this Bylaw, the conditions of a permit is granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw, (including but limited to the removal of unregistered motor vehicles) shall be liable to a fine of not more than one hundred dollars ($100.00) for each violation. Each day such violation continues shall be deemed a separate offence.

In addition to the procedures for enforcement as described above, the provisions of this Bylaw, the conditions of a permit granted under this Bylaw, or any decisions rendered by the Zoning Board of Appeals or Planning Board under this Bylaw may be enforced, by the Building Inspector by non-criminal complaint pursuant to the provisions of General Laws, Chapter 40, Section 21D. The fine for any violation disposed of through this procedure shall not be more than one hundred dollars ($100.00) for each offense. Each day such violation continues shall be deemed a separate offence.

6.2.2 Criminal Disposition/Violations

Persons violating any of the provisions of this Bylaw shall be fined an amount deemed just and appropriate for each offense. Each day that such violation continues shall constitute a separate offense.

6.3 Board of Appeals

A Board of Appeals is hereby established as provided under Chapter 40A of the General Laws as amended, to consist of three citizens of the town, to pass upon matters which may be brought before them. They shall be appointed by the Selectmen for terms of three years, the term of one member expiring each year. Vacancies shall be filled by the Chairman of the Board of Appeals for the balance of any unexpired term. No member shall, act in any case in which he may have a personal or financial interest and an associate member may designate in such cases by the Chairman of the Board of Appeals. The Selectmen shall appoint two associate members for a term of one year.

6.3.1 Powers

The Board of Appeals shall have the following powers and shall follow the appeals procedure as set forth in M.G.L. Chapter 40A, Section 15;

1. To hear and decide appeals taken by any person aggrieved by reason of his ability to obtain a permit or enforcement action from any administrative officer under the provision of this Bylaw and M.G.L. Chapter 40A
2. To hear and decide petitions for variances as set forth in M.G.L. Chapter 40A
3. To hear and decide appeals from any person aggrieved by a decision or order of the zoning administrator.

6.3.2 Variances

1. In the case of every application for a variance made to it under the provisions of the Zoning Bylaw, the Zoning Board of Appeals shall hold a public hearing to consider the application in question and shall cause a notice thereof to be published in the local newspaper and posting a notice on the Bulletin Board in the Town Office Building not less than fourteen (14) days before the day of such hearing. A copy of the notice shall also be sent by registered mail to the petitioner, abutters, owners of land directly opposite of any public or private street or way, abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list, notwithstanding that the land of any such owner is located in another city or town, The Planning Board of the town, the Planning Board of every abutting city or town, and any other person or persons who in the opinion of the Board may be interested in such application.
2. After giving notice and holding a public hearing, the Board of Appeals may grant a variance from the terms of the applicable Zoning Bylaw where the Board of Appeals specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land structures, but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Zoning Bylaw would involve substantial hardship to the owner of said building or parcel and where desirable relief may be granted without substantial derogation from the intent or purpose of the Zoning Bylaw, but not otherwise.
3. A public hearing shall be held within sixty-five (65) days after the application for a variance has been filed with the Zoning Board of Appeals, a copy of which shall forthwith be given to the Town Clerk by the applicant. The ZBA will take the final action on the application for a variance within one hundred (100) days following the public hearing. Failure to do so shall constitute approval. An unanimous vote of a three-member board and a vote of at least four members of a five-member board is required.

6.4 Special Permits

Special Permits are requested for certain uses, structures or conditions as specified in Section III. Schedule of Use Regulations.

6.4.1 Purpose

Special Permits are intended to provide detailed review of certain uses and structures which may have substantial impact upon traffic and environment, health and safety, property values, utility systems, and the character of the Town among other things. The Special Permit review process is intended to ensure a harmonious relationship between proposed development and its surroundings, and ensure the proposals are consistent with the purpose and intent of the Bylaw.

6.4.2 Special Permit Granting Authorities

The Zoning Board of Appeals shall have those Special Permit granting authorities specified in Section III., Schedule of Use Regulations.

6.4.3 Special Permit Procedures

Special Permits may be issued by the Special Permit Granting Authorities (SPGA) in accordance with the following regulations:

6.4.3.1 Public Hearing

1. In the case of every application for a Special Permit made to it under the provisions of the Zoning Bylaw, the SPGA shall hold a public hearing to consider thew application in question and shall cause a notice thereof to be published in the local newspaper and by posting a notice on the Bulletin Board in the Town Office Building not less than fourteen (14) days before the day of such hearing. A copy of the notice shall also be sent by registered mail to the petitioner, abutters, owners of land directly opposite on any public or private street or way, abutters to the abutters within three hundred (300) feet of the property line of the petitioner as they appear on the most recent applicable tax list, not withstanding that the land of any such owner is located in another city or town, the Planning Board of the town, the Planning Board of every abutting city or town, and any other person who in the opinion of the SPGA may be interested in such an application.
2. Special Permits shall only be issued following a Public Hearing held within sixty-five (65) days after filing an application with the SPGA, a copy of which shall forthwith be given to the Town Clerk by the applicant. The SPGA shall take final action on an application for a Special Permit within ninety (90) days following the public hearing. Failure to do so shall constitute approval. An unanimous vote of the three member Board and a vote of at least four members of a five member Board is required.

6.4.3.2 Application Procedures

1. All applications for Special Permits shall be made in writing on forms furnished by the Town Clerk and located in the Town Clerk’s office and shall be accompanied by a site plan when required in accordance with Section III, Schedule of Use Regulations. The applicant shall provide the Town Clerk with one original Special Permit application and Site Plan and eight (8) copies of the application and Site Plan for distribution.
2. Misrepresentation of any of the required Plan items shall be cause to revile a Special Permit.
3. No Special Permit may be authorized for an activity or use not generally permitted in the district in which the land or structure is located.

6.4.4 Expiration

All Special Permits that have no time restrictions imposed by the SPGA shall lapse within two (2) years from the date the Permit was granted unless substantial use or construction has commenced and continues regularly.

6.4.5 Review Procedures

The Town Clerk shall submit one copy of the said application and plan to the Planning Board, the Board of Health, Building Inspector, and the Conservation Commission for their review.. Said Boards and Commissions shall within thirty (30) days of the filling date of the application, make recommendations as they deem appropriate and shall send copies thereof to the SPGA and to the applicant in accordance with Chapter 40A. Section 11 of the Massachusetts General Laws.

6.4.6 Criteria

Where a Special Permit may be authorized by the SPGA under this Bylaw, said Authority may grant, upon written application, such Special Permit if it finds, among other things:

1. That the proposed use would be suitably located in the neighborhood in which it is proposed and/or the total town:
2. That the use will be reasonably compatible with the character and scale of other uses permitted as of right in the same district:
3. That the use will not constitute a nuisance by reason of an unacceptable level of air or water pollution, excessive noise or visually flagrant structures and accessories:
4. That adequate and appropriate facilities will be provided for the proper operation of the proper use, including special attention to safe vehicular circulation:
5. The proposed use shall comply with any and all additional Special Permit criteria or special use regulation imposed on individual uses in Section V in this Bylaw:
6. The proposed use will not create traffic congestion or impair pedestrian safety. Provisions shall be made for convenient and safe vehicular and pedestrian circulation within the site and in relation to adjacent streets, property or improvements:
7. The proposed project shall not create a significant adverse impact to the quality of surface water or groundwater during and after a construction and provision shall be made for the maximizing of groundwater recharge:
8. The design of the project shall provide for adequate methods of general disposal and recycling of sewage, refuse or wastes generated by the proposed use: and
9. The design of the project shall minimize the visibility of visually degrading elements and protect the neighboring properties from potentially detrimental or offensive use of the screening or vegetated buffer zones

6.4.7 Conditions, Safeguards, Limitations

In granting a Special Permit, the SPGA may, in accordance with the M.G.L. Chapter 40A, impose conditions, safeguards, and limitations. Such conditions, safeguards, and limitations shall be in writing and may include but are not limited to the following:

1. Setback, side and rear yards greater than the minimum required in the Bylaw
2. Screening of parking areas or other parts of the premises from adjoining properties or from streets by the use of walls, fences, plantings or other such devices:
3. Limitations of size, number of occupants, method or time of operation or extent of facilities:
4. Modification of the exterior design or appearance of buildings, structures, signs, or landscape materials:
5. Additional parking, loading or traffic requirements beyond the minimum required in the Bylaw:
6. Measures to protect against environmental pouutions: and
7. Performance bond or other security to ensure that the project meets the conditions specified in the Special Permit

6.4.8 Transfer

Where a Special Permit involving the construction of buildings has not been implemented by substantial construction said permit shall not pass to future owner of the property without a public hearing and approval of the SPGA

6.4.9 Documentation Distribution

When a Special Permit has been granted, one copy each of the decision, conditions, and approved plans shall be filed with the Planning Board, The Assessors, Zoning Enforcement Officer and the Town Clerk and one copy shall be returned to the applicant. The set of documents on file with the Town Clerk shall bear the endorsement of the SPGA and certification that copies of the decision and related plans have been filed in accordance with this section.

6.4.10 Time Schedule

A Special Permit shall only be issued following a public hearing held within sixty-five (65) days after the date the application was filed with the Town Clerk. The SPGA shall act within ninety (90) days following the public hearing. Failure of the SPGA to make final action upon an application for a Special Permit within said ninety (90) day period shall be deemed to be a granting of the Special Permit applied for.

6.4.11 Changes, Alterations, Expansion

Any substantial change, alteration or expansion of a use allowed by Special Permit shall require a Special Permit from the appropriate SPGA.

6.4.12 Method of Appeal

Any person aggrieved by the decision of the SPGA may appeal to the Hampden County superior court or the division of housing court department for Hampden County by bringing action within twenty (20) days after the decision has been filed with the Town Clerk, in accordance with MGL Chapter 40A Section 17.

* 1. SITE PLAN REVIEW

Approved at Special Town Meeting 02/15/2006

6.5.1 Purpose

1. To protect the health, safety, and general welfare of the inhabitants of the Town of Russell:
2. To promote attractive and viable residential, business, and agricultural districts: and
3. To protect the rural character, aesthetic visual qualities, natural environmental features, historical features and property value of the Town of Russell and neighboring properties.

6.5.2 Projects Requiring Site Plan Review

No Special Permit or Building Permit shall be issued and no application for such Permits shall be accepted for construction, exterior alteration, relocation, or change in use except where noted in Section 6.5.3 unless a Site Plan has been endorsed by the Planning Board, after consultation with other Boards, including but not limited to the following; Building Inspector, Board of Health, Board of Selectmen, Historical Commission, Conservation Commission, Highway Department, Fire Department and Police Department. The Planning Board may waive any or all requirements of the Site Plan Review for external enlargements of less than 10% of the existing floor area.

6.5.3 Exemption from Site Plan Review

Site Plan Review shall not be required for:

1. The construction or enlargement of any single family or two family dwelling or building accessory to such dwelling.
2. Any building used exclusively for agriculture, horticulture or floriculture.

6.5.4 Application Procedure

1. Each application for Site Plan Review shall be submitted to the Planning Board by the current owner of record, accompanied by nine (9) copies of the Site Plan. The applicant shall file a copy of the application with the Town Clerk and the Tax Collector.
2. The Planning Board shall obtain with each submission a deposit sufficient to cover any expense connected with a public hearing and review of plans, including the cost of any engineering or planning consultant services necessary for review purposes.
3. The following shall be filed at the time of application: a site plan, which shall include landscape, utility and drainage information, building elevations as illustrated further in Section 6.5.5, and a traffic plan. An application shall not be considered until all required information and fees are submitted.

6.5.5 Required Site Plan Contents

An architect, landscape architect, or professional engineer duly licensed by the Commonwealth of Massachusetts shall prepare all Site Plans unless the Planning Board waives this requirement because of unusually simple circumstances. All Site Plans shall be on standard 24”X36” sheets at a scale of one inch equaling twenty (1”=20’) feet, with additional narrative as necessary. Site Plans shall include the following information:

1. Name of the project-locus, date and scale plan;
2. Name and address of the owner of record, developer, and seal of the architect, landscape architect or engineer;
3. The location of the boundaries of the lot, adjacent streets or ways, name of owners and location of all adjacent properties and those within three hundred (300) feet of the property line, and any relevant zoning district boundaries;
4. Existing and proposed topography at two foot contour intervals, the location of wetlands, streams, water bodies, drainage swales, area subject to flooding and base flood elevations, and unique natural land features;
5. Existing and proposed structures, including dimensions and elevations, and all exterior entrances and exits;
6. The location of existing and proposed parking and loading areas, public and private ways, driveways, sidewalks, curbing, access and egress points;
7. The location and description of all proposed septic systems, a soil percolation test, water supply, storm drainage systems including existing and proposed drainage lines, culverts, drainage swales, catch basins, drainage calculations, and sub-drainage along with soil logs, utilities, hydrants, manholes, lighting fixtures, and refuse and other waste disposal methods and facilities;
8. Proposed landscape features including the location and a description of buffers, screening, fencing, and plantings, including the size and type of plant material;
9. Location, dimension, height, color, illumination and characteristics of existing and proposed signage;
10. The location and description of proposed open space or recreation areas;
11. A lighting plan, including parking lot and building exterior lighting and anyu provisions of light reduction through the use of shield screening, or similar actions;
12. Estimated daily and peak-hour vehicle trips to be generated by the site and traffic flow patterns for vehicles and pedestrians showing adequate access to and from the site and adequate circulation within the site;
13. A plan for the control of erosion, dust and silt, both during and after construction sequencing, temporary and permanent erosion control, and protection of water bodies;
14. For commercial uses, maximum areas of building to be used for selling, offices, business or other uses, number of employees, seating capacity where applicable, and number of parking spaces required for intended use
15. See attachment.

The Planning Board may waive any information requirements it judges to be necessary to the review of a particular plan.

6.5.6 Review Procedure

6.5.6.1 The Planning Board shall transmit one copy of each to the Building Inspector, Board of Selectmen, Board of Health, Conservation Commission, Highway Department, Historical Committee, Fire Department and Police Department who shall review the application and submit their recommendations and comments to the Planning Board concerning:

1. The completeness and adequacy of the data and methodology used by the applicant to determine the impacts of the proposed development;
2. The effects of the projected impacts of the proposed developments; and
3. Recommended conditions or remedial measures to accommodate or mitigate the expected impacts of the proposed development.

Failure of Boards to make recommendations within thirty (30) days of the referral of the application shall be deemed to be lack of opposition.

6.5.6.2 The Planning Board shall hold a public hearing within sixty-five (65) days of the receipt of an application and after due consideration of the recommendations received, the Board shall take final action within ninety (90) days from the time of the hearing. The Planning Board’s final action in writing shall consist of either:

1. Approval of the site plan based on a determination that the proposed project will constitute a suitable development and is in compliance with the standards set forth in this bylaw;
2. Disapproval of the Site Plan based on a determination that the application was incomplete and insufficient information was submitted to review the proposal; or
3. Approval of the project subject to any conditions, modifications and restrictions which ensure that the project meets the Criteria for Review.

6.5.6.3 The period of review for a Special Permit requiring a Site Plan Review shall be the same as any other Special permit and shall conform to the requirements of state Zoning Act, M.G.L. Chapter 40A. Specifically, a joint public hearing to address the Special Permit application and Site Plan Review application shall be held within sixty-five (65) days of the filing of a Special Permit application with the Zoning Board of Appeals. The Planning Board shall then have ninety (90) days following the public hearing in which to act.

6.5.7 Criteria for Review

The following criteria and guidelines shall be used by the Planning Board in evaluating the Site Plan and all information submitted as part of the application:

1. The Site Plan conforms to all appropriate provisions of the Russell Zoning Bylaw;
2. The Site Plan minimizes traffic and safety impacts of the proposed development on adjacent highways or roads, and maximizes the convenience and safety of vehicular and pedestrian movement within the site;
3. The proposed development, to the extent feasible:
4. Is integrated into the existing landscape and protects abutting properties;
5. Minimizes adverse environmental impacts in such features as wetlands, floodplains, and aquifer recharge areas;
6. Minimizes obstruction of scenic views from publicly accessible locations;
7. Reserves unique natural or historical features;
8. Minimizes removal of trees, vegetation, and soil and grade changes;
9. Maximizes open space retention;
10. Screens objectionable features from neighboring properties and roadways;
11. Complies with all State and Federal requirements for handicap access; and
12. Controls offsite impacts from noise, temperature and wind conditions;
13. The architectural design, layout and landscaping of the proposed development is in harmony with the historic, rural character of the neighborhood and the Town of Russell;
14. The proposed development is served with adequate water supply and waste disposal systems and will not place excessive demands on Town services and infrastructure;
15. The site plan shows adequate measures to prevent pollution of surface groundwater, to minimize erosion and sedimentation, to prevent changes in groundwater levels, and potential for flooding, and a storm water management plan prepared in accordance with good engineering, hydrologic and pollution control practices.

6.5.8 **Enforcement**

1. The Planning Board shall require the posting of a bond or other adequate security to assure compliance with the Site Plan and conditions and may suspend any permit or license when work is not performed as required.
2. Any Site Plane issued under this section shall lapse within one (1) year if a substantially complete use thereof has not commenced sooner except for good cause. The time required to pursue and await determination of a jucicial appeal pursuant of Chapter 40A of the General laws shall BE INCLUDED WITHIN THE ONE (1) year time limit.
3. The Planning Board may periodically amend or add rules and relating to procedures and administration of this section.

6.6 **Validity**

The invalidity of any section or provision of this bylaw shall not affect the validity of any other provision thereof.

6.7 **Consistency**

This Zoning Bylaw shall not interfere with or annul any Bylaw or other Law in effect in the Town of Russell.

**SECTION VII: DEFINITIONS**

Accessory Building- The subordinate use of a building or land for a purpose customarily incident to the principal use of the main building or lot concerned.

Accessory Use- The subordinate use of a building or land for a purpose customarily incident to the principal use of the main building or lot concerned.

Alteration- A change in or addition to a building which modifies its location plan, manner of construction or in any way varies the character of its use.

Basement, cellar, foundation- The floor in a house or other building below the principle floor, especially when it is wholly or partly below the ground level.

Building-A combination of any materials, whether portable or fixed, having a roof, to form a structure of the shelter of persons, animals or property. For the purpose of this definition “roof” shall include any awning or similar covering, whether or not permanenting nature. The word “building” shall be construed, where context allows, as though followed by the words “or a part or parts thereof”

Cannabis Cultivation: The use of land and/or buildings for planting, tending, improving, harvesting, processing and packaging, the preparation and maintenance of sail and other media and promoting the growth of cannabis by a cannabis cultivator, micro-business, research facility, craft marijuana cultivator cooperative, registered marijuana dispensary or other entity

Cannabis or Marijuana or Marihuana: All parts of any plant of the genus Cannabis, not excepted in 935 CMR 500.002: Cannabis or Marijuana or Marihuana (a) though (c) and whether growing or not; the seeds thereof: and resin extracted from any part of the plant: clones of the plant: and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in M.G.L. c. 94G, § 1: provided that cannabis shall not include:

1. the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil, or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination:
2. hemp; or
3. the weight of any other ingredient combined with cannabis or marijuana to prepare topical or oral administration, food, drink or other products.

Cannabis or Marijuana Products: Cannabis or marijuana and its products unless otherwise indicated. These include products have been manufactured and contain cannabis or marijuana or an extract from cannabis or marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Ceases to Operate: Marijuana Establishment closes and does not transect business for a period greater than sixty (60) days with no substantial action taken to reopen. The Commission may determine that an establishment has ceased to operate based on its actual or apparent termination of operations.

Commissions: The Massachusetts Cannabis Control Commission established by M.G.L. c. 10 § 76, or its designee. The Commission has authority to implement the state marijuana laws, which include, but are not limited to, St. 2016, c. 334 as amended by St. 2017, c. 55, MG>. c. 94G, and 935 CMR 500,000

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

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

Child Care Facilities- Centers that serve children under seven (7) years of age or sixteen (16) (if the children have special needs), or school age children (under fourteen years of age or sixteen if they have special needs) in programs that are held before or after school hours or during vacations.

Corner- A lot bounded on two or more sides by intersecting ways.

Detached one family house- A detached one family house is a dwelling intended and designed to be occupied by a single family

Detached two family house- A detached two family house is a dwelling intended and designed to be occupied by a single family

Family- Any individual or group of persons related by marriage, blood and/or adoption residing together in one dwelling unit; and (2) A group of unrelated individuals not to exceed three, residing cooperatively in one dwelling unit. This section, however, does not apply to non-related disabled persons as defined by any applicable Federal and/or State law and/or regulations.

Family Day Care- Programs serving six or fewer children in residential settings.

Farm- A farm means any tract of land used for the production of crops or the rearing of animals or poultry

Frontage­- That portion of a lot fronting on a street to be measured continuously along one street line between its side lines and their intersection with the street line. (See Diagram 1.)

Front Yard- A front yard is the required open space between the street line and the nearest part of any building on the lot excluding projections.

Half Story- The term half story shall mean a story in a sloping roof, the area of which at a height four feet above the floor does not exceed two-thirds of the floor area of the story immediately below it.

Height of Building- The vertical distance of the highest point of the roof above the mean finished grade of the ground immediately adjacent to the building

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

Home Occupation- Any use which is customarily or may properly be carried on for compensation entirely within the dwelling by the occupant thereof.

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

Junk- Any worn-out or cast-off or discarded or used article or material which is ready for destruction or has been collected or stored for salvage or conversion to some other use.

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

Lot- A parcel of land. In order to be used for building purposes, it must meet the criteria of a building lot.

Lot, Building- A parcel of land in one ownership meeting the dimensional requirements of this Bylaw for the district in which such land is situated, and if occupied by a building or buildings, meeting the minimum yard requirements of that district, and defined on a plan or deed recorded in the Registry of Deeds.

Lot, Width- The horizontal distance (measured parallel to the Front Lot Line) between the side lot lines. (See Diagram 2). If the side-yard line does not extend to the Front Yard Line the measurement will be taken at the point of interception with another line.

Lot Line- The established division line between lots or between a lot and a street.

Lot Line, Side- The line or lines bounding a lot which extend from the street toward the rear in a direction approximately perpendicular to the street. (See Diagram 1).

Lot Line, Rear- The lot line opposite and the most distant from the Front Lot Line. (See Diagram 1).

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

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

Marijuana Establishment: A Marijuana Cultivator, Craft Marijuana Cooperative, Marijuana Product Manufacturer. Marijuana Retailer, Marijuana Independent Testing Laboratory, Marijuana Research Facility, Marijuana Transporter, or any other type of licensed marijuana-related business, except a medical marijuana treatment center. Marijuana establishments permitted in accordance with these regulations are considered to be a commercial and/or manufacturing use and are not considered being subject to any agricultural exemptions under zoning.

Marijuana Independent Testing Laboratory: A laboratory that is licensed by the Commission And is:

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

Marijuana Microbusiness: A collocated Marijuana Establishment that can be either a Tier 1 Marijuana Cultivator or Product Manufacturer or both, in compliance with the operating procedures for each license. A Microbusiness that is a Marijuana Product Manufacturer may purchase no more than 2.000 pounds of marijuana per year from other Marijuana Establishments.

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

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

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

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

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

Mobil Home Park- See Trailer Park.

Overnight Camp­- See Trailer Camp.

Off-Site Medical Marijuana Dispensary (OMMD)- A Registered Marijuana Dispensary that is located off-site from the cultivation/processing facility (and controlled and operated by the same registered and approved not-for-profit entity which operates an affiliated RMD) but which serves only to dispense the processed marijuana, related supplies and educational materials to registered Qualifying Patients or their personal caregivers in accordance with the provisions of 105 CMR 725.00

Projections- Projections shall mean cornices, eaves, gutters, outside chimneys, steps, bay windows and terraces.

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

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

Rated Nameplate Capacity- The maximum rated output of electrical power production of a Photovoltaic system in Direct Current (DC)

Registered Marijuana Dispensary (RMD)- A use operated by a not-for-profit entity registered and approved by the MA Department of Public Health on accordance with 105 CMR 725.00 and pursuant to all other applicable state laws and regulations, also to be known as a Medical Marijuana Treatment Center, that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies, or educational materials to registered qualifying patients or their personal caregivers. An RMD, shall explicitly include facilities which cultivate and process medical marijuana, and which may also dispense and deliver medical marijuana and related products. NOTE: The cultivation and processing of medical marijuana in accordance with these regulations is considered to be a manufacturing use and is not agriculturally exempt from zoning.

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

Site Plan- A certified plan, prepared by a Professional Land Surveyor on 11”x17” sheets showing accurately the boundaries of a site and the location of all buildings, structures, wells and septic systems (if applicable), uses and principal site development features proposed for a specific parcel of land.

Solar Photovoltaic Installation, Ground Mounted- A solar photovoltaic system that is structurally mounted on the ground and is not roof mounted.

Solar Photovoltaic Installation, Large-Scale Ground-Mounted- A solar photovoltaic system that is structurally mounted on the ground and is not roof-mounted, and has a rated nameplate capacity greater than 250 KW DC

Solar Photovoltaic Installation, Roof-Mounted- A solar photovoltaic system that is structurally mounted on the roof of a building.

Story- A story of a building above the basement or cellar and between the top of any tier on floor beams and the top tier floor or roof beams next above. A basement or cellar, the ceiling or which extends more than four and a half (4 ½) feet above the average grade immediately adjacent to the building, shall be a story within the meaning of this Bylaw.

Street- A Public way, a private way on a plan approved under the Subdivision Control Law, or a way in existence when the Subdivision Control Law became effective in Russell having in the opinion of the Planning Board sufficient width suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the abutting land.

Street Line- A line separating the street right of way, not the paved or traveled way, from the adjoining property.

Structure- Anything constructed or erected, the use of which required location on the ground, or attached to something located on the ground except a boundary wall or fence, or a road and any fixtures appurtenant thereto.

Trailer- A vehicle which can be drawn, carried on, or incorporated in a motor vehicle, whether on temporary or permanent supports, designed for dwelling, or sleeping purposes or as temporary business or construction office.

Trailer Camp- A plot of ground upon which two or more campsites are located, established or maintained for seasonal occupancy by camping units as temporary living quarters for recreation, education or vacation purpose. Also known as overnight camps.

Trailer Park- A site with required improvements and utilities for year-round occupancy and long-term parking of trailers which may include services and facilities for residents. Also known as mobile home parks. The development of new trailer parks is prohibited in Russell.

Travel Trailer or Camper- A vehicular, prefabricated, portable structure designed as a temporary dwelling for travel, overnight camping, recreational and vocational used. Designed for temporary use, such travel trailers or campers are usually in, on, or behind a motor vehicle.

Use- The purpose for which a structure or lot is arranged, designed or intended to be used, occupied, or maintained.

Yard- A required open space, occupied except as herein permitted, between a principal building and a street or lot line.

Yard, Front- A yard extending between lot side lines across the front of a lot adjacent to each street the lot adjoins. (See Diagram 1)

Yard, Side- A yard adjacent to the rear lot line and extending between side lot lines. (See Diagram 1)

Yard, Rear- A yard adjacent to the side lot line and extending from the front yard to the rear yard. (See Diagram 1)

Map

Description automatically generated

Diagram, engineering drawing

Description automatically generated