

2014
TOWN OF DALTON
ANNUAL TOWN MEETING
WAHCONAH REGIONAL HIGH SCHOOL - MAY 5, 2014 - 7:00 P.M.

Town Clerk Barbara L. Suriner opened the meeting at 7:04 p.m. and Attorney Anthony P. Doyle was elected to preside over the meeting. Melissa A. Davis, Jean M. Gingras, Deborah Deane Smith and Maureen M. Mitchell were appointed tellers and previously sworn by Town Clerk, Barbara L. Suriner. There was a total of Registered Voters checked at the door as follows:

PRECINCT 1 - 62
PRECINCT 2 - 63
125

It was moved, seconded and voted to waive the complete reading of the Warrant.

ARTICLE 1. It was moved, seconded and voted that the Town, pursuant to the provisions of Section 53E1/2 of Chapter 44 of the Massachusetts General Laws, authorize the establishment of revolving funds for certain town departments for the fiscal year beginning July 1, 2014 as follows:

<u>Revolving Fund</u>	<u>Authorized to Spend Fund</u>	<u>Revenue Source</u>	<u>Use of Fund</u>	<u>FY15 Spending Limit</u>	<u>Disposition of FY15 Fund Balance</u>
Plumbing Inspector	Town Manager	Plumbing permit fees and applications	Reimburse Inspector for inspection services	\$15,000.00	Balance available for expenditure
Electrical Inspector	Town Manager	Electrical permit fees and applications	Reimburse Inspector for inspection services	\$10,000.00	Balance available for expenditure
Tree Warden/ Planning	Tree Warden	Payments from subdivision developers	Planting of trees and shrubs within specific locations	\$5,000.00	Balance available for expenditure
Historical Commission	Town Manager & Commission Treasurer	Gifts, donations and receipts from sales	Expenses relating to the administrative functions of the Commission	\$4,000.00	Balance available for expenditure
Cemetery Department	Cemetery Trustees & Highway/Cemetery Superintendent	Payments for burials outside of the cemetery work day	Grave digging services and overtime payroll expenses	\$2,500.00	Balance up to \$2,500.00 available for expenditure, remainder reverts to General Fund
Council on Aging	Town Manager & COA Director	Receipt of fees for transportation services	Offset expenses of the BRTA bus operation	\$20,000.00	Balance available for expenditure
Council on Aging	Town Manager & COA Director	Receipt of fees for program services	Offset expenses of the COA programs operation	\$15,000.00	Balance available for expenditure
Cemetery Department	Cemetery Trustees	Reimbursement payments for damage to town cemeteries	Payment of expenses related to the repair of sustained damage	\$5,000.00	Balance available for expenditure
Legal Advertising	Town Manager	Legal advertising fees	Payment of expenses related to legal advertisements	\$3,000.00	Balance up to \$3,000 available for expenditure, remainder reverts to General Fund
Parks Maintenance	Town Manager & Highway/Cemetery Superintendent	Fees from outside users of Pine grove Pavilion Pavilion	Any lawful maintenance expense in Town parks	\$1,000.00	Balance available for expenditure
Highway Department (Mower)	Town Manager & Superintendent Highway/Cemetery	Annual Member Fees/ WEMCO Boom Mower Inter-municipal consortium	Repairs/Maintenance Service WEMCO Boom Mower	\$2,400.00	Balance available for expenditure

CARRIED. UNANIMOUSLY.

ARTICLE 2. It was moved, seconded and voted that the Town adopt the "Schedule of Compensation for Elected Officials" for the fiscal year beginning July 1, 2014 as follows:

<u>ELECTED OFFICIALS</u>	<u>FY 2015</u>
Moderator	\$ 362.00
Town Clerk	47,511.00
Select Board - Chairman	4,225.00
- Members (4)	3,364.00 each

CARRIED. UNANIMOUSLY.

ARTICLE 3. It was moved, seconded and voted that the amounts of money set forth in the printed report of the Finance Committee, for Fiscal Year 2015 and totaling \$6,640,510 be appropriated for the several purposes therein itemized, each numbered item being considered as a separate appropriation, and that the same be expended only for such purposes.

2014
FY2015
TOWN OPERATING BUDGET

General Government

114 Moderator		
Salary		362
Expenses		100
		462
122 Select Board		
Salary-Elected		17,682
Expenses		3,422
		21,104
123 Town Manager		
Salaries		129,503
Expenses		8,309
		137,812
131 Finance Committee		
Expenses		185
		185
132 Reserve Fund		
Expenses	See Article # 9	
135 Accountant		
Salaries		48,353
Expenses		8,513
		56,866
138 Group Purchasing		
Expenses		600
		600
139 Financial Audit		
Expenses		15,000
		15,000
141 Assessors		
Salaries		82,634
Expenses		16,950
		99,584
142 Tri Revaluation		
Expenses		0
		0
145 Town Treasurer		
Salaries		82,745
Expenses		21,500
		104,245
146 Town Collector		
Salaries		81,797
Expenses		13,219
		95,016
151 Town Counsel		
Expenses		45,000
		45,000
152 Telephone		
Expenses		14,440
		14,440
154 Recording Secretary		
Salary		4,396
		4,396
157 Computer		
Expenses		8,500
		8,500
158 Postage		
Expenses		17,196
		17,196
159 Tax Title		
Expenses		2,500
		2,500
161 Town Clerk		
Salary-Elected		47,511
Salaries		32,140
Expenses		9,560
		89,211
162 Elections		
Salaries		8,945
Expenses		6,490
		15,435
163 Registrars		
Salaries		6,273
Expenses		3,450
		9,723
171 Conservation Commission		
Expenses		1,921
		1,921
175 Planning Board/Board of Appeals		
Salary		24,040

	Expenses	1,100
		25,140
182	Development & Industrial Commission Expenses	1,200
		1,200
191	Old Dalton High Salary Expenses	7,100
		7,100
192	Buildings Maintenance Salary Expenses	56,276
		9,841
		66,117
195	Town Report Expenses	6,650
		6,650
196	Town Hall Maintenance Salaries Expenses	5,000
		67,900
		72,900
197	Central Supplies Salaries Expenses	14,800
		14,800
	CATEGORY TOTAL	933,103
	Public Safety	
210	Police Department Salaries Expenses	833,132
		92,019
		925,151
222	Communications Salaries Expenses	171,668
		8,512
		180,180
240	Building Inspections Salaries Expenses	42,324
		7,900
		50,224
244	Sealer of Weights & Measures Salary Expenses	1,319
		100
		1,419
247	Inspection of Animals Salary	1,337
		1,337
292	Animal Control Salaries Expenses	20,127
		3,898
		24,025
294	Forest Warden Salary Expenses	2,445
		1,150
		3,595
295	Emergency Management Salary Expenses	2,209
		8,952
		11,161
296	Shade Tree/Tree Warden Salary Expenses	2,077
		16,000
		18,077
	CATEGORY TOTAL	1,215,169
	Education	
320	Vocational Education Expenses	580,058
		580,058
	CATEGORY TOTAL	580,058
401	Town Engineer Expenses	4,000
		4,000
420	Highway Department Salaries Expenses	323,306
		124,898
		448,204
423	Snow & Ice Salaries Expenses	27,267
		112,330

		139,597
424	Streetlights Expenses	84,300 84,300
433	Landfill Monitoring Salaries Expenses	See Article # 11
434	Transfer Station Expenses	17,520 17,520
440	Sewer Maintenance (Offset Receipts) Salaries Expenses	18,000 15,050 33,050
449	Wastewater Treatment (Offset Receipts) Salaries Expenses	769 796,754 797,523
491	Cemetery Department Salaries Expenses	58,079 20,024 78,103
	CATEGORY TOTAL	1,602,297
	Human Services	
510	Board of Health Salary Expenses	29,344 1,926 31,270
522	Public Health Nurse Salary Expenses	6,035 500 6,535
523	Mental Health & Substance Abuse Expenses	2,143 2,143
541	Council on Aging Salaries Expenses	91,565 28,702 120,267
543	Veterans' Services Salary Expenses	6,761 89,300 96,061
591	Berkshire Regional Planning Commission Expenses	4,758 4,758
	CATEGORY TOTAL	261,034
	Culture and Recreation	
610	Library Salaries Expenses	118,657 65,805 184,462
630	Parks and Recreation	See Article # 4
650	Parks Maintenance Salaries Expenses	29,452 18,090 47,542
691	Historical Commission Expenses	1,300 1,300
692	Memorial Day Committee Expenses	1,970 1,970
693	Cultural Activities Expenses	2,280 2,280
	CATEGORY TOTAL	237,554
	Debt Service	
710B(L)	Bond Fees	500 500

710DE/C Debt and Interest (Lib/Com/PW)	61,241
	61,241
710C Debt and Interest (Capital Imp Program)	30,000
	See Also Article #13
710TH Debt and Interest (TH)	91,974
	91,974
710EXCL Senior Center	106,250
	106,250
CATEGORY TOTAL	289,965
Other	
911 Berkshire County Retirement Assessment Expenses	367,924
	367,924
913 Unemployment Expenses	5,000
	5,000
914 Group Health Insurance Expenses	825,468
	825,468
915 Group Life Insurance Expenses	6,500
	6,500
916 Medicare Expenses	37,155
	37,155
919 Employment Benefits Salaries	25,180
Expenses	1,580
	26,760
998 Pension Reserve Fund Expenses	See Article #8
941 Court Judgments & Claims Expenses	3,000
	3,000
945 Town Insurance Expenses	234,294
	234,294
950 Commissioner of Trust Funds Expenses	229
	229
994 Other Post Employment Fund Expenses	15,000
	15,000
	See Also Article #14
CATEGORY TOTAL	1,521,330
ARTICLE TOTAL	6,640,510

CARRIED. UNANIMOUSLY.

ARTICLE 4. It was moved, seconded and voted that the Town raise and appropriate the sum of \$58,955 for the fiscal year beginning July 1, 2014, for the purpose of providing recreation and leisure time activities to the people of Dalton.

CARRIED. UNANIMOUSLY.

ARTICLE 5. It was moved, seconded and voted that the Town raise and appropriate \$7,482,329 for the purpose of paying the Town's share of the Operating Budget of the Central Berkshire Regional School District for the fiscal year beginning July 1, 2014.

CARRIED. DECLARED MAJORITY.

ARTICLE 6. It was moved, seconded and voted that the Town raise and appropriate \$499,226 for the purpose of paying the Town's share of the Transportation Budget of the Central Berkshire Regional School District for the fiscal year beginning July 1, 2014.

CARRIED. UNANIMOUSLY.

ARTICLE 7. It was moved, seconded and voted that the Town raise and appropriate \$255,583 for the purpose of paying the Town's share of the Capital Budget of the Central Berkshire Regional School District for the fiscal year beginning July 1, 2014.

CARRIED. UNANIMOUSLY.

ARTICLE 8. It was moved, seconded and voted that the Town transfer \$20,000 from Free Cash in the Treasury to the Pension Reserve Fund for the purpose of offsetting the future cost of the contributory retirement system.

CARRIED. UNANIMOUSLY.

ARTICLE 9. It was moved, seconded and voted that the Town transfer \$65,000 from Free Cash in the Treasury to Account 132, Reserve Fund, for the fiscal year beginning on July 1, 2014.

CARRIED. UNANIMOUSLY.

ARTICLE 10. It was moved, seconded and voted that the Town transfer \$400,000 from Free Cash in the Treasury for the purpose of reducing the expected tax rate increase in the 2015 fiscal year.

CARRIED. UNANIMOUSLY.

ARTICLE 11. It was moved, seconded and voted that the Town transfer \$14,987 from the Landfill Monitoring Account #991 to the Landfill Closure Account #433 for the fiscal year beginning July 1, 2014.

CARRIED. UNANIMOUSLY.

ARTICLE 12. It was moved, seconded and voted that the Town transfer \$25,000 from Free Cash in the Treasury to the Sewer Stabilization Fund.

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 13. It was moved, seconded and voted that the Town transfer \$36,298 from the Capital Stabilization Fund for costs related to the Fiscal Year 2015 annual element of the Capital Improvement Program as follows: \$24,289 for payment of principal and interest on debt incurred for the Capital Improvement Program and \$12,000 to construct a sidewalk around the Senior Center to improve emergency egress.

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 14. It was moved, seconded and voted to transfer the sum of \$35,000 from Free Cash in the Treasury to the Other Post-Employment Benefits Trust Fund for the purpose of reducing the Unfunded actuarial liability of health care and other post-employment benefits.

CARRIED. UNANIMOUSLY.

ARTICLE 15. It was moved, seconded and voted that transfer \$18,000 from Free Cash in the Treasury to Account 132, the Reserve Fund, for the remainder of the 2014 fiscal year .

CARRIED. UNANIMOUSLY.

ARTICLE 16. It was moved, seconded and voted that the Town authorize employment agreements between the Town and Highway/Cemetery Superintendent, the Highway/Cemetery Foreman, and the Police Sergeant; all of which include annual salaries that were provided for under Article 3 hereinabove.

CARRIED. UNANIMOUSLY.

ARTICLE 17. It was moved, seconded and voted that the Town amend the Code of the Town of Dalton, Chapter 280 STORMWATER MANAGEMENT AND EROSION CONTROL, § 280-4. Applicability, B. Exempt activities, (7) to add the words "which is in compliance" between the words "operation" and "with" so that said clause shall read as follows: "(7) Any logging operation which is in compliance with a cutting plan approved by the state forester;"

CARRIED. UNANIMOUSLY.

ARTICLE 18. It was moved and seconded to amend the Code of the Town of Dalton Chapter 350 ZONING to add Keeping of Poultry at ARTICLE IX, Accessory Structures and Uses, 350-37.2, and further to amend as necessary 350-5 Definitions and 350 Attachment 1 Table of Use Regulations, as described below in order to provide a permitting process for the keeping of poultry for personal use and to allow this use in a manner that minimizes the impact on the character of neighborhoods, on property values, and to protect public health and safety.

350-XXX KEEPING OF POULTRY

350-XXX.1 PURPOSE

The purpose of this subsection is to provide a permitting process for the keeping of poultry for personal use and to allow this use in a manner that minimizes the impact on the character of neighborhoods, on property values, and to protect public health and safety.

350-XXX.2 APPLICABILITY

This section applies to the keeping of any poultry (as defined herein) in the Town of Dalton.

350-XXX.3 USE REGULATIONS

The raising or keeping of poultry for agricultural use by residents of the premises, or as pets, shall be considered as an accessory use. All poultry raised and kept as an accessory use shall be raised and kept in a safe and humane manner consistent with best agricultural practices, and shall be subject to the regulations of this section and all applicable local and state laws.

A. Only selected poultry (hens, guinea fowl, ducks, pigeons, turkeys, and doves) and may be raised and kept as “by right” accessory use. On such properties, no roosters, geese, swans, pheasants, peacocks, or other poultry shall be permitted, except as allowed under the provisions of a Special Permit granted by the SPGA in accordance with this section and Article XI “Special Permits”.

B. No more than a combined total of eight (8) adult permitted poultry including no more than 3 turkeys shall be kept on any property, regardless of the number of dwelling units on that property, except as allowed under the provisions of a Special Permit granted by the SPGA in accordance with this section and Article XI “Special Permits”. Only reproductive mature poultry shall be considered as adults counting toward this maximum.

C. Permitted poultry shall be confined with fencing or with other secure enclosure material. Within such an enclosure, a minimum of five (5) square feet of open yard area shall be provided per adult poultry. Within, or attached to any such enclosure, there shall be provided a secure sheltering structure (e.g., coop, dovecote, hutch, or shed, as appropriate) of sufficient size to ensure the health and safety of the poultry. Any such enclosure and any associated sheltering structures shall be set at least ten (10) feet from any property lines and at least fifty (50) from any dwelling on an adjacent property, or any lot used for a church, school, nursing or rest home, playground, or hospital. No coop or enclosure may be located within two hundred and fifty (250) feet of the high water mark of any water flowing directly, or ultimately, into any source of drinking water. No portion of a required front yard may be used for the required enclosure or open yard space.

D. All coops or other structures used to house poultry shall be maintained to prevent fly and insect infestation or the harborage of mice, rats, or other rodents.

E. All poultry feed shall be kept in a watertight metal container which shall be maintained in a clean and sanitary condition.

F. A ventilated, watertight container shall be used to store all poultry waste matter which shall be disposed of in a sanitary manner.

G. The owner of the property shall permit regular inspections by the Dalton Board of Health and/or the Dalton Animal Control Officer under applicable state and local law or regulations. All Special Permits issued under this section shall include as conditions of approval the submission of evidence of such inspection authorization.

350-135.4 RIGHT TO FARM

No provision of this bylaw shall apply to farm properties or agricultural operations recognized under MGL Ch. 40A, Section 3, as amended.

Add “Keeping of Poultry” to 350-Attachment 1 [Table of Use regulations] as a “Permitted Accessory Use” [P] all residential and business zoning districts and “not permitted” [NP] in all other zoning districts.

Amend Section 350 Attachment 1 [F. Permitted Accessory Uses] by adding the following:

	Residential				Business		Industrial		
Keeping of	R-1	R-2	R-3	R-4	B-1	B-2	I-1	I-2	PIDD
Poultry	P	P	P	P	P	P	NP	NP	NP

Add “Poultry” to Dalton Zoning Bylaw – Definitions – Article II 350-5

POULTRY: All birds that are raised and kept for agricultural purposes, or as pets, including but not limited to , chickens (hens and roosters), turkeys, pigeons, capons, ducks, geese, swans, pheasants, peacocks, guinea fowl, emus, and all wild game birds raised and kept in accordance with state and local law. Exotic birds that typically are housed in a residence such as, but not limited to, parakeets, parrots, cockatoos, canaries are not considered poultry for the purposes of this bylaw.

TWO-THIRDS VOTE REQUIRED (MAIN MOTION)

NOTE: VOTERS INFORMED THAT GRANDFATHER LAW APPLIES TO KEEPING OF POULTRY IF LEGALLY CONDUCTING ACTIVITY BEFORE BYLAW ENACTED.

A Motion was made, seconded and voted to table Article 18 until such time as a clear legal opinion of the current status of non-commercial poultry keeping as an accessory to residential use is obtained and the Town has an opportunity to discuss this issue with the benefit of that information.

CARRIED. DECLARED MAJORITY.

ARTICLE 19. It was moved, seconded and voted that the Town amend the Code of the Town of Dalton Chapter 350, ZONING, ARTICLE XVIII, Signs and Advertising Devices, by rescinding, Sections 350-107 to 350-116, in their entirety, and adopting a complete revision of said Sections as follows:

SIGNS AND ADVERTISING DEVICES (Sec. 350-107 to 350-116)

350-107 LEGISLATIVE AUTHORITY; INTERPRETATION; GUIDELINES

A. AUTHORITY AND INTERPRETATION

This article, governing signs and advertising devices, is adopted as a zoning by-law pursuant to Chapter 40A of the General Laws. Any sign legally in existence on the date acceptance of this by-law shall not be affected by any revisions and shall be permitted to remain as a lawfully pre-existing sign.

For the purpose of this by-law, the Special Permit Granting Authority shall be the Board of Appeals.

B. INTRODUCTION

The Dalton envisioned under this article is a classic New England town, with a strong central village contrasting with the openness of surrounding residential neighborhoods. Interpretation of the by-law and granting of future Special Permits or Variances to this by-law, should embrace the following guidelines.

1. The primary function of a sign is to tell people where they can find what they are looking for. Selling a product should always be a subordinate purpose.
2. Signs should be expressive of the proprietor's identity.
3. Signs should be appropriate to the type of activity to which they pertain.
4. Signs should be compatible with the visual character of the area surrounding them. Carved signs are compatible in all areas and the by-law encourages their use.

350-108 DEFINITIONS

ALTERATION: Any change in size, shape, color, lighting, type of lighting, location or height of a sign, or any other changes of a sign.

ANIMATED SIGN: Any sign using movement or change of lighting to depict action, to create special effects, or to create scenes.

BANNER / PENNANT: A sign made of fabric or any flexible material with no enclosing framework.

BEACON: Any light with one (1) or more beams of light directed onto the atmosphere or at one (1) or more points not on the same lot as the light source; also, any light source with one (1) or more beams of light that rotate or move.

BILLBOARD SIGN: A board, usually outdoors, on which advertisements or notices are posted.

BUILDING MARKER: Any sign indicating the name of a building or date and incidental information about its construction, which sign is cut into a masonry surface or made of metal

or similar permanent material.

BUILDING SIGN: Any sign attached directly to, or painted upon, any exterior surface of any building.

BUSINESS: A legally permitted occupant of land or premises, which is found or located within its own separate, physical space and with its own separate entrance.

CANOPY SIGN: Any sign that is a part of an awning, canopy of fabric or plastic, or structural protective cover over a door, entrance, window or outdoor service area.

CHANGEABLE MESSAGE SIGN: See Electronic Message Sign.

COMMERCIAL MESSAGE: Any wording, logo or other representation that, directly or indirectly names, advertises or calls attention to a business, product, service or other commercial activity.

COMPANION SIGNS: Two (2) or more signs which convey a complete message, or are a match or mate for each other.

CONTRACTOR'S SIGN: A temporary sign exhibited for the period of time for which work is taking place, advertising the contractor's name or relevant information. The sign shall not exceed three (3) square feet in area & must be removed eight (8) days after completion of the work.

DIRECTIONAL SIGN: Any sign designed solely for the purpose of traffic and/ or pedestrian direction.

DIRECTORY SIGN: Any sign which lists the tenants or occupants of a building and that may indicate their respective professions.

ELECTRONIC MESSAGE SIGN: Any externally visible sign, or portion of a sign, that displays an electronic image or video which may or may not include text and where the rate of change is electronically programmed and can be modified by electronic processes. This definition includes television screens, plasma screens, digital screens, LED screens, video boards, holographic displays, and other similar media.

ESTABLISHMENT: A legally permitted occupant of land or premises, which is found or located within its own separate, physical space.

EXTERNALLY LIT SIGN: A sign which is illuminated via a light source located outside the body of the sign.

FLAG: A fabric containing distinctive colors, patterns or graphic used as a symbol of a nation, state, governmental agency, or nonprofit agency.

FLASHING: Any source that emits a brief, sudden burst of light. Also, any light created by a rotating bulb or other source.

FLUSH MOUNTED SIGN: A sign attached to and mounted parallel to the face of a building or structure.

FREE STANDING SIGN: A sign supported by one or more poles, columns, or supports placed in or on the ground and not attached to any building or structure.

INCIDENTAL SIGN: Any sign, generally informational, that has a purpose secondary to the use of the lot on which it is located; such as "no parking", "entrance", "loading only", "telephone" and other similar directives. No sign with a commercial message shall be considered an incidental sign.

INTEGRALLY LIT SIGN: A sign which is externally lit, but its lighting is integral to the sign, such as a light source that spells out the sign message.

INTERMITTENTLY ILLUMINATED SIGN: Any sign lit via a light source that alternately ceases and begins again, alternately changes color and/or alternately changes intensity more than one (1) time in a twelve (12) hours period.

INTERNALLY LIT SIGN: A sign that is lit with a light source located within the body of the sign.

NON-COMFORMING SIGN: Any sign that was legally in existence on the date of acceptance of this by-law, but which is not in conformance with the standards or requirements of this by-law.

NON-LEGAL SIGNS: Any sign that was not, or is not, legally in existence and was not permitted.

OFF-PREMISES SIGN: A sign which directs attention to a business, profession, commodity, service or entertainment that is not carried on, sold or offered on the same premise. Temporary signs as defined by this by-law are not considered off-premise signs for the purpose of this by-law.

ON-PREMISES SIGN: A sign which directs attention to a business, profession, commodity, service or entertainment carried on, sold or offered on the same premise.

ORNAMENTAL STRUCTURES: Decorated objects not related to the function of the business.

PREMISES: The lot, building, or set of related buildings comprising the location of one (1) or more businesses, residences, or other ventures.

PROJECTING SIGN: A sign attached to and projecting away from the face of a building or structure.

RESIDENTIAL SIGN: A sign located on residential property for identification purposes.

SIGN: Any structure, wall display, device, building color, or representation which is designed or used to advertise or call attention to a business, association, profession, commodity product, institution, service, entertainment, person, place or thing, or activity of any kind, and is visible or audible from a highway or other public right-of-way. Not included in this definition is the flag of any nation or state displayed on a single pole. Also not included in this definition is the display of seasonal flags on a single pole in residential districts, provided that such flags do not exceed fifteen (15) square feet in area.

STREAMERS: A long narrow flag or pennant.

TEMPORARY SIGN: A sign exhibited for advertising a specific event or occurrence that is temporary in nature. .

VACANCY SIGNS: Used in conjunction with approved hotel signs. “*Open*” or “*Closed*” signage shall not be considered a changeable message sign for the purposes of this by-law.

WHIRLIGIG: Any device, usually powered by wind that whirls or spins.

WINDOW SIGN: Any sign affixed to the inside of a window or door, or a sign placed within a building so as to be plainly visible and legible through a window or door. Small signs incorporated into a window display of merchandise and measuring no more than one hundred (100) square inches shall not be considered window signs.

350-109 BASIC REQUIREMENTS

No signs or advertising devices of any kind or nature shall be erected on any premises or affixed to the outside of any structure or be visible from the outside of any structure, and / or placed on or over public property, except as specifically permitted in the following Schedule of Sign Regulations.

350-110 SPECIAL REGULATIONS

A. SHOPPING CENTERS OR PLAZAS

In new shopping centers or plazas consisting of multiple and adjacent business establishments, each business establishment will constitute a separate building for the purpose of sign control enforcement. The entire shopping plaza area shall be permitted one (1) 1.type sign, wholly inside the front property line, at right angles thereto and not to exceed a height of twenty (20) feet and a width of six (6) feet, in addition to signs permitted elsewhere in this by-law.

B. GASOLINE STATIONS AND GARAGES

Gasoline stations and garages shall be allowed one (1) permanent oil company trademark sign in addition to name sign, plus the customary lubrication, washing and service signs displayed in the positions to which they apply, and one (1) A-frame or easel type sign at the property frontage. So-called special signs will be permitted on the sides or head of gasoline pumps only.

1. Name sign is defined as the name of the Service Station, such as John Doe's Service Station.
2. A-frame or easel type signs shall be limited to a height of four (4) feet above the ground and shall not exceed an area of eight (8) square feet on each side. All other regulations appearing heretofore with respect to size and area shall apply to the other unattached or attached signs.
3. The company trademark sign, when it appears as an unattached sign, shall be subject to the same height and area regulations as Subsection A (5) (b) of the Schedule of Sign Regulations.

350-111 PROHIBITED SIGNS

A. The following signs, advertising devices, sounds (and devices closely related thereto), are specifically prohibited in all zoning districts except as may be otherwise permitted in this by-law.

1. Flashing, animated, beacons, integrally lit, internally lit, tube illuminated graphics, changeable message or intermittently illuminated signs. Commercial and residential holiday decorations or displays are specifically excluded from this restriction.
2. Companion signs, advertising successively or repetitively.
3. Reflectors on signs which are not parts of letters or symbols of a sign.
4. Advertising signs tacked, painted or otherwise attached to utility poles, trees, fences, sidewalks or curbs.
5. Streamers, whirligigs and other advertising devices with similar characteristics.
6. Exterior neon or gas-filled tube-type signs.
7. Any sign interfering with pedestrian or vehicular safety.
8. A-frame or sandwich board signs, sidewalk and curb signs, except as a temporary sign as allowed in this by-law.
9. Signs constructed, and/or painted, with any luminescent or reflective materials.
10. Any projection of sound associated with a commercial message or advertising message, or sound used to attract attention in such a manner that the sound is audible on adjacent property or any public property.
11. Signs placed on, or affixed to, vehicles and/or trailers which are parked on any property or roadway so as to be visible from a public right-of-way where the apparent use is to advertise a product, or direct people to a business or activity located on the same or nearby property. Excludes signage for the sale of personal items at the owner's residence or premises.
12. Signs which imitate, interfere with, obstruct the view of, or can be confused with any authorized traffic sign, signal, or other device.
13. Any sign that is obscene or depicts or relates to sexual conduct or sexual excitement as defined in MGL C.272 section 31 and is visible from any public property.

B. No person, firm, association or corporation shall post, erect, display or maintain within view from any public property any off-premises sign, billboard sign, or other advertising device except as provided in subsection B of the Schedule of Sign Regulations.

C. No signs advertising off-premises products, services or entertainment shall be painted or affixed to a rock or tree.

350-112 ILLUMINATION

A. In no case shall an illuminated sign of any type interfere with traffic signals.

B. Permanently exposed lights outlining any part of a building or structure shall not be permitted except temporary holiday lighting.

2. Public and/or Private Organizational Signs									
One (1) wall or ground sign, single or double faced, not exceeding fifteen (15) square feet of sign face area, on the premises of a church, library, school or other public building, giving only the name and nature of the occupancy. In addition, wall or ground signs not exceeding one (1) square foot of sign face area may be used for a driveway entrance or exit for warning purposes. Two (2) signs back-to-back shall be measured as one (1) sign.	B	B	B	B	B	B	B	B	B
3. Other signs [Parks, Trails, Fields, Pavilions, Belvederes, Cemeteries, Bridges]									
Signs shall not rotate, flash or be audible, and shall not exceed fifteen (15) square feet in area. Two (2) signs back-to-back shall be measured as one (1) sign.	B	B	B	B	B	B	B	B	B
	Residential				Business		Industrial		
	R-1	R-2	R-3	R-4	B-1	B-2	I-1	I-2	PIDD
4. Announcement									
a) Advertising for sale, rental or lease of a lot or building. One (1) sign not to exceed six (6) square feet or two (2) signs not to exceed two (2) square feet each. Two (2) signs back-to-back shall be considered one (1) sign.	P	P	P	P	P	P	P	P	P
b) Temporary signs pertaining to lease, sale or use of land in an area in the process of development. One (1) sign not to exceed twenty four (24) square feet. Two (2) signs back-to-back shall be considered one (1) sign. Top horizontal line shall be no more than eight (8) feet above ground level. Such signs shall not be attached to trees, rocks or fences.	B	B	B	B	B	B	B	B	B
5. Business Signs									
a) Attached: Signs advertising goods sold or services rendered on the business premises not to exceed forty (40) square feet and not to project more than eight (8) inches beyond the face of the building, facing the traveled way. Letters and symbols on buildings or structures shall be considered a sign, the area of which is determined by the smallest perimeter encompassing all of the letters and symbols. Signs and symbols on buildings or structures shall not extend more than four (4) feet above the maximum height of the eave line and shall not extend above the ridge line or top of the roof.	PA	PA	PA	PA	B	B	B	B	B
b) Unattached: One (1) sign pertaining to goods sold or services rendered on the business premises upon which they are displayed not to exceed thirty five (35) square feet. Top horizontal line shall be no more than twenty (20) feet above ground level. Two (2) signs back-to-back shall be considered one (1) sign.	PA	PA	PA	PA	B	B	B	B	B
	Residential				Business		Industrial		
	R-1	R-2	R-3	R-4	B-1	B-2	I-1	I-2	PIDD

B. Off-Premises Signs or Advertising Devices									
Public information at roadside including service club, church, public building, charitable or civic organization or hospital signs not exceeding three (3) square feet sign face area. Any configuration combining two (2) or more of the above signs shall not exceed fifteen (15) square feet of sign face area.	B	B	B	B	B	B	B	B	B
C. Other Signs or Advertising Devices									
1. Banner type signs of a temporary nature not to exceed twenty four (24) square feet and not to be displayed more than fourteen (14) days.		B	B	B	B	B	B	B	B
2. Search lights for promotional advertising: Use not to exceed seven (7) days in one (1) twelve (12) month period.	O	O	O	O	B	B	B	B	B
3. Window signs comprising posters, placards, or signs painted or otherwise displayed on the inside of windows close to and approximately parallel to the window panes and visible from the street shall not exceed twenty five (25) percent of the individual window area or ten (10) percent of the glass area of any required exit door.	O	O	O	O	P	P	P	P	P

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 20. It was moved, seconded and voted that the question be divided to vote first on an amendment to regulate Small Scale Solar Photovoltaic Installations and second to vote on an amendment to regulate Large Scale Solar Photovoltaic Installations.

CARRIED. UNANIMOUSLY.

It was moved and seconded that the Town vote to amend the Code of the Town of Dalton, Chapter 350 ZONING, as described below by adding Small Scale Solar Photovoltaic Installations at ARTICLE IX, Accessory Structures and Uses, 350-37.1, and further to amend as necessary 350-5 Definitions and 350 Attachment 1 Table of Use Regulations.

TWO-THIRDS VOTE REQUIRED

350- X Small Scale Solar Photovoltaic Installations

350-XX.1 Purpose

The purpose of this subsection is to provide a permitting process for small scale solar photovoltaic installations so that they may be utilized in a cost-effective, efficient, and timely manner to increase the use of distributed generation; to integrate these installations into the community in a manner that minimizes their impacts on the character of neighborhoods, on property values, and on the scenic, historic, and environmental resources of the Town; and to protect health and safety, while allowing solar photovoltaic technologies to be utilized.

350-XX.2 Applicability

This section applies to small scale solar photovoltaic installations proposed to be constructed after the effective date of this bylaw. This section also applies to material modifications that alter the type, number, configuration or size of any existing small scale solar photovoltaic installation.

350-XX.4 Small Scale Solar Photovoltaic Installations – Use Regulations

9.4.1 A small scale solar photovoltaic installation may only be constructed or materially modified after the issuance of a building permit by the Building Inspector.

9.4.2 A small scale solar photovoltaic installation proposed to be mounted on a rooftop may not protrude above the ridge line of a sloped roof or no greater than five feet (5') above the

height of a flat roofed structure. Roof mounted photovoltaic collectors shall not be mounted closer than eighteen (18) inches of any roof edge. No photovoltaic collectors shall be mounted on the vertical walls of a structure.

9.4.3 An application for a small scale solar photovoltaic installation proposed to be mounted to the roof of any building shall include analysis and design documents prepared by a structural engineer registered to practice in the Commonwealth of Massachusetts demonstrating that the proposed building is structurally sufficient to support the permanent installation as well as the additional snow loading created by the proposed photovoltaic installation.

9.4.4 A small scale solar photovoltaic installation proposed to be ground mounted may not exceed a height of fifteen feet (15').

9.4.5 Ground mounted solar photovoltaic installations shall be setback from all property lines by not less than twenty-five (25) feet and not less than fifty (50) feet from the adjacent property line of any dwelling.

9.4.6 Ground mounted small scale solar photovoltaic installations are prohibited in any residential zoning district unless the lot occupies twenty thousand (20,000) square feet or more.

350-XX.17 Violations.

It is unlawful for any person to construct, install, or operate a small scale solar energy system that is not in compliance with this ordinance or with any condition contained in a permit issued pursuant to this ordinance. Solar energy systems installed prior to the adoption of this ordinance are exempt.

Add "small scale solar photovoltaic installation" to 350 – Attachment 1 [Table of Use regulations] as a "Permitted Accessory Use" [P] in all Zoning Districts)

Amend Section 350 Attachment 1 [F. Permitted Accessory Uses] by adding the following:

	<u>Residential</u>				<u>Business</u>		<u>Industrial</u>		
	R-1	R-2	R-3	R-4	B-1	B-2	I-1	I-2	PIDD
Small Scale Photovoltaic Installation	P	P	P	P	P	P	P	P	P

Add the following to Dalton Zoning Bylaw – Definitions – Article II 350-5

Small Scale Solar Photovoltaic Installation – Any size roof mounted solar photovoltaic installation or a ground mounted solar photovoltaic installation that occupies less than fifty two hundred (5,200) square feet of a lot.

Solar Photovoltaic Installation – A device, structure, or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, generation of electricity, or water heating. This includes appurtenant equipment for the collection, storage and distribution of electricity to buildings or to the electric grid.

A Motion was made, seconded and voted to amend Article 20, Section 1 to strike Paragraph 9.4.2 in its entirety.

CARRIED. DECLARED MAJORITY.

A Motion was made, seconded and voted to table Section 1 of Article 20, Small Scale Solar Photovoltaic Installations.

CARRIED. UNANIMOUSLY.

350- XX Large Scale Solar Photovoltaic Installations

350-XX.1 Purpose

The purpose of this subsection is to provide a permitting process for solar photovoltaic installations so that they may be utilized in a cost-effective, efficient, and timely manner to increase the use of distributed generation; to integrate these installations into the community in a manner that minimizes their impacts on the character of neighborhoods, on property values, and on the scenic, historic, and environmental resources of the Town; and to protect health and safety, while allowing solar photovoltaic technologies to be utilized.

350-XX.2 Applicability

This section applies to large scale solar photovoltaic installations proposed to be constructed after the effective date of this bylaw. This section also applies to material modifications that alter the type, number, configuration or size of any existing large scale solar photovoltaic installation.

350-XX.3 Large Scale Solar Photovoltaic Installations - Use Regulations

a. Large scale solar photovoltaic installations that occupy one (1) acre or less shall only be constructed or materially modified after the issuance of site plan approval by the SPGA and a building permit by the Building Inspector. No building permit shall be issued without a site plan approved by the Dalton Planning Board.

b. Large scale solar photovoltaic installations that collectively occupy more than one (1) acre of a lot may only be constructed or materially modified after the issuance of a special permit from the SPGA in accordance with this section and Article XI "Special Permits."

350-XX.4 Compliance

The construction, maintenance, operation, modification and removal of a large scale solar photovoltaic installation shall comply with all applicable local, state, and federal requirements.

350-XX.5 Site Control

The applicant shall demonstrate legal control over the proposed site sufficient to allow for the construction and operation of the large scale solar photovoltaic installation. Documentation shall also include proof of control over setback areas and access roads, if required. Control shall mean the legal authority to prevent the use or construction of any structure for human habitation within the setback areas.

350-XX.6 Utility Notification

The applicant shall demonstrate that it has notified the operator of the electric grid that it intends to connect the large scale solar photovoltaic installation to the electric grid. Off-grid installations are exempt from this requirement.

350-XX.7 Financial Surety

Applicants seeking to construct a large scale solar photovoltaic installation shall provide a form of surety to cover the cost of removal and restoration of the site in the event the site is abandoned. The amount and form of surety shall be determined by the SPGA, but in no event shall the amount exceed one-hundred twenty-five (125%) percent of the cost of removal. Applicants shall submit a fully inclusive cost estimate, which accounts for inflation. The costs associated with the removal of the large scale solar photovoltaic installation shall be prepared by a qualified engineer. All subsequent owners/operators shall continue to provide a form of surety to the Town until the large scale solar photovoltaic installation has been removed. The SPGA may waive this requirement for Net Metered Solar Photovoltaic Installations.

350-XX.8 Design Requirements

a. Height – Large scale solar photovoltaic installations shall not exceed fifteen feet (15') in height.

b. Setbacks – Large scale solar photovoltaic installations shall comply with the setback requirements set forth in Section 350 Attachment 2 [Table of Dimensional Requirements] and Section 350 Attachment 4 [Illustrative Lot Layout] but in no instance shall be constructed within fifty (50) feet of any lot being used for residential purposes.

c. Lighting – No lighting of the solar photovoltaic installation is permitted, except for manually operated emergency lights for use only when operating personnel are on site.

d. Screening – The large scale solar photovoltaic installations shall be screened year round with dense native vegetation from all adjoining properties and public and private ways.

e. Vegetation Clearing – The clearing of vegetation shall be limited to that which is necessary for the construction, operation, maintenance, modification and removal of the large scale solar photovoltaic installation.

f. Habitat Fragmentation – All large scale solar photovoltaic installations shall to the fullest extent practicable be clustered and located in or adjacent to areas of the site where the land has already been cleared to avoid habitat fragmentation.

g. Security Measures – Large scale solar photovoltaic installations shall be constructed to prevent unauthorized persons from accessing the installation.

h. Emergency Access – Large scale solar photovoltaic installations and access roads shall be constructed and maintained to allow for safe access by local emergency vehicles.

i. Emergency Response Plan – Upon the request of the fire chief, the owner/operator of the large scale solar photovoltaic installation shall cooperate with all local public safety officials to develop and occasionally update an emergency response plan.

350-XX.9 Filing Requirements

Applicants seeking to construct or modify a large scale solar photovoltaic installation shall submit the following information to the SPGA for site plan approval or a special permit. All maps to be submitted must be drawn at appropriate scales and be signed by a registered professional engineer or licensed surveyor. The SPGA may, in its discretion, waive any of the filing requirements.

- a. Contact Information – Provide the applicant’s and property owner’s name, address, phone number, email address, and signature.
- b. Site Identification – Provide the address and the map, lot and block number of the proposed site.
- c. Site Plans – Provide site plans showing the following:
 - (1) Property lines of the proposed site.
 - (2) Outlines of all existing and proposed buildings and structures on the proposed site, including distances from the proposed large scale solar photovoltaic installation.
 - (3) Existing and proposed access roads, driveways, public ways, private ways, and recreational trails on the proposed site.
 - (4) Detailed layout of the proposed large scale solar photovoltaic installation, including but not limited to panel mounts, foundations, appurtenant equipment and fencing.
 - (5) Detailed layout of the electric infrastructure to connect the large scale solar photovoltaic installation to the electric grid or net metering equipment.
 - (6) Delineation of all wetland resources and associated buffer areas.
 - (7) Locations of rare, threatened or endangered species existing on the site.
 - (8) Proposed changes to the site, including grading, cut and fill, landscaping, native vegetation for screening and vegetation to be removed or altered.
 - (9) Engineering controls at the site and on the access road to control erosion and sedimentation both during construction and after construction as a permanent measure. Such engineering controls shall conform to the Massachusetts Department of Environmental Protection’s Stormwater Policy.
- d. Technical Information – Provide the following information:
 - (1) Blueprints or drawings of the large scale solar photovoltaic installation signed by a professional engineer licensed to practice in the Commonwealth of Massachusetts showing the proposed layout of the installation and any potential shading from nearby trees or structures.
 - (2) One or three line electrical diagram detailing the solar photovoltaic installation, appurtenant equipment and electrical interconnection methods with all National Electric Code compliant devices.
 - (3) Documentation of the major large scale solar photovoltaic installation components to be used, including but not limited to PV panels, panel mounts and inverter.

350-XX.10 Technical Review

Upon receipt of an application for a large scale solar photovoltaic installation, the SPGA may engage professional and technical consultants, at the applicant’s expense, pursuant to M.G.L. Chapter 44 § 53G and its Home Rule Authority to assist the SPGA with its review of application materials. The SPGA may direct the applicant to deposit funds with the Town of Dalton for such review at the time the application is accepted and to add additional funds as needed upon notice. Failure to comply with this section shall be good grounds for denying site plan approval or the special permit application. Upon the approval or denial of the application, any excess amounts in the account attributable to the application process, including any interest accrued shall be refunded to the applicant.

350-XX.11 Procedures and Approval Criteria

- a. For large scale solar photovoltaic installations requiring only site plan approval, the SPGA shall review a proposed site plan application to construct or materially modify a the installation within 90 days of the receipt of a complete application. The SPGA may extend the 90 day review period if poor weather conditions, such as snow or ice, make visiting the site difficult. If the site visit is delayed, then the SPGA shall schedule the site visit as soon as reasonably possible after the weather conditions have subsided. The SPGA may approve the site plan application only after making a determination that the proposed large scale solar photovoltaic installation complies with all sections of this zoning bylaw. The SPGA may impose reasonable conditions on its approval of the site plan to mitigate potential adverse impacts.
- b. For large scale solar photovoltaic installations requiring a special permit, the SPGA shall review and act upon a proposed special permit application to construct or materially modify the installation in accordance with Article XI “Special Permits.”

350-XX.12 Operation & Maintenance Plan.

- a. The applicant shall submit a plan for maintenance of access roads and storm water controls, as well as general procedures for operational maintenance of the solar facility.
- b. The operator of the large scale solar energy facility shall maintain the facility in good condition. Maintenance shall include, but not be limited to, painting, structural repairs, required screening, 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 owner shall be responsible for the cost of maintaining the solar energy facility and any access road(s), and the cost of repairing any damage occurring as a result of operation and construction.

350-XX.13 Modifications.

All material modifications to a large scale solar energy facility made after issuance of the permit shall require approval by the SPGA as provided in this section.

350-XX.14 Abandonment & Removal

- a. A large scale solar photovoltaic installation shall be deemed abandoned when the installation has not been in operation for a period of twelve (12) months.
- b. After twelve (12) months of non-operation, the Building Inspector shall provide written notification to the owner/operator that such large scale solar photovoltaic installation is presumed to be abandoned. The owner/operator has thirty (30) days to rebut the presumption of abandonment by submitting evidence that the large scale solar photovoltaic installation has been in operation during the relevant twelve (12) month period.
- c. If the owner/operator does not respond within the thirty (30) day appeal period or does not submit evidence that, in the discretion of the Building Inspector, proves that the large scale solar photovoltaic installation has been in operation for the relevant twelve (12) month period, then the large scale solar photovoltaic installation shall be deemed abandoned. The Building Inspector shall provide written notification of abandonment to the owner/operator.
- d. The owner/operator of the large scale solar photovoltaic installation shall remove the large scale solar photovoltaic installation and restore the site within one-hundred eighty (180) days of the date of the written notification of abandonment. If the owner/operator fails to remove the large scale solar photovoltaic installation within one-hundred eighty (180) days, the town shall have the right, to the extent it is duly authorized by law, to enter onto the proposed site and physically remove the large scale solar photovoltaic installation and restore the site at the sole expense of the owner/operator.

350-XX.15 Violations.

It is unlawful for any person to construct, install, or operate a large scale solar energy system that is not in compliance with this ordinance or with any condition contained in a permit issued pursuant to this ordinance.

350-XX.16 Lapse of Approval

Any special permit or site plan approval shall automatically lapse if the large scale solar photovoltaic installation is not installed and functioning within two (2) years or the large scale solar photovoltaic installation is abandoned.

Add “large scale solar photovoltaic installation” to 350 – Attachment 1 [Table of Use regulations] as a “Principal Permitted Use” in “D” (industrial, manufacturing and Storage uses) subject to a special permit granted by the SPGA (Planning Board) [add special conditions] :: PB all zoning districts except NP in R-2, R-3, R-4.

Amend Section 350 Attachment 1 [D. Industrial, Manufacturing and Storage Uses] by adding the following Principle Permitted Use:

	<u>Residential</u>				<u>Business</u>		<u>Industrial</u>		
	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>B-1</u>	<u>B-2</u>	<u>I-1</u>	<u>I-2</u>	<u>PIDD</u>
Large Scale Photovoltaic Installation	PB	NP	NP	NP	PB	PB	PB	PB	PB

Special requirements Article XI

Add the following to Dalton Zoning Bylaw – Definitions - Article II 350-5

Large Scale Solar Photovoltaic Installation – A ground mounted solar photovoltaic installation that occupies 5,200 sq. ft. or more of a lot.

Net Metered Solar Photovoltaic Installation – A solar photovoltaic installation of 60kW or less for the primary purpose of providing electricity on-site that is interconnected with the electric grid, which allows consumers to feed surplus electricity into the electric grid.

Solar Photovoltaic Installation – A device, structure, or structural design feature, a substantial purpose of which is to provide for the collection, storage and distribution of solar energy for space heating or cooling, generation of electricity, or water heating. This includes appurtenant equipment for the collection, storage and distribution of electricity to buildings or to the electric grid.

TWO-THIRDS VOTE REQUIRED

CARRIED.

DECLARED MAJORITY.

ARTICLE 21. It was moved and seconded that the Town vote to amend the Code of the Town of Dalton, Chapter 350 ZONING as described below by amending ARTICLE XII, Uses Subject to Special Requirements, 350-63.1, Drive-through facility and further to amend as necessary 350 Attachment 1 Table of Use Regulations.

350-XXXXX DRIVE-THROUGH FACILITIES

350-XXXXX.1 PURPOSE

The purpose of this section is to protect the safety, public health, convenience, traffic flow and general welfare of the inhabitants of the Town of Dalton by providing detailed review of the design and layout of drive –through facilities. The intent of this bylaw is to mitigate the substantial impact a drive-through facility may have on the character of the Town and upon traffic, utilities and services therein.

350-XXXXX.2 POWERS AND ADMINISTRATIVE PROCEDURES

The Dalton Board of Appeals is hereby designated as the Special Permit Granting Authority (SPGA) for drive-through facilities plan approval. The SPGA may grant such a permit after notice and public hearing and after due consideration of the reports and recommendations of other Town boards, commissions and or departments. The SPGA shall also impose, in addition to any applicable conditions specified in this section, such applicable conditions as the SPGA finds reasonably appropriate to improve site design, traffic flow, safety and otherwise serve the purpose of this section. Such conditions shall be imposed in writing and the applicant may be required to post a bond or other surety for compliance with said conditions in an amount satisfactory to the SPGA.

350-XXXXX.3 APPLICABILITY

- a. This section applies to all uses identified as requiring a special permit as an accessory use for drive-through facilities in the Table of Use Regulations – Section 350.F.13 except those legally in existence at the time of acceptance of this Bylaw.
- b. Drive-through facilities are prohibited in the following areas:
 1. Main Street [US Rte 8 & 9] from the Pittsfield/Dalton Town line to Glennon Avenue.
 2. Main Street [US Rte 8] from the intersection of US Rte 9 and US Rte 8 to Orchard Road.
 3. North Street [US Rte 9] from the intersection of US Rte 9 and US Rte 8 to Tower Road.

350-XXXXX.4 RENEWAL OR REVOCATION OF PERMIT

- a. Special permits shall be initially issued for one-year periods only. Special permits issued for fast food drive- through facilities require a minimum of five (5) yearly renewals after initial issuance. Special permits issued for all other drive-through facilities require a minimum of two (2) yearly renewals after initial issuance. The SPGA may issue a permanent special permit after the required number of yearly renewals are met or may require additional yearly reviews of the special permit.
- b. The SPGA may require a public hearing to be conducted on an application for renewal of a special permit under this section. Prior to renewal, an inspection of the premise and adjacent roadways shall be made by the Zoning Enforcement Officer to determine that the drive-through operation is in compliance with all conditions of the permit and the provisions of the special permit.
- c. The SPGA, after hearing and proof of violation of this bylaw or conditions of the issued special permit, may decline to renew the special permit or issue additional conditions to correct any deficiencies found in the desired traffic flow or other safety concerns caused by the drive–through operation.

350-XXXXX.5 RESTORATION

- a. If the SPGA declines to renew the special permit, or the property owner declines to implement any of the required additional conditions within thirty (30) days of the permit renewal, the drive-through operation shall immediately be discontinued. All curb cuts and/or roadway modifications made specifically to accommodate the drive-through facility shall be removed and the roadway restored to its condition at the time the special permit was issued.
- b. The SPGA shall require the landowner, as a condition of the initial special permit, to post a bond in an amount sufficient to accomplish the restoration required in this section to the satisfaction of the SPGA.

350-XXXXX.6 SITE PLAN REVIEW

Any proposed drive-through facility shall be subject to a site plan review in accordance with the requirements as set forth in section 350.49 herein.

350-XXXXX.7 TRAFFIC IMPACT STUDY

- a. A detailed traffic impact study analysis in accordance with professional engineering standards is required for any special permit or site plan approval application containing a drive-through facility. A registered professional engineer experienced and qualified in traffic engineering shall prepare the traffic impact study.

b. A proposed mitigation plan must be included with the required traffic study. The plan (with supporting text) shall detail methods to minimize traffic and safety impacts of the proposed drive-through facility through such means as physical design and layout concepts or other appropriate means. The proposed measures shall achieve the post development standard of all streets, intersections, and sidewalks having the same or better level of service and traffic flow as compared to predevelopment conditions. The SPGA shall have the final authority to determine if these objectives have been met or not accomplished.

350-XXXXX.8 STANDARDS

- a. There must be a minimum of fifty (50) feet between curb cuts to and from a drive-through facility unless this distance is reduced by the SPGA in those instances when the reduction in footage may be granted without detriment to the public good and without substantially negating the intent and purpose of this bylaw.
- b. The width of any curb cut shall not exceed twenty-five (25) feet, unless the traffic impact study identifies the need for a larger curb cut and the increase is approved by the SPGA.
- c. Curb cuts must be sufficiently setback from any intersection and directional restrictions (i.e. right-in / right-out only and/or a restrictive median) must be provided as required by the SPGA.
- d. Drive-through facilities for a fast food establishment (includes “coffee and donut” type establishments) shall provide a minimum of ten (10) stacking spaces on the business premise before the order board is reached. The facility shall provide an additional four (4) stacking spaces between the order board and the transaction window. An additional stacking space shall be provided adjacent to, or directly in front of, the last transaction window on the premise.
- e. Drive-through facilities for other types of businesses shall provide stacking spaces as required by the SPGA.
- f. Each stacking space shall be a minimum of twenty (20) feet in length and at least ten (10) feet in width along straight sections. Stacking spaces and stacking lanes shall be a minimum of twelve (12) feet in width along curved segments.
- g. Stacking lanes shall be delineated from traffic aisles, other stacking lanes and parking spaces with striping, curbing, landscaping and/or the use of alternative paving materials. If a stacking lane is curbed an emergency by-pass or exit shall be provided.
- h. Entrances to stacking lane(s) shall be clearly marked and begin no closer than twenty (20) feet from the curb cut (measured from the property line).
- i. Stacking lanes shall be designed to prevent vehicle circulation congestion both on site and on adjacent public streets. The design shall separate drive-through traffic from other site traffic and shall not impede or impair access into or out of parking spaces.
- j. Required loading and trash storage areas shall not impede or impair vehicle movement within stacking lanes.
- k. Menu boards shall be a maximum of thirty (30) square feet, with a maximum height of six (6) feet and shall be shielded from any public street or residential properties.
- l. Drive-through facilities proposed on a property with an historic building shall preserve the architectural character defining exterior elements of the building. All signage shall be compatible with the historic character of the building.
- m. Noise levels generated by all operations, including but not limited to the noise emanating from speakers and customer vehicles, shall not increase the broadband sound level by more than ten (10) dB(A) above the ambient sound levels measured at the property line.
- n. Smoke, fumes, and cooking smells shall be kept below levels that may be found objectionable at any adjacent property in residential use.
- o. The SPGA may, in appropriate cases as it determines, impose further restrictions upon the development or parts thereof as a condition to granting the approval.

350-XXXXX.9 COMPLIANCE

- a. No building permit shall be issued by the Building Inspector and no construction or site preparation shall be started, until a Special Permit decision approving a drive-through facility has been filed with the Town Clerk.
- b. An as-built plan, prepared and certified by a registered professional engineer shall be submitted to the Building Inspector before a permanent occupancy permit may be issued.
- c. No permanent occupancy permit for any building or drive-through facility shall be issued subject to this section unless such building and all its related facilities have been completed according to the approved site / drive-through plan.
- d. Any changes in the approved site / drive – through plan, or in the activity to be conducted on the site shall be submitted to the SPGA for review and approval pursuant to all requirements and provisions of this section.

NOTE: Amend Section 350-Attachment 1 Section F [Permitted Accessory Uses] by replacing the existing language shown in 350-Attachment 1 F.13 with “Drive-through facility” and replacing “P” in residential districts with “NP”.

	<u>Residential</u>				<u>Business</u>		<u>Industrial</u>		<u>PIDD</u>
	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>	<u>B-1</u>	<u>B-2</u>	<u>I-1</u>	<u>I-2</u>	
Drive Thru Facility	NP	NP	NP	NP	PA	PA	PA	PA	PB

Special requirements Article XI

TWO-THIRDS VOTE REQUIRED

It was moved, seconded and voted to table Article 21.

CARRIED. DECLARED MAJORITY.

ARTICLE 22. It was moved, seconded and voted that the Town vote to amend the Code of the Town of Dalton, Chapter 350, ZONING as described below by amending 350-49 through 350-57.A. to delete references to specific boards of the Town and substitute the words “Special Permit Granting Authority”.

350-49

Change “Board” to SPGA in two locations.
Change “The Board may” to “The SPGA may”.

350-53

Change “by special permit from the Board of Appeals” to “by special permit from the SPGA”.

350-54

Change “by special permit from the Board of Appeals” to “by special permit from the SPGA”.

350-54.A

Change “reasonably required by the Planning Board ” to “reasonably required by the SPGA”.

350-54.E

Change “waived by the Planning Board ” to “waived by the SPGA ”.
Also : Change “in the judgment of the Board ” to “in the judgment of the SPGA ”.

350-54.H(1)

Change “site plan review by the Conservation Board and the Board of Health.” To “ site plan review by the Conservation Board, the Planning Board and the Board of Health.”
Also: Change “The Planning Board shall” to “The SPGA shall ”.

350-54.H(2)

Change “The Planning Board will give” to “The SPGA will give”.

350-54.H(3)

Change “The Planning Board may impose” to “The SPGA may impose”.

350-54.J(2)

Change “surety satisfactory to the Select Board” to “surety satisfactory to the SPGA”.
Change “in the judgment of the Select Board” to “in the judgment of the SPGA”.

350-55

Change “by special permit from the Board of Appeals” to “by special permit from the SPGA”.

350-56

Change “by special permit from the Board of Appeals” to “by special permit from the SPGA”.

350-57.A

Change “by special permit from the Board of Appeals” to “by special permit from the SPGA” .

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 23. It was moved, seconded and voted that the Town amend the Code of the Town of Dalton, Chapter 350 ZONING, as described below by adding Medical Marijuana Dispensary, at ARTICLE XII , Uses Subject to Special Requirements, 350-63.2, and further to amend as necessary 350-5 Definitions and 350 Attachment 1 Table of Use Regulations, in order to address, mitigate and protect the Town from the secondary effects of a medical marijuana dispensary:

350-XXXX Medical Marijuana Dispensary

350-XXXX.1 PURPOSE

The purpose of this section is to ensure that those entities permitted to operate a medical

marijuana dispensary, as defined in this Bylaw, shall comply with all the provisions of Chapter 369 of the Acts of 2012 and 105 CMR 725.00. In addition, the purpose of this bylaw is to address, mitigate, and protect the Town from the secondary effects of a medical

marijuana dispensary such as increase in crime, degradation of quality of life in a community, decrease in tax base, and adverse impact on public health, business climate, and property values.

350-XXXX.2 PERFORMANCE STANDARDS

1. No medical marijuana dispensary shall be established or permitted within 1,000 feet as measured in a straight line from the property line of a school, religious institution, day care facility, any youth facility such as but not limited to the Dalton Community House or Dalton Youth Center, parks / playgrounds, dance studios, library, or senior centers.
2. The cultivation of medical marijuana within the Town of Dalton may only occur at locations associated with, and sanctioned by, a medical marijuana dispensary which has been permitted by this bylaw.
3. Cultivation and storage of medical marijuana shall be in a secure, enclosed, locked area. Medical marijuana shall not be visible from the street or other public location.
4. An applicant must demonstrate compliance with the application requirements for the Registration of Medical Marijuana Dispensaries as set forth in the regulations promulgated by the Massachusetts Department of Public Health (or referred to herein as ‘DPH’).
5. A Special Permit shall only be valid for use by the applicant and will become null and void upon the sale or transfer of the medical marijuana dispensary registration or license.
6. In the event that the DPH revokes, fails or refuses to issue a license or registration, for a medical marijuana dispensary registration or license, the special permit issued by the Town for the medical marijuana dispensary shall be deemed null and void.
7. In the event that the DPH suspends the license or registration of a medical marijuana dispensary, the special permit issued by the Town for the medical marijuana dispensary shall be so suspended by the Town until the matter is resolved to the satisfaction of the DPH.
8. The provisions of this Bylaw are severable and if any clause, sentence, paragraph or section of this measure, or an application thereof, shall be adjudicated by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder there of but shall be confined in its operation to the clause, sentence, paragraph or section of this measure, or an application adjudged invalid. [Section 17 of Chapter 369 of the Acts of 2012].

350-XXXX.3 APPLICABILITY

This Bylaw shall take effect upon its enactment.

NOTE:

Amend Section 350 Attachment 1 [C. Office, Retail, and Consumer Service Establishments] by adding the following Principle Permitted Use:

	Residential				Business		Industrial		
	R-1	R-2	R-3	R-4	B-1	B-2	I-1	I-2	PIDD
Medical Marijuana dispensary	NP	NP	NP	NP	PA	PA	PA	PA	PB

Special requirements Article XI

Add to Article II – Section 350-5 [Definitions] (insert after “Manufacturing Use” and before” Mobile Home”)

Medical Marijuana Dispensary: “A medical marijuana dispensary shall mean a not-for-profit entity, as defined by Massachusetts law only, 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, related supplies, or educational materials to qualifying patients or their personal caregivers. The term “Medical Marijuana Dispensary” also means “Medical Marijuana Treatment Center” as defined in Chapter 369 of the Acts of 2012 and the Department of Public Health Regulations, 105 CMR 725.00. Definitions of words associated with this bylaw shall also have the meanings set forth in Chapter 369 of the Acts of 2012 and CMR 725.00 and shall be interpreted and applied consistently with state law.

“Card Holder” shall mean a qualifying patient, personal caregiver, or a dispensary agent of a medical marijuana dispensary who has been issued and possess a valid registration card.

“Cultivation Registration” shall mean a registration issued to a medical marijuana dispensary for growing marijuana for medical use under the terms of Chapter 369 of the Acts of 2012 and 105 CMR 725.00, or to a qualified patient or personal caregiver under the terms of Section II of Chapter 369 of the Acts of 2012 and 105 CMR 725.00.

“Debilating Medical Condition” shall mean cancer, glaucoma, positive status for human immunodeficiency virus, acquired deficiency syndrome (AIDS), hepatitis C, amyotrophic later sclerosis (ALS), Crohn’s disease, Parkinson’s disease, multiple sclerosis, and other conditions as determined in writing by a qualifying patient’s physician.

“Dispensary Agent” shall mean an employee, staff volunteer, officer, or board member of a non-profit medical marijuana dispensary, who shall be at least twenty-one (21) years of age.

“Enclosed, Locked Facility” shall mean a closet, room, greenhouse, or other area equipped with locks or other security devices, accessible only to dispensary agents, patients, or personal caregivers.

“Marijuana” has the meaning given “marijuana” in Chapter 94C of the Massachusetts General Laws.

“Medical Use of Medical Marijuana” shall mean the acquisition, cultivation, possession, processing (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfer, transportation, sale, distribution, dispensing, or administration of marijuana, for the benefit of qualifying patients in the treatment of debilitating medical conditions, or the symptoms thereof.

“Personal Caregiver” shall mean a person who is at least twenty-one (21) years old who has agreed to assist with a qualifying patient’s medical use of marijuana. Personal caregivers are prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient. An employee of a hospice provider, nursing, or medical facility providing care to a qualifying patient may also serve as a personal caregiver.”

“Qualifying Patient” shall mean a person who has been diagnosed by a licensed physician as having a debilitating medical condition.

“Registration Card” shall mean a personal identification card issued by the Massachusetts Department of Public Health to a qualified patient, personal caregiver, or dispensary agent. The registration card shall verify that a physician has provided written certification to the qualifying patient, that the patient has designated the individual as a personal caregiver, or that a medical dispensary has met the terms of Section 9 and Section 10, Chapter 369 of the Acts of 2012. The registration card shall identify for the Department of Public Health and law enforcement those individuals who are exempt from Massachusetts criminal penalties for conduct pursuant to the medical use of marijuana.

“Written Certification” means a document signed by a licensed physician, stating that in the physician’s professional opinion, the potential benefits of the medical use of marijuana would likely outweigh the health risks for the qualifying patient. Such certification shall be made only in the course of a bona fide physician-patient relationship and shall specify the qualifying patient’s debilitating medical condition.”

TWO-THIRDS VOTE REQUIRED

CARRIED. UNANIMOUSLY.

ARTICLE 24. It was moved, seconded and voted that the Town adopt the “Stretch Energy Code” set forth in the State Building Code at 780 CMR 115.AA (i.e., Appendix 115.AA), as may be amended from time to time, and to amend the Code of the Town of Dalton General By-laws by inserting a new Chapter 285 entitled “Stretch Energy Code” as set forth below:

§285-1. Adoption. The Town of Dalton has adopted the provisions of 780 CMR 115.AA (i.e., Appendix 115.AA of the State Building Code or the “Stretch Energy Code”), as may be amended from time to time, in place of the provisions set forth under 780 CMR 13.00, 34.00, 61.00 and 93.00.

§285-2. Purpose. The purpose of the Stretch Energy Code shall be to provide the Town with a more energy efficient alternative to the base energy code otherwise set forth under the State Building Code.

§285-3. Effective Date. This bylaw shall become effective, concurrent with the base energy code, on January 1, 2015. On July 1, 2015, the base energy code will cease to be in effect in the Town and only the Stretch Energy Code will be in effect.

CARRIED. DECLARED MAJORITY.

ARTICLE 25. It was moved, seconded and voted that the Town authorize the Select Board to (i) lease all or any portion of the Town's property known as the Dalton municipal landfill, as shown on Assessor's Map 106, Parcel 52, for the installation, operation and maintenance of a privately-owned, ground-mounted solar photovoltaic facility for a term of up to thirty (30) years, and on such terms and conditions as the Select Board deems to be in the best interest of the Town; (ii) grant any necessary interests, including easements, for all purposes relating to the construction, maintenance, operation, and removal of the facility, and on such terms and conditions as the Board deems to be in the best interests of the Town; (iii) execute any and all agreements and instruments necessary to effect such transactions; and (iv) take all actions necessary to implement and administer all such agreements and instruments.

CARRIED. UNANIMOUSLY.

ARTICLE 26. It was moved, seconded and voted that the Town authorize the Select Board to (i) enter into a renewable energy power purchase and/or net metering credit purchase agreement, including an agreement for power and net metering credits generated by a solar photovoltaic facility, for a term of up to thirty years, and on such terms and conditions as the Select Board deems to be in the best interests of the Town; and (ii) take all actions necessary to implement and administer such agreement.

CARRIED. UNANIMOUSLY.

ARTICLE 27. It was moved, seconded and voted that the Town authorize the Select Board to (i) negotiate and enter into an agreement for payments-in-lieu-of-taxes ("PILOT") pursuant to M.G.L. Chapter 59, Section 38H(b), and Chapter 164, Section 1, or any other enabling authority, for both real property and personal property associated with a privately owned and operated solar photovoltaic facility to be located on the Town's property known as the Dalton municipal landfill (Assessor's Map 106, Parcel 52), for a term of up to thirty (30) years on such terms and conditions as the Select Board deems to be in the best interest of the Town; and (ii) take all actions necessary to implement and administer such agreement.

CARRIED. UNANIMOUSLY.

It was moved to reconsider Article 23. No second.

ARTICLE 28. It was moved, seconded and voted that the Town authorize the Select Board to (i) negotiate and enter into an agreement for payments-in-lieu-of-taxes ("PILOT") pursuant to M.G.L. Chapter 59, Section 38H(b), and Chapter 164, Section 1, or any other enabling authority, for both real property and personal property associated with a privately owned and operated solar photovoltaic facility to be located on the property commonly known as the Warren Landfill (Assessor's Map 106, Parcel 55 and Assessor's Map 105, Parcel 217), for a term of up to thirty (30) years on such terms and conditions as the Select Board deems to be in the best interest of the Town; and (ii) take all actions necessary to implement and administer such agreement.

CARRIED. UNANIMOUSLY.

ARTICLE 29. It was moved, seconded and voted that the Town amend the vote taken under ARTICLE 3 at the June 28, 2008 Special Town Meeting which transferred \$20,000 from the Capital Stabilization Fund for the purpose of repair and correction of hazardous grave stones to remove the requirement that said funds be matched by private funds and a grant from the Massachusetts Historical Commission.

CARRIED. UNANIMOUSLY.

ARTICLE 30. It was moved, seconded and voted that the Town authorize the Select Board to convey a portion of certain property located at 120 First Street, commonly known as the Old Dalton High School, as described in deeds recorded with the Berkshire Middle District Registry of Deeds in Book 557, Page 545 and in Book 419, Page 335, and in an Order of Taking by the Dalton Board of Selectmen recorded with the Berkshire Middle District Registry of Deeds in Book 578, Page 536, for the purpose of creating affordable housing, on such terms and conditions as the Select Board deems in the best interest of the Town.

TWO-THIRDS VOTE REQUIRED

CARRIED. DECLARED TWO-THIRDS.

ARTICLE 31. It was moved, seconded and voted that the Town transfer \$6,000 from the Community Development Program Income Fund #023 to the Dalton Redevelopment Authority Fund #024: \$3,000 to be granted by said Authority to the Berkshire Regional Planning

Commission for the administration of the Brownfields program and \$3,000 to be used for any expense of said Authority and further that \$10,000 be transferred to an account reserved for the use of the Planning Board for the purpose of preparing an update to the Master Plan.

CARRIED. UNANIMOUSLY

ARTICLE 32. Article 32 was submitted by Citizen’s Petition as follows: “To see if the Town will vote to authorize the Select Board to sell 107 acres Known as the Dalton town Forrest, off No. Mt. Road, parcel 212/1 to the state of MA Fish & Wildlife with portions of the sale to go to the Historic Cemetery Preservation Committee (20,000.00), the Hoose House (25,000.00), and the remainder of the money to be put into the Sewer Stabilization Fund.

It was moved, seconded and voted to table Article 32.

CARRIED. UNANIMOUSLY.

ARTICLE 33. It was moved, seconded and voted Town vote to recess until MONDAY MAY 12, 2014 at 10:00 O’CLOCK A.M. to 8:00 P.M. to meet in the DALTON COMMUNITY HOUSE, to choose and elect the following Town Officers and the determination of such other matters as are by law required to be determined by ballot.

- (2) Members - Select Board For 3 Years
- (1) Moderator For 1 Year
- (1) Member - Planning Board For 5 Years
- (1) Member – Dalton Housing Authority For 5 Years
- (1) Cemetery Trustee For 3 Years
- (3) Library Trustees For 3 Years
- (3) Members - Finance Committee For 3 Years
- (1) Member - Finance Committee For 2 Years
- (2) Members - Finance Committee For 1 Year

CARRIED. UNANIMOUSLY.

Meeting dissolved at 10:37 p.m.

Barbara L. Suriner, TOWN CLERK