ZONING BY-LAW

OF THE

TOWN OF LEXINGTON, MASS.

Adopted June 4, 1968, under Article 10 of the Warrant for the June 3, 1968 Special Town Meeting and approved by the Attorney General on July 16, 1968, and posted in the six precincts on September 16, 1968. This was a reenactment and continuance of the Zoning By-Law, originally adopted at the Adjourned Town Meeting on March 17, 1924, approved by the Attorney General on April 8, 1924, and published on April 18, 25, and May 2, 1924, and included all amendments in the period 1924 to 1968 including a major revision in 1950. Subsequent amendments in 1971, 1972, 1973, 1974, 1975, 1976, 1977, 1978, 1979, 1980, 1981, 1982, 1983, and 1984 as adopted, approved and published have been incorporated.

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SECTION 1. AUTHORITY

1.1 PURPOSE

For the purposes set forth in Section 2A of Chapter 808 of the Acts of 1975, and all acts in amendment thereof and in addition thereto, and under the authority thereof, the uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding; the size, height, bulk, location and use of structures, including buildings and signs; noxious uses; areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces; the density of population and intensity of use; accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and the development of the natural, scenic and aesthetic qualities of the Town of Lexington are hereby regulated as herein provided.

1.2 ZONING MAPS

The Town is divided into districts, as hereinafter defined or referred to and shown on the Zoning District Maps and on the Zoning Map of the Town of Lexington prepared by the Planning Board and on file in the office of the Town Clerk, which Zoning District Maps and Zoning Map are hereby made a part of this By-Law. Said Zoning Districts Maps and Zoning Map may be revised from time to time by the Planning Board to show the location and boundaries of zoning districts, as voted or amended by the Town, and by addition, deletion or modification of geographical features to keep the maps reasonably current and to facilitate orientation.

1.3 AMENDMENTS

All amendments to these By-Laws shall be made in a manner conforming with Section 5 of Chapter 40 A of the General Laws.

1.4 VALIDITY

The invalidity of any section or provision of this By-Law shall not invalidate any other section or provision hereof.

1.5 OTHER BY-LAWS

Where this By-Law imposes a greater restriction upon the use of land or the use or erection of buildings in the Town than is imposed by other By-Laws of the Town, the provisions of this By-Law shall control.

1.6 FORBIDDEN IF NOT PERMITTED

Any building or use of premises not herein expressly permitted is hereby expressly forbidden.

1.7 CONTINUITY OF BY-LAW

This By-Law shall be deemed to constitute a reenactment and continuance of the provisions of the Zoning By-Law in effect when it was adopted except so far as it contains changes in wording or arrangement which unequivocally constitute changes in meaning.

SECTION 2. DEFINITIONS

For the purpose of this By-Law the following words and terms used herein are hereby defined or the meaning thereof explained or limited:

The word "shall" is mandatory, the word "may" is permissive. The present tense includes the future tense, the singular number includes the plural and the plural includes the singular.

ACCESSORY APARTMENT: A second dwelling unit located within a structure constructed as a detached one family dwelling, subordinate in size to the principal unit and separated from it in a manner that maintains the appearance of the structure as a single family house.

ACCESSORY BUILDING OR USE: A building or use which is subordinate and customarily incidental to the principal building or use and is located on the same lot; except that activities necessary in connection with scientific research or scientific development or related production may be on another lot if a special permit is granted.

BANK: Land adjoining a pond or stream which serves to confine said water.

BEDROOM: A private room, however named, planned, intended or used for sleeping, and separated from other rooms by walls and a door.

BILLBOARD: Any sign not an accessory sign, regardless of size.

BUILDING HEIGHT: The vertical distance measured from the mean finished grade of the ground adjoining the building to the highest point of the roof for flat roofs, to the deck line of mansard roofs, and to the mean height between eaves and ridge, for gable, hip and gambrel roofs.

BUILDING: A combination of materials having a roof and forming a shelter for persons, animals or property. The word "building" shall be construed, where the context allows, as though followed by words "or structure or part or parts thereof."

BUSINESS DISTRICT: Any district in Lexington whose designation begins with the letter "C". This shall not include portions of residential districts where businesses are allowed as non-conforming uses, by special permit, by variance, or otherwise.

CAMPING VEHICLE: A registered self-propelled camper or automobile-drawn trailer used as a mobile camping facility, with sleeping equipment, which may or may not have toilet or cooking facilities.

CERTIFICATE OF OCCUPANCY: The certificate issued by the Building Commissioner which permits the use of a building in accordance with approved plans and in compliance with the Zoning By-Law.

CLUSTER DEVELOPMENT: A subdivision of land for one family dwellings on lots having reduced area or frontage or both, subject to a special permit issued in accordance with the provisions of Section 9.1.

CONGREGATE LIVING FACILITY: An independent group living environment that is non-institutionalized and that offers the elderly, who are capable of self-preservation, the single-family residential accommodations and supporting services they need to maintain a semi-independent lifestyle.

DEVELOPABLE SITE AREA: That part of a lot which remains after subtracting land that is not available and suitable for the construction of a structure or other man-made improvements, subject to Section 7.9.

DRIVE-IN RESTAURANT: An establishment primarily for dispensing prepared food to persons who eat this food while sitting in cars on the premises.

DRIVEWAY: An area on a lot which: is for the passage of motor vehicles (and not for storing or standing of such vehicles except where serving four or fewer parking spaces), has an all-weather surface, provides access and egress to and from a street and leads to or from a parking space or loading bay (or their related maneuvering aisle).

DWELLING: A structure, or part of a structure, which: 1) is designed or used primarily for human habitation; 2) contains one or more dwelling units; and 3) is capable of separate ownership.

DWELLING, ONE FAMILY DETACHED: A dwelling which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other dwelling by any means.

DWELLING, TWO FAMILY: A detached residential building intended and designed to be occupied exclusively by two families.

DWELLING UNIT: One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of a single family maintaining a household.

ERECTED: The word "erected" shall include the words "built," "constructed," "reconstructed," "altered," "enlarged," and "moved."

FAMILY: An individual, or two or more persons related by blood, marriage or adoption, living together as a single housekeeping unit and occupying one dwelling unit; or a group of individuals, not so related, but living together as a single housekeeping unit. For purposes of controlling residential density, not more than four unrelated individuals shall constitute a family.

FAST FOOD SERVICE: An establishment primarily for self-service or purchase of food or beverage at a counter for consumption on the premises.

FIRE LANE: An open space in which no automotive vehicles may be parked and in which no building or structure may be erected without written permission from the Head of the Lexington Fire Department, except that buildings may be interconnected by corridor or walkways, if provision is made for access by fire apparatus to all outside walls. The open space shall be between a building and a line parallel to and fifteen feet equidistant from a building.

FLOOR AREA, GROSS: The sum, in square feet, of the horizontal areas of all floors of a building or several buildings on the same lot measured from the exterior face of exterior walls, or from the center line of a party wall separating two buildings. Where the text of this By-Law refers to floor area, the term shall mean gross floor area unless the term net floor area is used.

FLOOR AREA, NET: The sum, in square feet of the occupiable or habitable area in a building, which shall be determined by excluding the following from calculation of gross floor area:

a. areas used for parking or loading
b. areas devoted exclusively to the operation and maintenance of a building, irrespective of its occupants, such as heating, ventilating and cooling equipment, electrical and telephone facilities, fuel storage, elevator machinery or mechanical equipment
c. the thickness of load bearing walls, at each floor
d. elevator shafts and common stairways, and common hallways at each floor
e. porches, balconies, fire escapes which are unroofed.

FLOOR AREA RATIO (FAR): The ratio of the sum of the net floor area of all buildings on a lot to the developable site area of the lot.

FRONTAGE, LOT: The continuous portion of the line separating a lot from a street to which the owner of the lot has a legal right of access. The measurement of lot frontage shall not include jogs in street width, back-up strips and other irregularities in street line, and, in the case of a corner lot may at the option of the owner extend to the midpoint of the curve connecting street lines, instead of to their intersection.

FRONTAGE STREET: A street to which the owner of the lot has a legal right of access and which provides the required lot frontage. When a lot is bounded by more than one street, any one of them but only one, may be designated as the frontage street by the owner, provided that the street meets the frontage requirement and that the principal permitted building on the lot is numbered on such frontage street. However, in the case of a lot

bounded by two streets forming an interior angle of more than 135 degrees, their combined frontage between lot lines may be used to satisfy the lot frontage requirement.

GARDEN APARTMENT: Residence for eight or more families, with at least two detached or semi-detached buildings, each containing not fewer than four nor more than ten dwelling units.

GOLF COURSE, STANDARD OR PAR THREE: Course, including customary accessory buildings, where tee to hole distance averages not less than 80 yards.

HALF STORY: See "Story, Half"

HOME OCCUPATION: Certain occupations engaged in within an existing dwelling or a building accessory thereto by a resident thereof, provided that there shall be no sign, advertising device, exterior storage, or other exterior indication of the home occupation, and that such occupations are limited to the exercise of personal or professional skills in the fields of music, dramatics, arts and crafts and academic pursuit and the giving of instructions or lessons, for compensation, in such skills; and also the performance of custom work of a domestic nature, such as dressmaking, millinery, and clothes washing provided that equipment utilized is such as is customarily incidental to residential occupancy.

HOTEL, MOTOR HOTEL OR MOTEL: A building or several buildings containing 15 or more sleeping rooms for resident or transient guests with a provision for serving food in a public dining room, but no cooking in rooms occupied by guests and no living quarters below the mean finished grade of the ground adjoining each building.

JUNKYARD: Without limiting the generality of Table 1, line 10.2, the following shall be deemed to be junkyard uses: outdoor storage of two or more unregistered automobiles, except where expressly authorized in a special permit issued by the Board of Appeals for an automobile sales or repair business, or an accumulation in the open of discarded items not used or intended to be used by the occupant of the property.

LIGHT MANUFACTURING: Fabrication, processing, or assembly employing only electric or other substantially noiseless and inoffensive motive power, utilizing hand labor or quiet machinery and processes, and free from neighborhood disturbing agents, such as odors, gas fumes, smoke, cinders, flashing or excessively bright lights, refuse matter, electromagnetic radiation, heat or vibration.

LOT: An area of land in one ownership with definite boundaries ascertainable by recorded deed or plan and used or set aside and available for use as the site of one or more buildings or for any other definite purpose.

LOT AREA: Area within a lot, including land over which easements have been granted, but not including any land within the limits of a street upon which such lot abuts, even if fee to such street is in the owner of the lot, except that if a corner lot has its corner bounded by a curved line connecting other street lines which, if extended, would intersect, the area may be computed as if such boundary lines were so extended.

LOT, CORNER: A lot bounded by more than one street which has an interior angle of 135 degrees or less formed by the tangents or straight segments of street lines between the side or rear lines of such lot or by an extension of such street lines. A lot bounded by one street shall be considered a corner lot when the tangents or straight segments of the street line between the side lines of the lot form, or would form if extended, an interior angle of 105 degrees or less.

LOT FRONTAGE: See "Frontage, Lot".

MANEUVERING AISLE: An area on a lot which: is immediately adjacent to one or more parking spaces or loading bays, is necessary for turning, driving or backing a motor vehicle into such parking space or loading bay, but is not used for the parking or standing of motor vehicles.

MOTOR HOTEL OR MOTEL: Same as "hotel".

MOTOR VEHICLE TRIP: Use of one motor vehicle by one or more persons which either begins or ends (regardless of the duration of parking or standing) on a lot, or at a use or establishment.

MUNICIPAL: The word "municipal" means the Town of Lexington.

NON-CONFORMING USE OR BUILDING: A lawfully existing use or building which does not conform to the regulations for the district in which such use or building exists.

NURSERY: The business of propagating plants, including trees, shrubs, vines, seed, grass, live flowers and other plants, and the storage and selling of such plants grown on the premises.

OPEN AREA, PERCENTAGE: That percentage of the lot area which is not occupied by any structure.

PARKING LOT: An area on a lot which includes 5 or more parking spaces and their related maneuvering aisle. Where there are 5 or more parking spaces on a lot, regardless of their location on the lot, all such spaces shall be subject to the standards for parking lots.

PERSON: The word "person" shall include one or more individuals, a partnership, an association or a corporation.

PUBLIC: The word "public" means the Town of Lexington, Commonwealth of Massachusetts, United States Government or an agency thereof.

RACQUET COURT: A fixed playing area such as a tennis court or racquet ball platform.

REAR LINE OF A LOT: A line separating a lot from other lots or from land in a different ownership, being the boundary of a lot which is opposite or approximately opposite the frontage street. Where because of irregular lot shape, the building commissioner and the lot owner cannot agree as to whether a lot line is a side or a rear line, it shall be considered a rear line.

RECORDED: The due recording in the Middlesex County South District Registry of Deeds, or, as to registered land, the due filing in the Middlesex County South District Land Registration Office.

RESIDENTIAL DISTRICT: Any district in Lexington whose designation begins with R and any district in an abutting Town intended for residential use.

RESTAURANT: An establishment primarily for serving by a waiter or waitress, and consumption of meals at tables or at a counter, on the premises.

ROADSIDE STAND: The land and the structures thereon for sale of edible farm products, flowers, fireplace wood, preserves and similar products, not less than half of which (measured by dollar volume of annual sales) have been produced or grown within Lexington on land owned by the owner of the stand; no goods except plants, flowers and fireplace wood shall be stored or offered for sale outdoors.

ROOMING UNIT: One or more rooms designed, occupied or intended for occupancy as separate living quarters for one roomer or boarder with sleeping facilities but no kitchen facilities.

SANITARY SEWER: A public sanitary sewer of the Town of Lexington.

SIDE LINE OF A LOT: A line separating a lot from other lots or from land in a different ownership, other than a street line or a rear lot line.

SIGN: Any device designed to inform, direct or attract attention of persons not on the premises on which the sign is located, provided however that the following shall not be included in the application of the regulations of this By-Law:

a. Flags and insignia of any government, except when displayed in connection with commercial promotion

b. Legal notices, identification, informational or directional signs erected or required by governmental bodies

c. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights

d. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter

SIGN, ACCESSORY: Any sign or other advertising device which advertises, calls attention to, or indicates the person or activity occupying the premises on which the sign is erected or that advertises the property or some part of it for sale or lease and which contains no other advertising matter.

SIGN, NON-ACCESSORY: Any billboard or sign not an accessory sign.

SIGN, PROJECTING: Any sign which is attached to a building and is not parallel to the wall to which it is attached. A sign in contact with the ground is not a projecting sign.

SIGN, SIZE: The size of a sign shall include any intermediary removable surface to which it is affixed. The area of a flat two-faced projecting or standing sign is the area of one face. The width of a sign is its horizontal dimensions even when this is the smaller dimension.

SIGN, STANDING: The term "standing sign" shall include any and every sign that is erected on the land. If a sign support holds more than one sign, each such sign is considered a separate standing sign.

SIGN, WALL: A sign securely fixed parallel to the face of a building wall.

SIGN, WINDOW: A sign affixed to or placed so as to be viewed through a window or transparent door. Signs on the interior of an establishment which are intended to be viewed from inside the establishment are not considered to be window signs even if they can be seen through a window or door. Displays of merchandise inside of a window are not considered to be window signs.

SPECIAL PERMIT GRANTING AUTHORITY: The authority empowered to grant special permits, which shall be the Board of Appeals unless some other board is so designated in these By-Laws.

SPGA: Special Permit Granting Authority.

STORY: That portion of a building contained between any floor and the floor or roof next above it, but not including either the lowest portion so contained if more than one-half of such portion vertically is below the mean finished grade of the ground adjoining such building, or the uppermost portion so contained if under a sloping roof and not designed or intended to be used for human occupancy.

STORY, HALF: A story directly under a sloping roof in which the points of intersection of the bottom of the rafters and the interior faces of the walls are less than three feet above the floor level on at least two exterior walls.

STREET, ROAD, OR WAY: An area of land dedicated, approved by the Planning Board, or legally open for public travel under at least one of the following classifications:

a. A public way duly laid out by the Town of Lexington, the Middlesex County Commissioners, or the Commonwealth of Massachusetts, or a way which the Lexington Town Clerk certifies is maintained by public authority and used as a public way; or

b. A way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law; or

c. A way in existence on April 4, 1948, 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 land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

A public or private way as aforesaid shall not be deemed to be a "Street" as to any lot of land that does not have rights of access to and passage over said way.

STREET LINE: The boundary of a street right-of-way or layout.

STRUCTURE: Anything constructed or erected, the use of which requires a fixed location on the ground, or attachment to something located on the ground, including buildings, mobile homes, billboards, tanks, or the like, or the parts thereof, and swimming pools. However, this definition does not include a boundary wall or fence less than six feet in height above the mean finished grade of the adjoining ground.

SWIMMING POOL: Any pool having a depth of 24 inches or greater and a surface area of 250 square feet or greater.

TAKE OUT FOOD SERVICE: An establishment primarily for dispensing prepared food to persons carrying the food away for consumption elsewhere.

TEMPORARY STRUCTURE: Tent, construction shanty; or similarly portable or demountable structure intended for continuous use for not longer than one year.

TEMPORARY USE: Use, operation or occupancy of a parcel of land, building or structure for a period not to exceed one calendar year.

UNIT PARKING DEPTH: The distance required to accommodate two rows of parking and a common maneuvering aisle.

WAY: see "Street, Road or Way."

YARD: An open space on a lot unoccupied by a building or structure or such parts thereof as covered or uncovered porches, steps, cornices, eaves and other projections; provided however that fences, gates or security stations, yard accessories, ornaments and furniture, and customary summer awnings are permitted in any yard but shall be subject to height limitations. Yard depth shall be measured from the street or lot line to the nearest point on a building in a line perpendicular or normal to such lot or street line. The minimum required yard shall be a strip of land of uniform depth required by this By-Law measured from the lot or street line and adjacent thereto.

YARD, FRONT: A yard extending between lot side lines across the lot adjacent to each street it abuts.

YARD, REAR: A yard extending between the side lines of a lot adjacent to the rear line of the lot.

YARD, SIDE: A yard extending along each side line of a lot between front and rear yards.

SECTION 3. ADMINISTRATION AND ENFORCEMENT

3.1 BUILDING COMMISSIONER

The Building Commissioner appointed under the provisions of Chapter 802 and Chapter 40A of Massachusetts General Laws and the Selectmen/Town Manager Act is hereby designated and authorized as the officer charged with the interpretation and enforcement of this By-Law.

If the Building Commissioner is informed or has reason to believe that any provision of this By-Law is being violated, he shall make or cause to be made an investigation of the facts and inspect the property where such violation may exist.

If upon such investigation and inspection he finds evidence of such violation, he shall give notice thereof in writing to the owner and occupant of said premises and demand that such violation be abated within such time as the Building Commissioner deems reasonable. Such notice and demand may be given by mail, addressed to the owner at his address as it then appears on the records of the Board of Assessors of the Town and to the occupant at the address of the premises.

If after such notice and demand the violation has not been abated within the time specified therein, the Building Commissioner shall institute appropriate action or proceedings in the name of the Town of Lexington to prevent, correct, restrain or abate such violation of this By-Law.

If the Building Commissioner is requested in writing to enforce this By-Law against any person allegedly in violation of the same, he shall notify in writing the party requesting such enforcement of any action or refusal to act, and the reasons therefor, within fourteen days of receipt of such request.

3.1.1 PENALTY

Anyone who violates a provision of this By-Law shall be punishable by a fine of not more than one hundred dollars ($100) for each offense, except that the penalty for the removal of earth materials in violation of this By-Law shall be provided for in the General By-Laws of the Town of Lexington. Each day during which any portion of a violation continues under the provisions of Section 3.1 shall constitute a separate offense.

3.1.2 BUILDING PERMITS

Applications for building permits shall be filed with the Building Commissioner on forms furnished by him. With every such application there shall be filed a plan in duplicate of the lot upon which said building is to be erected drawn to scale and showing the dimensions of the lot and the location and size of the building, if any, upon said lot and the building or buildings to be erected thereon and all streets upon which said lot abuts. Before a foundation is constructed, a certified plot plan shall be submitted to the Building Commissioner with such information

as he may deem necessary for the enforcement of the Zoning By-Law and other applicable laws, by-laws, rules and regulations of the Town.

3.1.3 CONFORMING TO SUBSEQUENT AMENDMENTS

Construction on or use of property under a building permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within a period of six months after the issuance of the building permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable.

3.2 BOARD OF APPEALS

There shall be a Board of Appeals of five members appointed by the Selectmen for five year terms. The Selectmen shall also appoint six associate members of the Board of Appeals. The appointment, service and removal or replacement of members and associate members and other actions of the Board of Appeals shall be as provided for in the General Laws, Chapter 40A. The Board of Appeals in existence up to the date of the adoption of this Section shall continue in office for the balance of terms for which originally appointed.

3.2.1 APPEALS

The Board of Appeals shall hear and decide appeals taken by any person aggrieved by reason of his inability to obtain a permit or enforcement action from any administrative officer under the provisions of Chapter 40A, General Laws, by the regional planning agency in whose area the Town is situated or by any person including an officer or board of the Town, or of any abutting city or town aggrieved by an order or decision of the Building Commissioner, or other administrative official in violation of any provision of Chapter 40A, General Laws, or of this By-Law.

Such appeal shall be taken within thirty days from the date of the order or decision being appealed, by filing three copies of a notice of appeal, specifying the grounds therefor, with the Town Clerk. The Town Clerk shall forthwith transmit said copies to the officer or board whose decision is being appealed, and to the Board of Appeals. The Board of Appeals shall hold a hearing on any appeal within 65 days of the filing, shall properly serve notice of such hearing, and shall render its decision within 75 days of the filing.

3.2.2 VARIANCES

Variances - To authorize upon appeal, or upon petition in cases where a particular use is sought for which no permit is required, with respect to a particular parcel of land or to an existing building thereon a variance from the terms of this By-Law where, owing to conditions specially affecting such parcel or such building but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this By-Law would involve substantial hardship, financial or otherwise, to the appellant, and where desirable relief may be

granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this By-Law, but not otherwise.

3.3 SPECIAL PERMITS (SP)

The Special Permit Granting Authority shall hear and decide applications for special permits for uses as provided in this By-Law, subject to any general or specific rules therein contained, and subject to appropriate conditions, safeguards and limitations on time or use. In granting a special permit, the SPGA shall impose such additional conditions and safeguards as furthers the following objectives: To lessen congestion in the streets, to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to facilitate the adequate provision of drainage, parks, open space and other public requirements; to encourage housing for persons of all economic levels; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of lands throughout the Town and to preserve and increase amenities. Such special permit may be granted when in the judgement of the SPGA the public welfare and convenience will be substantially served thereby, where a requested permit will not tend to impair the status of the neighborhood, and only for uses which are in harmony with the general purpose and intent of this By-Law.

3.3.1 APPLICATION PROCEDURE

At the time of filing the applicant shall file one copy with the Town Clerk and six copies with the Special Permit Granting Authority which shall forthwith deliver copies to the Planning Board, Board of Selectmen, Conservation Commission, Board of Health and Town Engineering Department. The SPGA shall hold a hearing on any properly completed application within 65 days after filing, shall properly serve notice of such hearing, and shall render its decision within 90 days of said hearing.

3.3.2 CONFORMING TO SUBSEQUENT AMENDMENTS

Construction on or use of property under a special permit shall conform to any subsequent amendment of this By-Law unless the use or construction is commenced within six months after the issuance of the permit and in cases involving construction, unless such construction is continued through to completion as continuously and expeditiously as is reasonable. A special permit shall lapse two years from the granting thereof or such shorter time as specified in said permit if a substantial use thereof has not sooner commenced except for good cause or, in the case of a permit for construction, if construction has not begun by such date except for good cause, but such period shall be extended by the time required to pursue or await determination of an appeal.

3.4 SPECIAL PERMITS WITH SITE PLAN REVIEW (SPS)

Site plan review by the SPGA is required prior to approval of an application for a special permit in certain cases specified in Table 1 (designated "SPS" in the Use Regulation Schedule).

In such cases, a special permit may be issued only if the SPGA makes a finding and determination that: 1) the proposed placement of buildings, 2) major topographic changes, 3) surface and ground water drainage and erosion control, 4) protection against flooding and inundation, 5) prevention of water pollution and environmental damage, 6) provision for adequate utility services and waste disposal, 7) provision for off-street parking, 8) provision for off-street loading, 9) location of intersections of driveways and streets, and 10) the effects of additional traffic created by the development on intersections and streets likely to be affected by the proposed development will constitute a suitable development and will not result in substantial detriment to the neighborhood.

In making a finding and determination, the SPGA shall consider at least: 1) existing traffic conditions, 2) the effects of traffic from other proposed developments which have already been approved in part or in whole by the Town, and 3) the effects of traffic from the proposed development on the intersections and streets likely to be affected by the proposed development; and prior to granting an SPS, the SPGA shall make a finding that the traffic carrying capacity of the intersections and streets likely to be affected by the development is adequate, according to accepted traffic engineering criteria for "level of service," to handle the existing and projected traffic.

3.4.1 FILING REQUIREMENTS

A person applying for a special permit under Section 3.4 shall file an application and a preliminary site plan, one copy of each, with the Town Clerk and six copies of each with the SPGA. Such application and site plan shall include the elements on which the SPGA is to make a finding and determination, as provided in Subsection 3.4.1 and shall also include information as to the nature and extent of the proposed use of the buildings, and such further information in respect to such elements and use as the SPGA shall reasonably require. At the time of application to the SPGA, there shall be filed a plot plan for planting and landscaping showing type, size and location of trees and shrubs.

3.4.2 SPGA PROCEDURES

The SPGA shall, within three days (Saturdays, Sundays and holidays excluded) of receipt of them transmit to the Planning Board two copies of the application and site plan filed under Subsection 3.4. The Planning Board shall consider these and submit a final report thereon with recommendations to the SPGA. The SPGA shall not make a finding and determination upon an application until it has received the final report of the Planning Board thereon or until 35 days shall have elapsed since the transmittal of said copies of the application and site plan to the Planning Board without such report being submitted.

3.4.3 PUBLIC HEARING

The SPGA shall hold a public hearing within 65 days after filing and, except as hereinafter provided, shall take final action on an application within 90 days after the hearing. Such

final action shall consist of either (1) a finding and determination that the proposed construction, reconstruction, substantial exterior alteration or addition will constitute a suitable development and will not result in substantial detriment to the neighborhood or (2) a written denial of the application for such finding and determination, stating the reasons for such denial, which reasons shall include a statement of the respect in which any elements in and particular features of the proposal are deemed by the SPGA to be inadequate, unsuitable or detrimental to the neighborhood. A finding and determination may be made subject to such reasonable conditions, modifications and restrictions set forth therein as the SPGA may deem necessary to insure that the proposed construction, reconstruction, substantial exterior alteration, or addition will constitute a suitable development and will not result in substantial detriment to the neighborhood. The SPGA shall file with its records a written report of its final action on each application, with the reasons therefor.

3.4.4 CONFORMITY WITH SPGA CONDITIONS

In the event that the SPGA approves a Special Permit under these provisions, any construction, reconstruction, substantial exterior alteration, or addition shall be carried on only in conformity with any conditions, modifications and restrictions to which the SPGA shall have made its finding and determination subject, and only in essential conformity with the application and the site plan on the basis of which the finding and determination are made.

3.4.5 EXTENSION OF TIME FOR ACTION

The period within which final action shall be taken may be extended for a definite period by mutual consent of the SPGA and the applicant. In the event the SPGA determines that the site plan and evidence presented to it at the public hearing are inadequate to permit the SPGA to make a finding and determination, it may, in its discretion, instead of denying the application, adjourn the hearing to a later date to permit the applicant to submit a revised site plan and further evidence, provided, however, that such adjournment shall not extend the 90 day period within which final action shall be taken by the SPGA, unless said period is extended to a day certain by mutual consent.

3.4.6 SPGA FAILURE TO TAKE ACTION

In the event the SPGA shall fail to take action on an application within the times set forth in Subsection 3.4.3 or within such extended period as shall have been mutually agreed upon as herein provided, then upon the expiration of said times, the SPGA shall be deemed to have found and determined that the proposed construction, reconstruction, substantial external alteration, or addition will constitute a suitable development and will not result in substantial detriment to the neighborhood.

3.5 SECURITY FOR SPECIAL PERMITS

The Special Permit Granting Authority, as a condition of granting a special permit may require that the performance of the conditions and observance of the safeguards of such special permit be secured by one, or in part by one and in part by the

other, of the methods described in the following clauses (1) and (2). The SPGA shall administer this securing of performance.

(1) Bond or Deposit

By a proper bond or a deposit of money or negotiable securities or letter of credit, sufficient in the opinion of the SPGA to secure performance of the conditions and observance of the safeguards of such special permit.

(2) Covenant

By a covenant running with the land, executed and duly recorded by the owner of record, whereby the conditions and safeguards included in such special permit shall be performed before any lot may be conveyed other than by mortgage deed. Nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant of the entire parcel of land, the development of which is governed by the special permit.

3.5.1 REDUCTION OF SECURITY

Until completion of the development the penal sum of any deposit or security held under clause one (1) above may from time to time be reduced by the SPGA by an amount not to exceed 85% of the value of work originally estimated.

3.5.2 RELEASE OF SECURITY

Upon the completion of the development or upon performance of the conditions and safeguards imposed by such special permit, security for the performance of which was given, the applicant shall send by registered mail to the SPGA an affidavit that the conditions and safeguards in connection with which such security has been given have been complied with. If the SPGA determines that the conditions and safeguards of the special permit have been complied with, it shall release the interest of the Town in such security, return or release the security to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged. If the SPGA determines that the conditions or safeguards included in the special permit have not been complied with, it shall specify the conditions or safeguards with which the applicant has not complied in a notice sent by registered or certified mail, to the applicant.

3.5.3 SPGA FAILURE TO ACT

If the SPGA fails to send such a notice within sixty days after it receives the applicant affidavit, all obligations under the security shall cease and terminate, any deposit shall be returned and any such covenant become void.

3.5.4 APPLICANT FAILURE TO COMPLETE WORK

Upon failure of the applicant to complete such work to the satisfaction of the SPGA and in accordance with all applicable plans, regulations and specifications, the Town shall be entitled to enforce such bond or to realize upon such securities to the extent necessary to complete all such work without delay.

SECTION 4. ESTABLISHMENT OF DISTRICTS

The Town of Lexington is hereby divided into districts designated as follows:

4.1 RESIDENTIAL DISTRICTS

RO - One family dwelling districts, (30,000 sq. ft.)
RS - One family dwelling districts, (15,500 sq. ft.)
RT - Two family dwelling districts
RM - Multi-family (garden apartment) dwelling districts
RH - Subsidized Housing Districts
RD - Multi Dwelling Districts

4.2 COMMERCIAL AND INDUSTRIAL DISTRICTS

CR - Office and research park districts
CH - Hotel, office and research park district
CM - Manufacturing and research park district
CO - Office districts
CN - Neighborhood business districts
CG - General business districts
CB - Central business districts
CD - Controlled commercial and industrial district

4.3 WETLAND PROTECTION DISTRICTS

W - Wetland Protection Districts, which are superimposed on other districts, as defined in Section 9.5.

4.4 NATIONAL FLOOD INSURANCE DISTRICTS

NFID - National Flood Insurance Districts, which are superimposed on other districts, and are regulated in Section 9.6.

4.5 LOCATION OF DISTRICTS

4.5.1 RESIDENTIAL, COMMERCIAL AND INDUSTRIAL DISTRICTS

The boundaries of residential, commercial and industrial districts, as identified in Subsections 4.1 and 4.2, are shown on the Zoning Map of the Town of Lexington and the Zoning District Maps. In the event of any discrepancy between the boundaries of the districts as shown on the Zoning Map or the Zoning District Maps and the description in the vote of the Town Meeting establishing or amending said boundaries, the vote of the Town Meeting shall govern.

4.5.2 WETLAND PROTECTION DISTRICTS

W - wetland protection districts are shown on maps entitled "WETLAND PROTECTION DISTRICTS, LEXINGTON, MASSACHUSETTS - 1973" consisting of an index map and 12 sheets entitled Zoning District Maps numbered W-1, W-2, W-5, W-6, W-7, W-8, W-12, W-13, W-26, W-32, W-33, W-39.

4.5.3 NATIONAL FLOOD INSURANCE DISTRICT

National Flood Insurance Districts as defined in the HUD Flood Insurance Study and as shown on maps entitled "Flood Boundary and Floodway Map, Town of Lexington, Massachusetts, effective June 1, 1978" or as duly amended from time to time thereafter and "Flood Insurance Rate Map, Town of Lexington, Massachusetts, effective June 1, 1978" or as duly amended from time to time thereafter which are on file with the Town Clerk.

SECTION 5. USE REGULATIONS

5.1 APPLICABILITY

5.1.1 PERMITTED USES

No land shall be used and no structure shall be erected or used except as set forth in the Use Regulations Schedule, Table 1, or as permitted by Section 6 or by the General Laws. Use of land in a Wetland Protection District shall be governed by the requirements of Section 9.5 as well as the requirements of the Use Regulations Schedule. Use of land in the National Flood Insurance District shall be governed by the requirements of Section 9.6, as well as the requirements of the Use Regulation Schedule.

5.1.2 PRINCIPAL USES, ACCESSORY USES

In the Use Regulation Schedule, Table 1, the uses enumerated in Parts 1 through 7 are the principal uses of buildings or land; the uses enumerated in Part 8 are accessory uses within the definition of Section 2 of this By-Law; the uses enumerated in Parts 9 and 10 include all uses, whether principal or accessory.

5.1.3 MORE THAN ONE CLASSIFICATION

Where an activity might be classified under more than one of the uses listed in the Use Regulations Schedule, the more specific classification shall determine permissibility; if equally specific the more restrictive shall govern.

5.1.4 USES NOT LISTED

Uses and buildings not listed in the Use Regulations Schedule and not prohibited as dangerous or disturbing or detrimental (see Table 1, Subsection 10) are permitted if accessory to a principal permitted use listed herein and conforming to all other provisions of this By-Law and not in violation of any other municipal By-Law or General Laws.

5.2 ACCESSORY RESIDENTIAL USES IN ONE FAMILY DWELLINGS: ACCESSORY APARTMENTS

An accessory apartment is a second dwelling unit located within a structure constructed as a detached one family dwelling, subordinate in size to the principal dwelling unit and separated from it, in a manner that maintains the appearance of the structure as a one family dwelling.

5.2.1 GENERAL OBJECTIVES

The provision of accessory dwelling units in owner occupied one family dwellings is intended to: 1) increase the number of small dwelling units available for rent in the town, 2) increase the range of choice of housing accommodations, 3) encourage greater diversity of population with particular attention to young adults and senior citizens, and 4) encourage a more economic and energy-efficient use of the town's housing supply, while maintaining the appearance and character of the town's single family neighborhoods.

5.2.2 CONDITIONS AND REQUIREMENTS

The Building Commissioner shall issue a building permit for a newly created accessory apartment in a detached, one family dwelling in an RO or RS district provided that each of the following conditions and requirements is met:

a. General

1. The owner of the dwelling in which the accessory apartment is created, shall occupy either of the dwelling units in the structure, except for temporary absences as provided in paragraph 5.2.4. For the purposes of this section, the "owner" shall be one or more individuals who constitute a family, who hold title directly or indirectly to the dwelling, and for whom the dwelling is the primary residence for voting and tax purposes,
2. There shall be no more than one accessory apartment within a one family dwelling.
3. There shall be no boarders or lodgers within either unit of a dwelling with an accessory apartment.
4. The lot area shall be at least 10,000 square feet.
5. The net floor area of the dwelling shall have been at least 2,500 square feet as of January 1, 1983, which amount shall be verified in the records of the Building/Inspection Department or on a document, "Total Living Area of Dwellings as of January 1, 1983," prepared by the Board of Assessors.
6. The maximum net floor area of the accessory apartment shall not exceed 30 percent of the net floor area of the dwelling as of January 1, 1983.
7. There shall not be more than two bedrooms in an accessory apartment.
8. No structure that is not connected to the public water and sanitary sewer systems shall have an accessory apartment.

b. Exterior Appearance of a Dwelling with an Accessory Apartment

The accessory apartment shall be designed so that the appearance of the structure remains that of a one family dwelling, subject further to the following conditions and requirements:

1. All stairways to second or third stories shall be enclosed within the exterior walls of the dwelling.
2. There shall be no enlargements or extensions of the dwelling in connection with any accessory apartment except for minimal additions necessary to comply with building, safety or health codes, or for enclosure of an entryway, or for enclosure of a stairway to a second or third story.
3. Any new entrance shall be located on the side or in the rear of the dwelling.

4. Where there are two or more existing entrances on the front facade of a dwelling, if modifications are made to any entrance, the result shall be that one appears to be the principal entrance and other entrances appear to be secondary.

c. Off-street Parking

There shall be provided at least two off-street parking spaces for the principal dwelling unit and at least one off-street parking space for the accessory apartment. In order to maintain the appearance of a single family neighborhood all parking spaces on the lot shall be subject further to the following conditions and requirements:

1. Each parking space and the driveway leading thereto shall be paved or shall have an all-weather gravel surface. No motor vehicles shall be regularly parked on the premises other than in such a parking space.
2. Not more than two outdoor parking spaces shall be located in the required front yard. All other parking spaces shall be either: 1) outdoor parking spaces located in a side or rear yard or 2) in a garage or carport.
3. There shall be no more than four outdoor parking spaces on the lot.
4. No parking space shall be located within the boundary of a street right-of-way.
5. Parking spaces shall be located so that both the principal dwelling unit and the accessory apartment shall have at least one parking space with direct and unimpeded access to the street without passing through a parking space designated to serve the other dwelling unit.
6. Where there are more than two outdoor parking spaces, there shall be provided suitable screening with evergreen or dense deciduous plantings, walls, fence, or a combination thereof in the area between the parking spaces and the nearest side lot line and, if the parking space is in the front yard and parallel to the street, in the area between the parking space and the front lot line. Screening shall be sufficient to minimize the visual impact on abutters and to maintain the single family appearance of the neighborhood.

5.2.3 PROCEDURES

a. No accessory apartment shall be constructed without issuance of a building permit by the building commissioner.
b. The application for a building permit shall be accompanied by a filing fee and by such plans and other documentation related to the conditions and requirements of paragraph 5.2.2 as the building commissioner may require.
c. Not less than 14 days before issuing a building permit, the building commissioner shall notify owners of property immediately abutting the applicant's property, including

owners of property separated from the applicant's property by a public or private way, an application for a building permit for an accessory apartment has been filed.

d. The building commissioner shall act on the application within 30 days of receipt.

e. No use as an accessory apartment shall be permitted prior to issuance of a certificate of occupancy by the building commissioner. A Certificate of Occupancy shall be issued after the building commissioner determines that the accessory apartment as constructed is in conformity with the approved plans and with the provisions of this by-law.

f. A certificate of occupancy shall be issued for a period not greater than three years. Continued occupancy will require issuance of a new certificate of occupancy. Proof of owner occupancy shall be submitted with the application for a new certificate of occupancy.

g. A certificate of occupancy shall be issued to the owner only, and is not transferable. A new owner shall apply to the building commissioner for a new certificate of occupancy.

5.2.4 TEMPORARY ABSENCE OF OWNER

An owner of a dwelling containing an accessory apartment who is to be absent for a period of less than two years may rent the owner's unit as well as the second unit during the temporary absence provided:

a. Written notice thereof shall be made to the building commissioner on a form prescribed by him.

b. The owner shall be resident in the house for at least two years prior to the temporary absence.

c. The residence shall be owner occupied for at least two years between such temporary absences.

d. The house shall remain the owner's primary legal residence for voting and tax purposes.

5.2.5 REGISTRATION OF NON-CONFORMING UNITS CREATED BEFORE 1924

a. For a second dwelling unit which existed as of January 1, 1983, in a one family dwelling, in an RO or RS district, to be a non-conforming (lawful) use, the second dwelling unit must have been constructed prior to March 17, 1924 in a dwelling and have been in continuous use since that time with the exception of temporary non-use for a period not greater than twenty-four consecutive months.

b. To verify the nonconforming status of such a unit, an owner shall apply for a certificate of occupancy from the building commissioner prior to January 1, 1985 and shall present documentary evidence that: 1) the second dwelling unit was constructed prior to March 17, 1924; and 2) the unit was in use for any three years between 1978 and 1982 inclusive, which shall, for this purpose, be considered prima facia evidence of continuous use since 1924; and the building commissioner shall issue a certificate of occupancy, which shall remain effective so long as the second

dwelling unit remains in continuous use. If sufficient evidence of construction prior to March 17, 1924 and of continued use is not presented, the second dwelling unit shall be considered a second dwelling unit in violation, and shall comply with paragraph 5.2.6.

c. If an owner does not apply for a certificate of occupancy by January 1, 1985, he/she shall be required to present evidence of continuous use of the second dwelling unit since 1924 in order to obtain a certificate of occupancy, and shall be subject to penalties under paragraph 3.1.1.

5.2.6 SPECIAL CONDITIONS, EXISTING SECOND DWELLING UNITS IN VIOLATION

All second dwelling units which existed as of January 1, 1983, in a one family dwelling in an RO or RS district, except those which are a lawful, non-conforming use, or those which were granted a special permit under Table 1, Use Regulations Schedule, line 1.6, dwelling conversion to two family, or similar provisions of preceding Zoning By-Laws, are in violation of the Zoning By-Law.

a. Owners of existing second dwelling units in violation must apply to the building commissioner for a determination of compliance with paragraph 5.2.2 before January 1, 1985. Applications shall be accompanied by a filing fee and by such plans and other documentation related to the conditions and requirements of paragraph 5.2.2, as may be required by the building commissioner.

b. Within 90 days the building commissioner shall issue one of the following:

   1. A determination of compliance with paragraph 5.2.2, and a certificate of occupancy.
   2. A conditional determination of compliance with paragraph 5.2.2, describing corrective changes needed to bring the second dwelling unit into compliance, which changes shall be completed within 90 days of the date of the conditional determination. Upon successful completion of the required changes, the building commissioner shall issue a certificate of occupancy.
   3. A determination of non-compliance with one or more of the requirements of paragraph 5.2.2, together with a listing of those requirements and conditions with which compliance cannot be achieved through corrective changes.

   The owner of a second dwelling unit built prior to January 1, 1983 is eligible to apply within 60 days of the date of the determination to the SPGA for a special permit for maintenance of an existing, non-complying apartment, subject to the special conditions in subparagraph 5.2.6.c, below.

c. Special conditions for second dwelling units constructed prior to January 1, 1983 that comply with at least subparagraphs 5.2.2.a.1, 2, and 3; 5.2.2.b.1; and 5.2.2.c.

1. Upon presentation of evidence of construction prior to January 1, 1983, the owner may apply to the SPGA for a special permit for maintenance of an existing non-complying apartment.
2. The SPGA shall ordinarily grant a special permit for the existing non-complying second dwelling unit unless specific evidence is submitted supporting any claim that the unit has caused a deterioration of the single family neighborhood, a decrease in property values, or has caused any other substantial detrimental effect on the public welfare and convenience. In weighing such claims and evidence, the SPGA shall consider whether any changes required to bring the second dwelling unit into compliance are sufficient to counteract any prior negative impact.
3. In granting a special permit, the SPGA may impose such additional conditions as it may deem necessary to protect the single family appearance of the dwelling, and to bring the dwelling as close to conformity with the conditions and requirements for new accessory apartments, paragraph 5.2.2, as is feasible.
4. A special permit granted by the SPGA shall include a condition that a certificate of occupancy shall be obtained for periods not to exceed three years in the same manner as set forth in paragraph 5.2.3. No subsequent certificate of occupancy shall be issued unless there is compliance with the plans and conditions approved by the SPGA.
5. If a special permit is granted and corrective changes are required, they must be completed within 90 days of the date of granting the permit. When required changes are completed, the building commissioner will issue a certificate of occupancy.
6. If a special permit is denied, the second dwelling unit shall be terminated within one year of the date of the denial.

d. If an owner fails to comply with paragraph 5.2.6 the second dwelling unit shall be terminated within six months of the date of notice from the building commissioner, and the owner shall be subject to penalties as provided in paragraph 3.1.1 for each day the second dwelling unit is in use after January 1, 1985.

5.3 CONVERSION OF ONE FAMILY DWELLINGS

The SPGA may issue a special permit for the alteration of a one family dwelling to accommodate two families, executed such that:

a) The appearance and character of a one family dwelling is preserved.
b) The gross habitable floor area for each family in such dwelling is at least 700 square feet.
c) No major exterior structural changes are made, except such as may be required for safety by the General Laws of the Commonwealth.

d) Stairways leading to the second or any higher floor are enclosed within the exterior walls of the building.

5.4 APARTMENTS IN COMMERCIAL BUILDINGS

Residential apartments under Table 1, line 1.4, may only be permitted by Special Permit under Subsections 3.3 in the same structure with one or more of the uses listed in Table 1, lines 4.1 through 4.4, and lines 6.5 through 6.9 of the Use Regulation Schedule and subject to the following conditions:

5.4.1 SECOND AND THIRD FLOOR APARTMENTS

There shall be no apartments on other than the second and third floors, and no other use on the same floor as apartments or on any floor above such apartments.

5.4.2 This section deleted at the 1984 Town Meeting.

5.4.3 LANDSCAPING

There shall be provided and maintained on the same lot as the apartments an open, landscaped area, available and accessible to the apartment tenants, containing an aggregate area not less than the gross floor area allocated to apartments, or one-fourth acre per permanent structure, whichever is greater, provided, however, that these conditions shall be deemed to be satisfied by the existence of public park, recreation or open space land located contiguous to such lot or separated therefrom only by a street designated for not more than two traffic lanes.

5.5 NURSERIES

Where the Board of Appeals determines that the character of the neighborhood would not be impaired, the storage and sale of some or all of the following supplementary items in conjunction with the operation of a nursery may be permitted by Special Permit under Subsection 3.3; plants grown elsewhere than on the premises, items intended to improve or preserve the life and health of plants, including without limitation pesticides, insecticides, peat moss, humus, mulches, fertilizers, and other chemicals, hand gardening tools and hand gardening equipment, garden hose, watering and spraying devices, containers for living plants, cut flowers, Christmas trees and wreaths, in season; indoors only, birdseed, birdbaths, birdfeeders, birdhouses, and ornamental or decorative items intended for use with plants.

The foregoing list may be expanded, in the discretion of the Board of Appeals, to include other items related to plants, gardens or gardening, but shall not include power tools, other power equipment, furniture or items generally associated with the business of a hardware store rather than with the conduct of a nursery. Provided: that a nursery granted such a special permit shall conform to the dimensional controls in Table 2 as to lot area, frontage and yards and the maximum height of buildings for the district in which located and to the following additional requirements:

Minimum lot area 2 acres; building (other than greenhouses) may cover no more than a maximum of 20% of the lot area; greenhouses shall not be used for retail sales of items other than plants; buildings (other than greenhouses) used for retail sales shall not exceed a maximum of 7,500 square feet; not less than 50% of the total land area of the nursery shall be used for the propagation or cultivation of plants in the open or in greenhouses; the Board of Appeals shall impose and may from time to time review and revise requirements for adequate off-street parking, screening, open space buffers, lighting, outdoor storage and display, hours of operation and such other requirements as the Board of Appeals may deem necessary to preserve the character of the neighborhood.

5.6 DRIVEWAYS SERVING NON-RESIDENTIAL DISTRICTS

No private way or driveway which serves a non-residential use in a non-residential district shall be built through a residential district.

5.7 SWIMMING POOLS AND RACQUET COURTS

The SPGA may grant a special permit for the construction of a swimming pool or racquet court, accessory to a residential use, subject to the following minimum conditions:

5.7.1 PROTECTIVE CONDITIONS

a. No swimming pool or racquet court shall be constructed within 15 feet of the property line.

b. Any nighttime illumination shall be installed in such a way so as not to shine directly into nearby housing.

c. There shall be adequate screening as determined by the SPGA.

d. The erection of any fencing associated with a racquet court in excess of 6 feet shall require a building permit.

e. Construction of all swimming pools shall require application for a building permit.

5.7.2 CONSERVATION COMMISSION ORDERS

Applications for a special permit shall contain an order under the provisions of Article XXXIII of the General By-Laws, or a determination by the Conservation Commission that Article XXXIII is not applicable or that an Order of Conditions is not necessary.

SECTION 6. NON-CONFORMING USES AND STRUCTURES

6.1 CONTINUED USES OR STRUCTURES

Any building lawfully existing and any use lawfully being made of land or buildings which does not conform to this By-Law as adopted or as amended may be continued to the same degree and for the same purpose.

6.2 REPAIRS AND STRUCTURAL CHANGES

Any such building may be repaired or structurally altered, but no such building if destroyed or damaged to the extent of 75% or more of its reproduction costs at the time of said damage, as determined by the Building Commissioner, shall be rebuilt or repaired except with a special permit granted by the Board of Appeals under the provisions of Section 3.3 of this By-Law.

6.3 ENLARGING STRUCTURES

A lawfully existing, non-conforming one or two family dwelling or accessory buildings thereto may be extended or enlarged in accordance with the provisions of Section 3.1.2 of this By-Law provided such extension or enlargement does not increase the non-conformity and does not violate any dimensional controls applicable at the time of approval for such extension or enlargement.

Extensions or enlargements which comply with current dimensional controls may be made to any other lawful existing non-conforming building by special permit granted by the Board of Appeals under the provisions of Section 3.3 of this By-Law, provided that the Board of Appeals finds that such extension or enlargement is not more detrimental to the neighborhood than the existing non-conforming building.

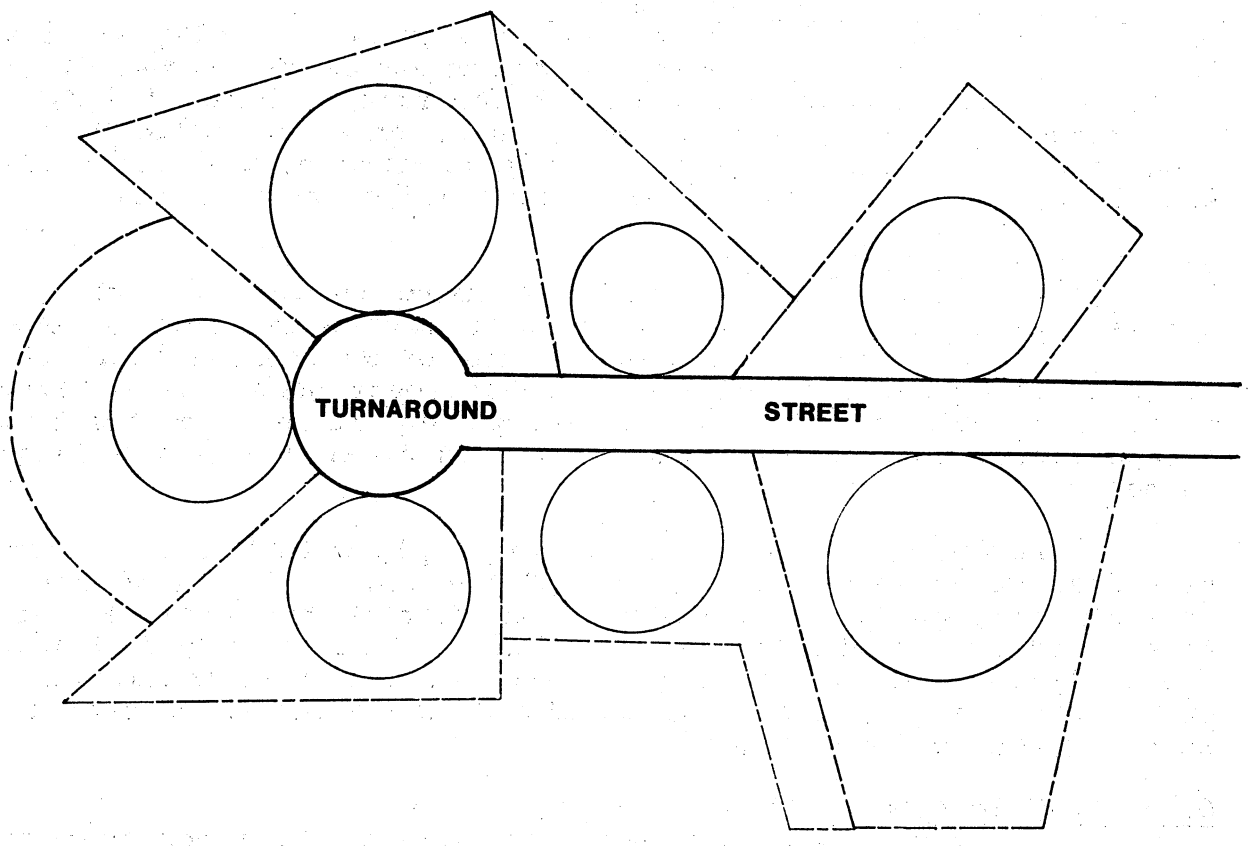
6.4 CHANGED NON-CONFORMING USE

If land or buildings lawfully being put to a non-conforming use are changed to a use permitted in a district wherein such lands or buildings are situated, they shall not be changed back to any non-conforming use. The non-conforming use of land or buildings may be changed with a Special Permit from the Board of Appeals to another non-conforming use which in the opinion of the Board of Appeals in no more objectionable to the neighborhood.

6.5 ABANDONED NON-CONFORMING USE

If there be non-use of any lawful non-conforming use of land or buildings for a period of twenty-four consecutive months, such non-conforming use shall be regarded as abandoned and shall not be resumed.

LOT WIDTH 7.2



These drawings are for illustrative purposes only. They are not legally-adopted parts of the Zoning By-Law as voted by the Town Meeting.

SECTION 7. DIMENSIONAL CONTROLS

7.1 COMPLIANCE WITH DIMENSIONAL CONTROLS

A lot of land complying with the area and frontage requirements specified in Table 2 hereof under the caption Schedule of Dimensional Controls shall be provided for each dwelling or other principal use (other than an agricultural use) permitted in RO, RS, and RT residence districts and for any other use or uses permitted in other districts. Any building or structure located on a lot shall comply with the dimensional requirements of said Table 2, except where specifically provided otherwise by this By-Law or by General Laws.

7.2 LOT SIZE REDUCTION, MINIMUM LOT WIDTH

7.2.1 No lot upon which there is a building or for which a building permit is in force shall be subdivided or otherwise changed in size or shape, except through public acquisitions, so as to result in violation of the requirements of Table 2 Schedule of Dimensional Controls and of other applicable requirements of this By-Law, and a lot already non-conforming shall not be changed in size or shape so as to increase the degree of non-conformity or non-compliance with the requirements of this By-Law. If land is subdivided, conveyed, devised or otherwise transferred in violation hereof, no building or other permit shall be issued with reference to said transferred land until the lot retained meets the requirements of this By-Law.

7.2.2 No new principal structure shall be erected on any part of a lot created after April 30, 1984, which does not have an area in which a circle, the diameter of which is not less than 80 per cent of the minimum lot frontage, tangent to the lot frontage and within all other lot lines, may be located. This provision shall not apply in the case of a lot that qualifies under Subsection 7.4.1.

7.3 RESIDENTIAL USES IN OTHER DISTRICTS

Uses and buildings permitted in the RO, RS or RT districts shall, when located in a CR, CH, CO, CG or CB district, be regulated by the dimensional controls of an RS district if located within an RS district, and otherwise by the dimensional controls of an RO district. All uses located in CM or CN districts are regulated by the dimensional controls of the district in which they are located.

7.4 EXEMPTIONS FROM DIMENSIONAL REQUIREMENTS

Lesser requirements than those of Table 2 apply to certain lots. These are as follows:

7.4.1 PRE-EXISTING RESIDENTIAL LOTS

In RO, RS and RT districts the following lots, if used for a dwelling or other building permitted in such districts, are exempted from the area, frontage and side yard provisions of Table 2. Any such lot may be enlarged by combining it with an adjoining lot or lots, or fractions thereof, in the same ownership. Such enlarged lot shall not be subject to greater requirements as to area, frontage, front or rear yards by reason of such

enlargement, but the required side yards shall be based on the total frontage of the enlarged lot.

a. AREA AND FRONTAGE EXEMPTIONS

Lots laid out and recorded by plan or deed	Area at least	Frontage at least
Prior to March 17, 1924	Any	Any
On or after March 17, 1924 and prior to March 18, 1929	5,000 ft.	50 ft.
On or after March 18, 1929 and prior to August 8, 1938	7,500 sq. ft.	75 ft.
On or after August 8, 1938 and prior to December 4, 1950	12,500 sq. ft.	100 ft.
On or after December 4, 1950 and prior to December 1, 1953 and located in RO districts	15,500 sq. ft.	125 ft.

b. SIDE YARD EXEMPTIONS

The following shall apply to the above lots:

If actual lot frontage is:	Side yard must be
100 ft. or more	Not less than 15 ft.
More than 75 ft. but less than 100 ft.	Not less than 12 ft.
More than 50 ft. but not more than 75 ft.	Not less than 10 ft.
50 ft. or less	Not less than 7.5 ft.

7.4.2 CLUSTER DEVELOPMENTS

Certain tracts may be subdivided using the provisions of Section 9.1 which permit reduction of certain requirements of Table 2.

7.4.3 PRE-EXISTING NEIGHBORHOOD BUSINESS LOTS

In CN districts any lot which on February 2, 1965, was in ownership separate from that of adjoining land located in the same district shall be deemed to satisfy the requirements of this By-Law for area and frontage in CN districts.

7.4.4 PRE-EXISTING CM DISTRICT LOTS

In CM districts in particular instances the Board of Appeals may permit a principal building to be erected on a lot having less area or frontage, or both, than the minimum requirements specified in Table 2, if at the time of the adoption of said minimum requirements such lot was lawfully laid out and recorded by plan or deed and did not adjoin other land of the same owner available for use in connection with such lot, provided that the Board determines that such permission can be

granted without substantial derogation from the intent and purpose of this By-Law. A lot resulting from a taking by eminent domain after the adoption of said minimum requirements shall deemed for the purposes of this paragraph to have been lawfully laid out and recorded by plan or deed at the time of such adoption, if the larger lot of which it was a part before such taking was so laid out and recorded. In granting such permission, the Board may permit front, side or rear yards of less than the minimum yard requirements specified in Table 2.

7.4.5 FRONTAGE REDUCTION ON CURVES

Where more than one half of the lot frontage is on a circular turn-around or on a curve of less than 100 ft. radius, frontage may be reduced to not less than 60 per centum of the distance otherwise required, provided that the distance between lot boundaries measured in a line parallel to the street line and at a distance therefrom equal to the required front yard shall be not less than the frontage otherwise required and further provided that such distance at front yard depth shall be dimensioned on a plan approved or endorsed by the Planning Board.

7.4.6 HEIGHT LIMITATION EXCEPTIONS

The limitations of height in feet shall not apply to chimneys, ventilators, skylights, tanks, bulkheads, penthouses and other accessory structural features usually carried above roofs, nor to domes, towers or spires of churches or other buildings provided such features are in no way used for living purposes and further provided that no such structural features shall exceed a height of sixty-five feet from the ground except with permission from the Board of Appeals.

7.4.7 FRONTAGE ON TURN-AROUND IN CR AND CH DISTRICTS

In CR and CH districts where a lot abuts on a dead-end turn-around part of a street and abuts also on such street before the turn-around, the 300 feet frontage may be measured in part along the side line of the street before the turn-around and in part along a projection of the course of such side line through and beyond the turn-around, provided however that the lot shall have a frontage of not less than 60 feet on the street, including such turn-around.

7.4.8 LEGAL RIGHT OF WAY ON AN UNDEFINED STREET

If a right of way has been legally used to provide the required frontage for a lot containing a one- or two-family dwelling, that right of way may continue to provide the frontage required by this by-law for that single lot even if that right of way is no longer a street as defined in this by-law. Such a right of way shall not be used to establish frontage for a lot that also has adequate frontage on a legal street.

7.4.9 EXEMPTIONS FOR CERTAIN NON-COMPLYING BUILDINGS

If a building, or a part of a building, does not comply with the dimensional controls of this By-Law or those that were in effect when it was constructed, it shall be considered to comply with this By-Law if the following conditions are met:

1) The non-compliance has existed for at least six consecutive years during which time no enforcement action under the provisions of sections 3.1 and 3.2 of this By-Law has been taken, and

2) The non-compliance was not created or increased by changes in lot lines after the construction of the building, and

3) There is evidence that the building was constructed except for said dimensional non-compliance in accordance with a building permit issued by the Town.

If a building, or a part of a building, does not comply with the dimensional controls of this By-Law or those that were in effect when it was constructed, and conditions 1) and 2) above are met but there is no evidence a building permit was issued or the construction in addition to said dimensional non-compliance is not in accordance with a building permit duly issued, the Board of Appeals may grant a special permit for the continued use of the building under the provisions of section 3.3 of this By-Law provided the Board of Appeals finds that the building is not a substantial detriment to the neighborhood.

7.5 LOTS PARTLY IN LEXINGTON

When a lot in one ownership is situated in part in the Town of Lexington and in part in an adjacent town or city, the provisions of this By-Law shall be applied to that portion of the lot located in the Town of Lexington in the same manner as if the entire lot were situated in Lexington.

7.6 BASEMENT FLOOR ELEVATIONS

The basement floor or slab of any dwelling house or accessory structure thereto shall not be less than 4 feet above the water table; said distance to be determined by methods and procedures approved by the Building Commissioner. Provided, however, this section shall not apply to any dwelling house or accessory in existence or for which a building permit has been issued on or before the effective date of this section, nor shall this section be construed to prevent or restrict any addition, alteration, repair or reconstruction of any dwelling house in existence or for which a building permit has been issued on or before the effective date of this section.

7.7 BROOK AND POND SETBACKS

No structure, other than a bridge or pump house, shall be built within 20 feet of the bank of any pond having an area over 2000 square feet nor within 20 feet of the bank of any of the following brooks:

7.7.1 Kiln Brook, starting between the Minute Man National Park and Wood Street, from ponds in the Pine Meadows Golf Course, and from Town-owned land near Hill St., continuing, and including a tributary N.W. of Route 128, across Hartwell Avenue to the Bedford Town Line.

7.7.2 Simonds Brook from its origin on Town owned land N.E. of Grove Street to Kiln Brook including that portion sometimes known as Farley Brook.

7.7.3 A brook sometimes known as Turning Mill Brook from its origin N.E. of Emerson Road near Route 128 to Simonds Brook.

7.7.4 North Lexington Brook from where it emerges from a culvert near Brigham Road to Kiln Brook.

7.7.5 Clematis Brook, (also known as Beaver Brook) from its origins west of Waltham Street to the Belmont Town Line near Concord Avenue; including tributaries originating near Marrett Road and Bacon Street, near Marrett Road and Tricorn Road, near Blossom Street and Route 2, and near Philip Road.

7.7.6 An unnamed brook from the vicinity of Valleyfield Street to the Waltham City line (from whence it flows to Hardy's Pond).

7.7.7 An unnamed brook from its source near Hayden Avenue to the Waltham City line (from whence it flows toward Cambridge Reservoir).

7.7.8 The North Branch of the Upper Vine Brook from the Lexington Reservoir until it goes underground.

7.7.9 The South Branch of the Upper Vine Brook from its source between the two unconnected parts of Sherburne Road until it goes underground near Vinebrook Road.

7.7.10 Lower Vine Brook, from where it surfaces near Hayes Lane to the Burlington Town Line.

7.7.11 Munroe Brook, from near Woburn Street to the Arlington Reservoir including a tributary originating in a pond on Whipple Hill, a tributary flowing in from Arlington near Patricia Terrace and a tributary north of Maple Street.

7.7.12 Fessenden Brook from the start of its two branches in Munroe Meadows to Munroe Brook.

7.7.13 Sickle Brook from its two sources near Peacock Farm and Pleasant Street to the Arlington Town Line.

7.7.14 An unnamed brook from Cary Avenue until it goes underground near Birch Hill Lane; including its east branch originating near Middle Street.

7.7.15 An unnamed brook entering Lexington from Waltham west of Route 128 to the Cambridge Reservoir.

7.7.16 An unnamed brook from the pond near Shade Street to the Cambridge Reservoir.

7.7.17 An unnamed brook from Concord Avenue near Blossom Street to Waltham Street.

7.7.18 Two branches of Shaker Glen Brook from their sources near Rolfe Road and Peachtree Road to the Woburn City Line.

7.8 CIVIL DEFENSE SHELTERS

The construction of a fallout or blast shelter of a design approved by the local director of Civil Defense or his representative shall not be deemed to be in violation of the yard regulations provided such shelter is completely below the finished grade of the adjoining land prior to and after such construction and is covered by earth to a depth of not less than two feet, except that an entrance or exit way may be substantially flush with the ground and a ventilating pipe and cover may protrude above the ground if they are of no greater size and height than is reasonably required for the purpose.

7.9 INTENSITY OF DEVELOPMENT

7.9.1 DEVELOPABLE SITE AREA

a. The developable site area shall be calculated by subtracting from the lot area, all land which is located in:

   1) a wetland, which shall mean a "vegetated wetland" as defined in Chapter 131, Section 40, M.G.L.

   2) a Wetland Protection zoning district, and

   3) another zoning district in which the principal use of the lot is not also permitted.

b. To assist in the determination of developable site area, where applicable, each application for a special permit, a special permit with site plan review or a building permit shall be accompanied by:

   1) a map of existing site conditions clearly identifying:

   2) and a calculation, expressed in square feet of land area, of:

      all parts of a lot located in a wetland, a Wetland Protection zoning district, and another zoning district in which the principal use of the lot is not permitted. The map and the calculation shall be certified as to accuracy and shall bear the stamp of a Land Surveyor or Professional Engineer registered in the Commonwealth of Massachusetts.

7.9.2 MAXIMUM FLOOR AREA, FLOOR AREA RATIO

The maximum net floor area on a lot shall not exceed the product of the developable site area and the maximum floor area ratio set forth in Table 2, Schedule of Dimensional Controls, for the district in which the lot is located. To simplify the determination of net floor area, 80 percent of the gross floor area may be used.

SECTION 8. SPECIAL ZONES (TOWN MEETING REZONING REQUIRED)

8.1 MULTI-DWELLING DISTRICT - RD

8.1.1 GENERAL OBJECTIVES

The RD District is intended to allow greater flexibility in land use planning for the development of tracts of land in terms of density, preservation of open spaces, utilization of natural features, provision of municipal services and providing a variety of housing types and styles; to ensure that site development plans will be presented to the Town Meeting in connection with a proposal to rezone a tract of land to RD; and to enable the Board of Appeals to require adherence to such site development plans in the granting of a special permit as hereinafter described.

8.1.2 LAND USES, DIMENSIONAL CONTROLS IN THE ABSENCE OF SPECIAL PERMIT

Except where a special permit has been granted by the Board of Appeals pursuant to the procedure hereinafter described, land uses and dimensional controls in RD districts contained within the geographical limits of the RS district shall be the same as those of the RS district, and within the geographical limits of the RO districts shall be the same as those of the RO districts.

8.1.3 COMPLIANCE WITH SCHEDULE OF DIMENSIONAL CONTROLS

Any development permitted in an RD district shall comply with the Schedule of Dimensional Controls for RD districts set out in Table 2 of the By-Law. Interior drives within an RD development shall be designed to such street standards as the Planning Board may require in accordance with its Rules and Regulations governing the subdivision of land.

8.1.4 COMPLIANCE WITH OTHER RULES AND REGULATIONS

Nothing contained herein shall in any way exempt a proposed subdivision in an RD district from compliance with the rules and regulations of the Planning Board, nor shall it in any way affect the right of the Board of Health and of the Planning Board to approve, with or without modifications, or disapprove a subdivision plan in accordance with the provisions of such rules and regulations and of the subdivision control law.

8.1.5 TOWN MEETING PRESENTATION

Every proposal presented to the Town Meeting for rezoning land to an RD zone shall include a site development plan which shall show in a general manner, drawn to scale, the proposed locations, types and floor plans for proposed building and other structures, proposed locations, design and dimensions of streets, drives, parking areas and other paved areas, the proposed grading, drainage system, and location of major utilities in the development, and the open space. The site development plan shall show the proposed dwelling unit density, total floor area and the extent of open space or shall be accompanied by a tabulation of the same. A copy of the site development plan, which shall be deemed to include any literature and commitments, authorized by

the developer which has been presented to Town Meeting shall be filed with the Town Clerk before the vote and shall be part of the site development plan.

8.1.6 This section deleted at the 1984 Town Meeting.

8.1.7 PERMITTED HOUSING TYPES

Permissible housing types include all single and multiple-occupancy housing types used for human occupancy. Any type of ownership may be permitted. The site development plan may also include non-residential uses which will serve primarily the inhabitants of such multi-dwelling development provided such non-residential uses will enhance the character, amenities and convenience of those who will live in the multi-dwelling development.

8.1.8 OPEN SPACE REQUIREMENTS

At least 25 percent of the total area or two acres of such tract, whichever is greater, shall, except as provided below, remain unbuilt upon and set aside for conservation, outdoor recreation or park purposes or buffer areas. Such open land shall be in addition to required front, side and rear yards and may be in one or more parcels of a size and shape appropriate for the intended use and may be conveyed either to and accepted by the Town or its Conservation Commission, to a legal association comprised of the homeowners within such tract, or to a non-profit organization the principal purpose of which is the conservation of open space. Such open land shall be included in the total tract area for the purpose of computing dwelling unit density of the tract. The future ownership of such open land, which may differ from parcel to parcel, shall be specified by the Board of Appeals as a condition of the special permit, but when such open land is conveyed to persons other than the Town of Lexington, the Town shall be granted an easement over such land sufficient to insure its perpetual use as conservation, recreation or park land or buffer area. A maximum of 20 percent of such open land may be devoted to paved areas and structures used for or accessory to active outdoor recreation and consistent with the open spaces uses of such land.

8.1.9 PLANNING BOARD REPORT TO TOWN MEETING

The Planning Board, in its report to the Town Meeting, required by law, shall include its opinion of whether or not the proponent has prepared sufficient data to give reasonable assurance that the development will conform to the site development plan with respect to the location, layout and design of proposed buildings, drives, and streets, to the density, type and design of floor plans and dwelling units, and with respect to the anticipated selling price or rental (as the case may be), if included in the presentation to Town Meeting.

8.1.10 SPECIAL PERMIT APPLICATION REQUIREMENTS

The application to the Board of Appeals for a special permit under this section shall be accompanied by the following plans and supporting materials, copies of which shall also be submitted to the Planning Board.

a. Plan of the tract showing topography, soil culture, existing streets and structures within and contiguous to the tract.

b. Where a subdivision of land is involved, a preliminary subdivision plan, which may be combined with the plan required under the preceding paragraph.

c. Site development plans showing the proposed grading of the tract and the proposed locations, dimensions, materials and types of construction of streets, drives, parking areas, walks, paved areas, utilities, open space, planting, screening, landscaping and other improvements and the locations and outlines of proposed buildings.

d. Preliminary architectural drawings for building plans including typical floor plans, elevations and sections.

e. A tabulation of proposed buildings by type, size (number of rooms, floor area), ground coverage and summary showing the percentages of the tract to be occupied by buildings, parking and other paved vehicular areas, and the amount of open space.

f. An order of conditions issued by the Conservation Commission pursuant to Article XXXIII of the General By-Laws or a determination by the Conservation Commission that Article XXXIII is not applicable or that conditions are not necessary.

8.1.11 PLANNING BOARD REPORT TO BOARD OF APPEALS

The Planning Board shall submit in writing to the Board of Appeals its report and recommendations as to the appropriateness of the proposed development, to include at least the following:

a. A general description of the tract in question and surrounding areas.

b. An evaluation of the probable impact of the proposed development on Town services and facilities.

c. A review of the proposed development, including such aspects as the type or style of buildings, the size of development (number of dwelling units) and density per acre, the arrangement or layout design of buildings and site improvements, the location and capacity of parking, the provisions for open space within the development, grading, landscaping and screening, the provisions for access, egress and traffic within the development and on adjacent streets.

d. An opinion of the Planning Board whether the site, the proposed development layout, the proposed number, type and design of housing will constitute a suitable development compatible with the surrounding area.

e. A statement that the developer's plans comply with the Design Standards of the Planning Board's Rules and Regulations Governing the Subdivision of Land. Wherever such plans do not comply, the Planning Board's report shall state. In granting a special permit, the Board of Appeals may rely upon the Planning Board's statement that the developer's plans comply with such Design Standards.

f. Recommendations for the granting or denial of the special permit, including recommendations for modifications, restrictions or requirements to be imposed as a condition of granting the special permit.

8.1.12 DIFFERENT SITE DEVELOPMENT PLANS

In the event that a developer proposes to develop a tract of land in an RD District according to site development plans which the Planning Board determines are substantially different from the site development plans presented at the time the Town Meeting voted to include such land in the RD District, such different site development plans shall first be presented to and receive the approval of the Town Meeting by a vote of two-thirds of those present and voting, prior to any action thereon by the Board of Appeals.

8.1.13 BOARD OF APPEALS ACTION

The Board of Appeals shall not take any action on an application for a special permit for RD district development until the Planning Board shall have submitted its written recommendations to the Board of Appeals or 35 days have elapsed from the date of submission of the application. Where its decision differs from the recommendations of the Planning Board, the Board of Appeals shall state in its decision the reasons therefor.

8.1.14 SPECIAL PERMIT PROVISIONS

The Board of Appeals may grant a special permit for the development of any tract of land in an RD district, based on a determination that the proposed development will be consistent with the development as approved by the Town Meeting and consistent with the general objectives of the RD District development, and subject to the following standards:

a. The special permit shall incorporate by reference building design and site development plans presented to the Town Meeting. The Board of Appeals may, in its discretion, permit deviations from the site development plans presented to the Town Meeting, provided, however, that the Board shall not permit any increase in the dwelling unit density, nor shall it permit an increase greater than 10% in the total floor area, as presented to the Town Meeting. The Board of Appeals shall not authorize any non-residential use other than shown in the site plan presented to Town Meeting. In no event shall dwelling unit density exceed nine units per acre including any bonus under Section 8.1.14 b.

b. The Board of Appeals may require dwelling unit density to be less than that shown on the site development plans presented to the Town Meeting, if the Board determines that proper land use planning so requires, but in such event, the Board shall file with its decision the basis for its determination, including, among other factors, soil conditions, drainage, traffic or other neighborhood conditions brought to the Board's attention, and the provision of the usable open space. The Board may permit an increase in the number of dwelling units and floor area by as much as 25% over that shown on the site development plan approved by the Town Meeting due solely to the addition of low and moderate income housing, as defined in Section 8.3 of this By-Law if the possibility of such increase is presented at Town Meeting. In such case, the applicant shall provide to the Board sufficient evidence of appropriate financing for such low and moderate income dwelling units.

c. The Board of Appeals may permit the construction and use of facilities such as a community center or recreation center, including but not limited to swimming and tennis facilities, primarily for the use of residents of the tract, if the Board determines that the inclusion of such facilities would be appropriate by reason of such factors as the size of the tract, the number of its residents and its geographical location.

d. In granting a special permit, the Board of Appeals shall impose as a condition thereof that the installation of municipal services and construction of interior drives within the RD development shall comply with the requirements of the Planning Board's Rules and Regulations Governing the Subdivision of Land; and may impose such additional conditions and safeguards as public safety, welfare and convenience may require, either as recommended by the Planning Board or upon its own initiative. Special permits issued hereunder shall lapse if no building permit issues within two years of the date of the special permit, unless the Board of Appeals upon application extends this time.

8.1.15 AMENDMENT AND REVISION OF SPECIAL PERMIT

a. Amendment

The Board of Appeals upon application by the developer and after a public hearing, may amend a special permit previously granted, but only in accordance with the standards hereinbefore set out.

b. Revision

Subsequent to a special permit granted by the Board of Appeals under the provisions of this section and where applicable, the approval of a definitive subdivision plan by the Planning Board, minor revisions may be made from time to time in accordance with applicable laws, by-laws and regulations, but the development under such special permit shall otherwise be in accordance with the submission accompanying the developer's application for a special permit, except as modified by the decision of the Board of Appeals. The developer shall notify in advance the Board of Appeals of any such revision. If the Board

of Appeals determines such revisions not to be minor, it shall order a hearing pursuant to Section 8.1.15a, hereof.

8.1.16 DENIAL OF SPECIAL PERMIT

The Board of Appeals may deny an application for special permit hereunder and base its denial upon:

a. A failure to meet the standards established by Section 8.1 of this By-Law.

b. A finding that the proposed development would not be consistent with the general objectives of RD district development.

c. A finding that the proposed development does not substantially conform to the plans for the development of the tract presented to the Town Meeting in connection with the proposed rezoning of the tract to RD.

8.2 CONTROLLED COMMERCIAL AND INDUSTRIAL DISTRICT - CD

8.2.1 GENERAL OBJECTIVES

The CD district is intended to allow greater flexibility in land use planning for the development of tracts of land for commercial or industrial use, and to enable the SPGA to require adherence to site development and use plans presented to Town Meeting, in the granting of a special permit as provided in this section.

8.2.2 USES IN THE ABSENCE OF A SPECIAL PERMIT

In the absence of a special permit provided for in this section or upon abandonment of all uses permitted by such special permit, the permitted uses and dimensional controls in a CD district shall be those presently in effect in the district for which the land was zoned immediately prior to its inclusion in the CD district.

8.2.3 TOWN MEETING PRESENTATION

A proposal to Town Meeting to include specific land in a CD district shall be accompanied by, and reference explicitly, a preliminary site development and use plan, which shall be filed with the Town Clerk.

This plan shall show in a general manner, but drawn to scale, the proposed locations, types, floor plans and designs for the proposed buildings, accessory structures, drives, parking areas, exterior lighting, landscaping, proposed grading, bodies of water, watercourses, drainage system, and the proposed location of any permanent open space. The plan shall show the minimum setback of buildings and parking areas from all bodies of water, watercourses, and boundaries. The plan shall also show the amount of parking to be provided. The plan shall list all uses which are proposed for the land and buildings.

The plan may also contain such additional specifications as the proponent feels necessary to pursuade Town Meeting that the

development will serve the public interest. If such additional specifications are included, adherence to them shall be required in the same manner as the mandatory specifications.

8.2.4 SPECIAL PERMIT PROVISIONS

Within two years of the approval of a plan for a CD district by Town Meeting, the SPGA may grant a special permit for the development of a tract of land in the CD district subject to the following provisions.

The special permit shall incorporate by reference the building design and site development plans filed with the application for a special permit, and such plans shall conform substantially to the plans approved by Town Meeting. The permit may allow any or all of the uses specified in the plan approved by Town Meeting but no others. The SPGA may in its discretion, permit minor deviation from the plan approved by Town Meeting provided they do not conflict with the intent of the plans, they do not allow building coverage, building floor area, or paved area, to exceed that shown on the approved plan by more than 10%, and provided that all minimum setbacks shown on the approved plan are complied with. The permit shall require that any land designated as permanent open space on the approved plan shall be protected by an easement granted to the Town. The permit shall contain such additional conditions as the SPGA finds will serve the public interest.

8.2.5 SPECIAL PERMIT APPLICATION

The application to the SPGA for a special permit under this section shall be accompanied by a plan showing the parcel involved, its topography including proposed changes, soil culture, proposed location, dimensions, materials and type of construction of drives and parking areas, exterior lighting plans, exterior signs, proposed drainage system, permanent open space, landscaping and other improvements, and the location and outlines of proposed buildings and accessory structures. It shall also contain preliminary architectural drawings for the building plans, including typical floor plans, elevations and sections. It shall also be accompanied by an order of conditions from the Conservation Commission pursuant to Article XXXIII of the General By-Laws or a determination by the Conservation Commission that Article XXXIII is not applicable or that conditions are not necessary. Copies of the aforesaid plans shall be submitted to the Planning Board, Conservation Commission, Board of Health and Town Engineer.

8.2.6 PLANNING BOARD REPORT AND RECOMMENDATIONS TO SPGA

The Planning Board shall submit in writing to the SPGA its report and recommendations as to the appropriateness of the proposed development, to include at least the following:

a. A general description of the tract in question and surrounding areas.

b. An evaluation of the probable impact of the proposed development on Town services and facilities.

c. A review of the proposed development, including such aspects as the type or style of buildings, the size of development and density per acre, the arrangement or layout design of buildings and site improvements, the location and capacity of parking, the provisions for open space within the development, grading, landscaping and screening, the provisions for access, egress and traffic within the development and on adjacent streets.

d. An opinion of the Planning Board whether the site, the proposed development layout, the proposed development will constitute a suitable development compatible with the surrounding area.

e. Recommendations for the granting or denial of the special permit, including recommendations for modifications, restrictions or requirements to be imposed as a condition for granting the special permit.

8.2.7 SPGA ACTION

The SPGA shall not take any action on an application for a special permit for a CD district development until the Planning Board, Conservation Commission, Board of Health and Town Engineer have submitted written recommendations to the SPGA or 35 days have passed. Where its decision differs from the recommendations of the above Boards or individuals, the SPGA shall state in its decision the reasons therefor. The SPGA may deny an application for a special permit under this section if it finds the proposed development does not substantially conform to the plans presented to Town Meeting or if it fails to make a finding and determination that the proposed development will constitute a suitable development and will not result in significant detriment to the neighborhood.

8.2.8 AMENDMENT OF THE SPECIAL PERMIT

At any time subsequent to the issuance of a permit under this section, the SPGA may issue a new or amended special permit in accordance with the procedures required for the original permit.

8.2.9 CHANGES IN USES OR SITE DEVELOPMENT PLAN

Changes in uses or substantial changes in the site development plan approved by Town Meeting may be made only after approval by Town Meeting of a new preliminary site development and use plan according to the procedures used for a zoning amendment, followed by the issuance of a special permit based on the new approved plan.

8.3 SUBSIDIZED HOUSING DISTRICT - RH

The provisions of this section shall be applicable to RH districts only and shall be in addition to other provisions of this By-Law applying to RH and other districts.

8.3.1 DEFINITIONS, CONTROLS, OBJECTIVES

a. Definition of Subsidized Housing

The term "subsidized housing" shall mean housing for people of low or moderate income which is constructed, rehabilitated, remodeled and sold, leased or rented by the Town of Lexington, the Lexington Housing Authority or by any other public agency, non-profit or limited dividend corporation or cooperative, the construction, remodeling, financing, sale, lease or rental of which housing is regulated and financially assisted by agencies of the government of the United States or of the Commonwealth of Massachusetts under programs the purpose of which is to provide housing for people of low or moderate income. The terms "low income", "moderate income", and "limited dividend corporation" shall have the meanings defined in the programs or laws administered by such agencies.

b. Land Uses and Dimensional Control in the Absence of Special Permits.

Except in the case of a special permit granted by the Board of Appeals pursuant to the procedure hereinafter described, land uses and dimensional controls in RH districts contained within the geographical limits of the RS district shall be the same as those of the RS district, and within the geographical limits of the RO districts shall be the same as those of the RO districts.

c. General Objectives

The Lexington Subsidized housing program is intended to result in the construction of sufficient dwelling units for people of low and moderate income to increase the number of dwelling units of subsidized housing in the Town to a total of approximately 950 units. The special permit procedure hereinafter established is intended to accomplish this objective while ensuring compliance with local planning standards and policies concerned with land use, building design and requirements of health, safety and welfare of residents of the Town of Lexington.

8.3.2 SPECIAL PERMIT PROVISIONS

The Board of Appeals may grant a special permit for the development of any tract of land in an RH district in which not less than 40% of the dwelling units to be constructed in such development come within the definition of subsidized housing contained herein.

a. Where the proposed construction of subsidized housing is dependent upon obtaining approval and/or a commitment of financial assistance under relevant federal or state housing subsidy programs, it shall be a condition of any special permit issued hereunder that no building permit shall issue for any portion of the proposed development until the applicant has filed with the Board of Appeals evidence that such approval and/or commitment has been obtained.

b. Any special permit granted hereunder shall designate the dwelling units to be used for subsidized housing and shall impose

appropriate safeguards to ensure the continued use of such designated units or equivalent units for subsidized housing.

c. A special permit granted hereunder may allow the construction of single family detached houses, two-family houses, two-family semi-detached houses, townhouse type dwelling units separated by party walls meeting state or federal safety requirements, garden apartments not exceeding in height three stories used for human occupancy, duplex-over-duplex type dwelling units not exceeding in height four stories used for human occupancy, or any combination of such housing types or other housing types not exceeding in height three stories used for human occupancy. Ownership of such housing may be in any form permitted by law, including condominiums.

d. The Board of Appeals shall have discretion to permit dwelling unit density in RH districts of up to, but not exceeding, 18 dwelling units per acre. However, in each instance in which the Board of Appeals permits such density to exceed 12 dwelling units per acre, the Board shall file with its decision the basis for its determination that such density would be appropriate and, in reaching such determination, shall consider, among other factors, soil conditions, drainage, traffic or other neighborhood conditions brought to the Board's attention, the provision of usable open space in excess of the minimum required per dwelling unit and the provision of off-street parking under or within buildings which contain dwelling units.

e. Front yards shall not be reduced to less than twenty feet. The minimum distance between detached buildings, including the distance to buildings permissible on adjacent properties, shall be 30 feet or the height of the taller building, whichever is greater.

f. For up to 24 dwelling units there shall be provided at least one direct access of adequate width, for 24 or more dwelling units there shall be provided at least two direct accesses each of adequate width.

g. This section deleted at the 1984 Town Meeting.

h. Not less than 1,000 square feet of permanent usable open space per dwelling unit available for outdoor activities shall be provided. Required front yards, paved vehicular areas and wetlands shall not be considered usable open space.

i. Any special permit granted hereunder shall incorporate by reference the building design, site development and financing plans submitted by the developer with the application. Development of the tract in question under such special permit shall be

in conformance with such designs and plans, unless, after hearing, the Board of Appeals amends such special permit.

In granting a special permit, the Board of Appeals may impose such additional conditions and safeguards as public safety, welfare and convenience may require, either as recommended by the Planning Board or upon its own initiative. Special permits issued hereunder shall lapse if no building permit issues within two years of the date of the special permit, unless the Board of Appeals upon application extends this time.

8.3.3 SPECIAL PERMIT APPLICATION REQUIREMENTS

The application to the Board of Appeals for a special permit for subsidized housing under this section shall be accompanied by the following plans and supporting materials, copies of which shall also be submitted to the Planning Board.

a. Plan of the tract showing topography, soil culture, existing streets and structures within and adjacent to the tract.

b. Where a subdivision of land is involved, a preliminary subdivision plan, which may be combined with the plan required under the preceding paragraph.

c. Site development plans showing the proposed grading of the tract and the proposed locations, dimensions, materials and types of construction of streets, drives, parking areas, walks, paved areas, utilities, usable open space, planting, screening, landscaping and other improvements and the locations and outlines of proposed buildings.

d. Preliminary architectural drawings for building plans including typical floor plans, elevations and sections, identifying construction and exterior finishes.

e. Financing plan describing the federal or state subsidy program, the subsidizing agency, the estimated costs of land, site development, building, operation and maintenance and the planned approximate schedule of rents, leases or sale process.

f. A tabulation of proposed buildings by type, size (number of bedrooms, floor area), ground coverage and a summary showing the percentages of the tract to be occupied by buildings, parking and other paved vehicular areas, and the usable open space.

g. Descriptive material providing information about the owner and developer, the developer's experience in building and eligibility as public, non-profit or limited dividend housing sponsor, evidence of preliminary approval under the subsidy program, the names of architect, engineer and landscape architect, if any, and other pertinent information.

8.3.4 PLANNING BOARD REPORT AND RECOMMENDATIONS

The Planning Board shall submit in writing to the Board of Appeals its report and recommendations as to the appropriateness

of the proposed development for subsidized housing, to include at least the following:

a. A general description of the tract in question and surrounding areas.

b. An evaluation of the probable impact of the proposed development on Town services and facilities.

c. The availability of permanent public open space in the immediate vicinity.

d. The proximity of the proposed development to public transportation, school, recreation facilities, neighborhood shopping and service facilities.

e. Whether the site is sufficiently separated from other subsidized housing and housing of equivalent rental value to achieve a desirable mix of income levels.

f. A determination from known or estimated land and site preparation costs whether or not such costs might render the proposed subsidized development uneconomic.

g. A review of the proposed development, including such aspects as the type or style of buildings, the size of development (number of dwelling units) and density per acre, the arrangement or layout design of buildings and site improvements, the location and capacity of parking, the provisions for open space within the development, grading, landscaping and screening, the provisions for access, egress, and traffic within the development and on adjacent streets.

h. Whether or not, in the opinion of the Planning Board, the site, the proposed development layout, the proposed number, type and design of housing will constitute a suitable development compatible with the surrounding area.

i. Recommendations for the granting or denial of the special permit, including recommendations for modifications, restrictions or requirements to be imposed as a condition of granting the special permit.

8.3.5 BOARD OF APPEALS ACTION

The Board of Appeals shall not take any action on an application for a special permit for RH district development until the Planning Board shall have submitted its written recommendations to the Board of Appeals or 35 days have elapsed from the date of submission of the application. Where its decision differs from the recommendations of the Planning Board, the Board of Appeals shall state in its decision the reasons therefor.

8.3.6 DENIAL OF SPECIAL PERMIT

The Board of Appeals may deny an application for special permit hereunder and base its denial upon:

a. A failure to meet the standards established by sections 8.3.2, 8.3.3, or 8.3.4 hereof.

b. A finding that the proposed development would not be consistent with the general objectives of RH district development.

c. A finding that the proposed development is not likely to result in a permanent increase in the number of dwelling units of subsidized housing in the Town.

8.3.7 COMPLIANCE WITH OTHER RULES AND REGULATIONS

Nothing contained herein shall in any way exempt a proposed subdivision in an RH district from compliance with the rules and regulations of the Planning Board, nor shall it in any way affect the right of the Board of Health and of the Planning Board to approve, with or without modifications, or disapprove a subdivision plan in accordance with the provisions of such rules and regulations and of the subdivision control law.

8.3.8 REVISIONS

Subsequent to a special permit granted by the Board of Appeals under the provisions of this section and where applicable, the approval of a definitive subdivision plan by the Planning Board, minor revisions may be made from time to time in accordance with applicable laws, by-laws, and regulations, but the development under such special permit shall otherwise be in accordance with the submission accompanying the developer's application for a special permit, except as modified by the decision of the Board of Appeals.

8.3.9 SEVERABILITY

No section or subsection of the special permit procedure established herein shall be deemed severable from other sections or subsections of the special permit procedure for the construction of subsidized housing. In the event that any section or subsection of such procedure shall later be invalidated, whether by judicial decree or otherwise, all other provisions contained herein relating to the issuance of special permits for subsidized housing shall become inoperative, except that special permits previously issued by the Board of Appeals hereunder shall remain valid.

SECTION 9. SPECIAL REGULATIONS

9.1 CLUSTER DEVELOPMENT

The Board of Appeals may grant a special permit for any tract of land of ten (10) acres or more to be subdivided as a cluster development, subject to the requirements and conditions described below.

9.1.1 GENERAL OBJECTIVES

The general objectives of cluster developments are to encourage:

a. Preservation of open space for conservation, outdoor recreation or park purposes

b. Better utilization of natural features of the land through a greater flexibility of design

c. More efficient provision of municipal services.

9.1.2 NUMBER OF BUILDING LOTS PERMITTED

The number of building lots in any tract of land for which a special permit is issued shall not exceed such number of lots usable for building under the laws of the Commonwealth and the By-Laws of the Town, and conforming to the area and frontage requirements specified for RO district in Table 2 hereof as could be contained in 85 percent of the area of the tract to be subdivided.

9.1.3 UNSUBDIVIDED LAND

At least 25 percent of the total area of such tract shall remain unsubdivided, and, except as provided below, unbuilt upon, and shall be used for conservation, outdoor recreation or park purposes.

a. Such unsubdivided land may be in one or more parcels of a size and shape appropriate for its intended use as determined by the Board of Appeals after consideration of the recommendations of the Planning Board.

b. Such unsubdivided land shall be conveyed to and accepted by the Town of Lexington, to all homeowners within such tract jointly, or to a trust, the beneficiaries of which shall be the homeowners within such tract, which shall have as one of its purposes the maintenance of such land for conservation, recreation or park purposes, or to a non-profit organization, the principal purpose of which is the conservation of open space. The future ownership of such unsubdivided land, which may differ from parcel to parcel, shall be specified by the Board of Appeals as a condition of the special permit.

c. When such unsubdivided land is conveyed to persons other than the Town of Lexington, the Town shall be granted an easement over such land sufficient to ensure its perpetual use and maintenance as conservation, recreation or park land.

d. Access at least 40 feet wide shall be provided to each parcel of such unsubdivided land from one or more streets in the subdivision. Such access shall be identified in a manner as specified by the Board of Appeals in the conditions of the special permit.

e. A maximum of 20 percent of such open land (if the special permit so provides) may be devoted to paved areas and structures used for or accessory to active outdoor recreation, and consistent with the open space uses of such land. The Board of Appeals shall impose such conditions and requirements with respect to such open land to ensure that at the completion of the development such land will be in a condition appropriate to its intended use.

9.1.4 REDUCED FRONTAGE AND AREA

The following minimum standards shall be observed with respect to any reduction of street frontage or lot area permitted in a cluster development:

a. Street frontage for each lot may be reduced to not less than 120 feet, lot area may be reduced to not less than 20,000 square feet.

b. The street frontage may be further reduced on curves in accordance with the provisions of Paragraph 7.4.5 of this By-Law.

9.1.5 SPECIAL PERMIT APPLICATION

The application for a special permit for a cluster development shall be accompanied by a preliminary subdivision plan and an order of conditions issued by the Conservation Commission pursuant to Article XXXIII of the General By-Laws of the Town of Lexington, or a determination by the Conservation Commission that Article XXXIII is not applicable or that conditions are not necessary; a copy of which shall also be submitted to the Planning Board. In addition to the information required by Rules and Regulations of the Planning Board to be shown on preliminary subdivision plans, such plan for a cluster development shall show the following:

a. Soil culture of the land, such as wooded, pasture, rock outcrops or swampy.

b. Proposed landscaping and use of land which is to be reserved for conservation, recreation or park use, including any proposed structures thereon.

9.1.6 PLANNING BOARD RECOMMENDATIONS

The Planning Board shall submit in writing to the Board of Appeals its report and recommendations as to said application for special permit, to include at least the following:

a. Its determination as to the number of lots usable for building.

b. A general description of the tract in question and surrounding areas.

c. An evaluation of the appropriateness of the proposed development and the extent to which it accomplishes the objectives of the cluster development.

d. Recommendations for the granting or denial of the special permit, including recommendations for modifications, restrictions or requirements to be imposed as a condition of granting the special permit.

9.1.7 BOARD OF APPEALS ACTION

The Board of Appeals shall not take any action on a petition for a permit for a cluster development until the Planning Board shall have submitted its written recommendations to the Board of Appeals or 35 days shall have elapsed from the date of submission of the preliminary subdivision plan and application for a special permit. In determining whether to grant a special permit for a proposed cluster development which meets the minimum standards stated herein, the Board of Appeals shall consider:

a. The report and recommendations of the Planning Board.

b. The general objectives of cluster developments.

c. The existing and probable future development of surrounding areas.

d. The appropriateness of the proposed development in relation to topography, soils and other characteristics of the tract in question.

e. The Board of Appeals shall cause to be made and filed a detailed record of its proceedings indicating the vote of each member and setting forth clearly the reasons for its decision which shall at least include its findings with respect to those matters enumerated in Sections 3.3 and 9.1.6 a, b, c, d of this by-law. Where its decision differs from the recommendations of the Planning Board, the Board of Appeals shall state in its decision the reasons therefor.

9.1.8 COMPLIANCE WITH OTHER RULES AND REGULATIONS

Nothing contained herein shall in any way exempt a proposed subdivision from compliance with other applicable provisions of these By-Laws or the Subdivision Rules and Regulations of the Planning Board, nor shall it in any way affect the right of the Board of Health and of the Planning Board to approve, with or without conditions and modifications, or disapprove a subdivision plan in accordance with the provisions of such Rules and Regulations and of this Subdivision Control Law.

9.1.9 ADDITIONAL CONDITIONS FOR SPECIAL PERMIT

The Planning Board shall not recommend and the Board of Appeals shall not grant a special permit for the subdivision of land into lots having the reduced area and frontage, as provided

for in this subsection, if it appears that because of soil drainage, traffic or other conditions the granting of such permit would be detrimental to the neighborhood or to the Town or will be unlikely to further the purposes of cluster development, or if the uses, shape, size or location of the unsubdivided land are incompatible with the purposes of this section. In granting a special permit, the Board of Appeals shall impose such additional conditions and safeguards as public safety, welfare and convenience may require, either as recommended by the Planning Board or upon its own initiative.

9.1.10 REVISION OF SIDE AND REAR LOT LINES

Subsequent to a special permit granted by the Board of Appeals under the provisions of this Section 9.1, and the approval of a definitive plan of a subdivision by the Planning Board, the location of side and rear lines of lots in such subdivisions may be revised from time to time in accordance with applicable laws, by-laws and regulations.

9.1.11 OTHER REVISIONS REQUIRE NEW SPECIAL PERMIT

Any change in the number of lots, the lines of streets, the reserved open space, its ownership or use, or any other conditions stated in the original special permit shall require a new special permit issued in accordance with the provisions of this By-Law.

9.2 CONGREGATE LIVING FACILITY

9.2.1 GENERAL OBJECTIVES

The purpose of this section is intended to encourage the establishment of congregate living facilities as a viable housing alternative for the elderly who are capable of self-preservation but through frailty need limited supervision or care.

9.2.2 GENERAL DESCRIPTION

A congregate living facility shall provide a single bedroom for each resident or couple, a communal eating area and a resident manager. Each facility shall be limited to a maximum of twelve (12) residents.

9.2.3 This section deleted at the 1984 Town Meeting.

9.2.4 AUTOMATIC FIRE WARNING SYSTEM

Smoke detectors must be installed.

9.2.5 APPLICATION FOR A SPECIAL PERMIT

Subject to the provisions of Sections 3.3 and 3.4 the SPGA may grant a special permit for a congregate living facility subject to the following conditions and requirements:

a. In the case of new construction, the application must include a site development plan showing the proposed grading,

paved areas, utilities, open space, planting, screening, landscaping and other improvements, and the locations and outlines of all proposed buildings. In the case of a change in use of an existing building, the application must include a site development plan showing all modifications to the existing building and its site. The application must also include an order of conditions from the Conservation Commission under Article XXXIII of the General By-Laws of the Town of Lexington, or a determination by the Conservation Commission that Article XXXIII is not applicable or that conditions are not necessary.

b. A description of the parking indicating its location relative to the building and indicating the location of both resident and employee parking.

c. A description of the proposed management of the facility.

d. A description of the services to be provided to the residents and how such services are to be supplied.

e. A description of all common or shared areas.

9.2.6 SPGA ACTION

The SPGA shall forthwith deliver copies of the application for a special permit under this section to the Fire Department and Building Commissioner, and to those Boards, Commissions, and Departments specified in Section 3.3.1 of the By-Law. In addition to the requirements of Section 3.4.2 of this By-Law, the SPGA shall not make its finding and determination until the Building Commissioner, Fire Department and the other Town Boards, Commissions and Departments submit their reports thereon or until 35 days shall have elapsed since the transmittal of said copies of the application and site plan.

9.3 SPECIAL PERMIT FOR CONVERTED MUNICIPAL BUILDINGS AND PUBLIC SCHOOL BUILDINGS

9.3.1 GENERAL OBJECTIVES

This section is intended to allow the conversion of municipal buildings and the development of land on which they are situated in a manner which encourages practical residential development, which is compatible with the neighborhood, and which encourages development of economically priced and a variety of housing, and which fosters flexibility and creativity of development.

9.3.2 PERMITTED TYPES OF HOUSING

Permissible housing types and forms of ownership include all single and multiple occupancy housing types, and any mix thereof, and any form of ownership permissible under law.

9.3.3 PUBLIC HEARING BY THE PLANNING BOARD

The Planning Board shall hold a public hearing on the development proposal prior to the first deliberative session of

Town Meeting. The procedure for such public hearing shall be the same as the procedure for proposed amendments to the Zoning By-Law.

9.3.4 PLANNING BOARD REPORT TO TOWN MEETING

The Planning Board shall report to the Town Meeting concerning the suitability of the proposal, its contribution to the furtherance of the objectives of this section, and its likely impact on the neighborhood, town services and facilities.

9.3.5 PLANS SUBMITTED TO TOWN MEETING

The development proposal for such conversion shall show in a general manner with plans drawn to scale, the floor plan, exterior design, housing types and estimated sales prices or rentals as the case may be, landscaping, accessory buildings, parking areas and other paved areas, dwelling unit density and total floor area. The development plan shall be presented to the Town Meeting for its approval, by a majority of those present and voting. A copy of the site development plan, which shall be deemed to include any literature and commitments, authorized by the developer which has been presented to Town Meeting shall be filed with the Town Clerk before the vote and shall be part of the site development plan.

9.3.6 SPGA

The Board of Selectmen shall be the Special Permit Granting Authority.

9.3.7 SPGA PUBLIC HEARING

After approval by the Town Meeting, the Special Permit Granting Authority may grant a special permit which shall incorporate by reference the development proposal approved by the Town Meeting. Plan submitted for a special permit shall conform substantially to the development plan which the Town Meeting has approved. The Board of Selectmen may, in its discretion, permit minor deviation from the development plan which the Town Meeting has approved.

9.3.8 SPECIAL PERMIT WITH SITE PLAN REVIEW

The Special Permit Granting Authority and the Planning Board shall, in acting upon applications for special permits, be governed by the provisions of Section 3.4 of this By-Law where not inconsistent with the provisions of Section 9.3.

9.4 SITE PLAN REVIEW AND SPECIAL PERMITS FOR CONVENTIONAL SUBDIVISIONS

9.4.1 PLANNING BOARD IS SPGA, APPLICABLE SUBDIVISIONS

The Planning Board shall be the SPGA for purposes of this Section. Except for subdivisions governed by Sections 8.1, 8.3 and 9.1 of this By-Law, no person shall commence development of any subdivision in a residential district without first obtaining a special permit from the Planning Board under the provisions of this Section 9.4.

9.4.2 GENERAL OBJECTIVES

The general objectives of this section are to insure insofar as is practicable the achievement of the objectives of Section 2A of Chapter 808 of the Acts of 1975.

9.4.3 SPECIAL PERMIT

Special permits issued under this section shall contain reasonable orders, conditions and requirements concerning the placement of buildings, major topographic changes, provisions for surface and ground water drainage, protection against flooding and inundation, prevention of water pollution and environmental damage, erosion control, protection of large trees, location of driveways, streets and intersections of driveways and streets as are necessary, desirable and practical to further the purposes and objectives of the Zoning By-Laws and the Zoning Acts and to avoid substantial detriment to the neighborhood in which the development is to occur.

9.4.4 APPLICATION FOR SPECIAL PERMIT

Applications for a special permit shall contain a site plan and an order under provisions of Chapter XXXIII of the General By-Laws, or a determination by the Conservation Commission that Article XXXIII is not applicable or that an order of conditions is not necessary. Such application and site plan shall include detailed data covering the elements subject to the imposition of conditions, orders and requirements pursuant to Section 9.4.3 and shall include information as to proposed landscaping, including a description of types, size and location of proposed trees and shrubs in such development. The Planning Board may require further information with respect to such elements.

Such application shall be filed either before or simultaneously with the filing of a definitive subdivision plan, as defined in the Subdivision Control Law of the Commonwealth of Massachusetts, and shall be accompanied by a reasonable filing fee.

9.4.5 PUBLIC HEARING

Insofar as practicable, the public hearing on the application shall be held at the same meeting at which the Planning Board holds the public hearing on the definitive subdivision plan under the Subdivision Control Law. The Planning Board shall take action on said application not more than two weeks after it has taken action on the definitive subdivision plan. Such action shall consist of a finding and determination that the proposed development be subject to such conditions or requirements as the Board reasonably may determine are necessary and desirable to ensure that, so far as is practicable, the proposed development will not result in substantial detriment to the neighborhood, and will further the purposes and objectives of the Zoning By-Law and the Zoning Acts.

9.4.6 EXTENSION OF TIME FOR PLANNING BOARD ACTION

The period within which final action shall be taken may be extended to a time certain by mutual agreement of the Planning

Board and the applicant. In the event that the Planning Board determines that the site plan and data presented to it at the public hearing are inadequate to permit the Board to make a finding and determination, it may, in its discretion, either deny the application without prejudice or adjourn the hearing to a later date to permit the applicant to provide additional data or revisions of the site plan or both, provided, however, that such adjournment shall not extend the period within which final action under this Section must be taken by the Board, unless such period is extended to a day certain by mutual assent of the Board and the applicant.

9.4.7 RECORD OF PLANNING BOARD ACTION

The Planning Board shall cause to be made and filed a detailed record of its proceedings indicating the vote of each member and setting forth clearly the reasons for its action or inaction on each application.

9.4.8 FAILURE OF PLANNING BOARD TO TAKE FINAL ACTION

In the event that the Planning Board shall fail to take final action on an application within the period herein before limited after the filing with the Board of an application for a finding and determination, or within such extended period as shall have been mutually agreed upon as herein provided, then upon the expiration of the period within which action must be taken or an extension thereof, said Board shall be deemed to have granted the application and issued the permit requested.

9.5 WETLAND PROTECTION DISTRICT

9.5.1 PURPOSES OF DISTRICT

The purposes of the Wetland Protection District are to preserve and maintain the ground water table; to protect the public health and safety by protecting persons and property against the hazards of flood water inundation; and to protect the community against the costs which may be incurred when unsuitable development occurs in swamps, marshes, along water courses, or in areas subject to floods.

9.5.2 DISTRICT SUPERIMPOSED OVER OTHER DISTRICTS

A Wetland Protection District shall not supersede other zoning districts established by this by-law for land within the District but shall be deemed to be superimposed over such zoning districts.

9.5.3 PERMITTED USES

Within a Wetland Protection District no land shall be used except for one or more of the following uses; any woodland, grassland, wetland, agricultural, horticultural, or recreational use of land or water, provided such use does not require filling of the land.

9.5.4 SPECIAL PERMITS FOR STRUCTURES ACCESSORY TO PERMITTED USES

The Board of Appeals may issue a special permit for buildings and structures accessory to any of the uses permitted in Section 9.5.3, or for filling and excavation of the land for

such uses, if the Board finds that such building, structure or filling or excavation is in harmony with the general purpose and intent of Section 9.5. A copy of every application for such a special permit shall be given by the applicant at the time of submission of the application to the Board of Selectmen, to the Board of Health, to the Planning Board, and to the Conservation Commission as well as all other parties required.

9.5.5 SPECIAL PERMITS FOR USES IN HARMONY WITH GENERAL PURPOSES OF THE DISTRICT

The Board of Appeals may issue a special permit for any use of land which would otherwise be permitted if such land were not, by operation of this section, in the Wetland Protection District if the Board finds (1) that such land within the District is in fact not subject to flooding or is not unsuitable because of drainage conditions for such use, and (2) that the use of such land for any such use will not interfere with the general purposes for which Wetland Protection Districts have been established, and (3) that such use will not be detrimental to the public health, safety, or welfare. A copy of every application for a special permit under this section shall be given by the applicant at the time of submission of the application to the Planning Board, the Board of Health, the Conservation Commission, and the Board of Selectmen. The Board of Appeals shall not hold a public hearing on the application earlier than 35 days after submission of the application. The above-named Boards shall submit reports or recommendations on the application to the Board of Appeals at or before the public hearing on the application, but failure to make such reports or recommendations shall not prevent action by the Board of Appeals.

9.5.6 USES PROHIBITED WITHIN WETLAND DISTRICT

Except as provided in Sections 9.5.4 or 9.5.5 there shall be in the Wetland Protection District:

No landfill or dumping or excavation of any kind.
No drainage work other than by an authorized public agency.
No damming or relocation of any watercourse except as part of an overall drainage plan.
No building or structure.
No permanent storage of materials or equipment.

9.5.7 PRE-EXISTING USES

No land, building, or structure in a Wetland Protection District shall be used for sustained human occupancy except buildings or structures existing on the effective date of this section, or land, buildings or structures which comply with the provisions of this by-law. Where no filling of such land takes place, any addition, alteration, repair or reconstruction of such building or structure or the construction of any structure accessory thereto shall be exempt from the provisions of Sections 9.5.4 and 9.5.5.

9.5.8 NO EFFECT ON DIMENSIONAL REQUIREMENTS

Notwithstanding any other provision of Section 9.4, if any part of a lot is within the Wetland Protection District, that

part of the lot may be used to meet the area and dimensional requirements specified in Table 2 for lots in the underlying district.

9.6 NATIONAL FLOOD INSURANCE DISTRICT

9.6.1 PURPOSE OF DISTRICT

The purpose of this district is to insure proper flood plain management consistent with criteria established by the National Flood Insurance Program.

9.6.2 SUPERIMPOSED OVER OTHER DISTRICTS

The National Flood Insurance District shall not supercede other zoning districts but shall be deemed to be superimposed over these other zoning districts.

9.6.3 AREAS INCLUDED

This district shall include all special flood hazard areas designated either as Zone A or Zone A-1 through A-30 on the Flood Insurance Rate Map (F.I.R.M.).

9.6.4 BOARD OF APPEALS REQUIREMENTS

The Board of Appeals shall be the Special Permit Granting Authority for this section. Special Permits for construction or substantial improvements may be granted subject to the following requirements.

a. CONSTRUCTION ABOVE FLOOD LEVEL

Within those areas designated as Zones A-1 through A-30, all new residential construction or substantial improvements (the cost of which equals or exceeds fifty percent of the market value of the structure) shall have the lowest floor, including basement, elevated to or above the base flood level (the 100-year flood elevation) designated on the F.I.R.M. Nonresidential structures must be elevated to or above the base flood level or must be floodproofed and watertight to the base flood level. All other development must meet at least the minimum standards as set forth in the National Flood Insurance Program rules and regulations effective April 1, 1978, or as duly amended from time to time thereafter.

b. DEFINITION OF FLOOD LEVEL FOR ZONE A

Within those areas designated as Zone A, where the base flood level is not identified on the F.I.R.M., the applicant for a special permit shall provide the SPGA with data defining the base flood level. This data will be used to comply with the requirements of Section 9.6.4a.

c. LIMIT CONSTRUCTION IN FLOODWAY

Within those areas designated as a floodway, the SPGA shall grant no special permit for the following encroachments unless a registered professional engineer or architect certifies that such encroachments will not result in any increase in the flood level during the occurrence of the 100 year flood discharge:

Landfill or dumping of any kind
Construction or substantial improvements
Permanent storage of materials or equipment

Construction permitted within a floodway must comply with the requirement of Section 9.6.4a.

d. WATERTIGHT FLOODPROOFING

Where watertight floodproofing of a structure is permitted, a registered professional engineer or architect shall certify that the methods used are adequate to withstand the flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the 100 year flood.

9.7 RESERVED

9.8 Deleted at 1984 Town Meeting

SECTION 10. SIGN REGULATIONS

10.1 ADMINISTRATION

10.1.1 APPLICABILITY

All outdoor signs, and window signs are subject to the regulations of this by-law unless specifically excluded in Section 10.2.1

10.1.2 APPLICATION

All persons desiring to erect a sign shall apply to the Building Commissioner for a building permit, except that persons desiring to erect a sign in accordance with Sections 10.2.2, 10.2.4 or 10.4.2 need not apply for a permit.

All applications for permits shall include, at least, a drawing to scale showing the following:

a. The proposed sign.
b. All existing signs maintained on the premises.
c. A plot plan and a sketch of the building facade indicating the location of the proposed and any existing signs.
d. Specifications for construction, lighting, and wiring in accordance with the State Building Code.

10.1.3 BUILDING COMMISSIONER ACTION

The Building Commissioner shall issue a building permit provided the proposed sign complies with this by-law, the State Building Code, requirements of the Historic Districts Commission (where applicable) and any other applicable laws, by-laws or regulations.

10.1.4 SPECIAL PERMITS

In particular instances the SPGA may issue Special Permits for more or larger signs than are provided herein or for signs of types or for purposes not provided herein and not specifically prohibited herein, including temporary signs, if it is determined that the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest. In granting such permission, the SPGA shall specify the size and location of the sign or signs and impose such other terms and restrictions as it may deem to be in the public interest. Any applicant under this provision shall provide the information required in Section 10.1.2 above and specific information in the form of perspectives, renderings, photographs or other representations sufficient to show the nature of the proposed sign, its effect on the immediate surroundings and the reasons for allowing it.

10.2 GENERAL REGULATIONS

The provisions of Section 10.2 shall apply to signs in all zoning districts. Additional specific regulations for residential and business districts are set forth in Sections 10.3 and 10.4 respectively.

10.2.1 PERMITTED GOVERNMENT OR SPECIAL SIGNS

Any sign owned and installed by a governmental agency, or required by any law, governmental order or regulation is not subject to this by-law. Signs mounted on registered motor vehicles or carried by hand are not subject to this by-law.

10.2.2 RESIDENCES

Two signs, up to one square foot in area each, are permitted per residential building indicating the name and address of the occupants therein.

10.2.3 RELIGIOUS INSTITUTIONS

Two signs identifying churches, synagogues, and other similar religious uses are permitted on each street frontage, one of which may not exceed 20 square feet in area and the other of which may not exceed 10 square feet in area. One sign may be a standing sign used for notices and announcements of events at the religious institution.

10.2.4 REAL ESTATE SIGNS

One real estate sign, not over six (6) square feet in area advertising the sale or rental of the premises on which it is located is permitted. Real estate signs not more than 20 square feet in area and not more than 10 feet in any dimension may be erected on subdivisions of land as defined in General Laws, Chapter 41, Section 81-L, solely to advertise the selling of land or buildings in said subdivision, but not more than one such sign shall face the same street.

10.2.5 ILLUMINATION

No sign shall be illuminated between the hours of 12:00 midnight and 6:00 a.m., except signs on premises open for business, and then only upon issuance of a special permit by the SPGA. Exterior illumination of signs shall be shielded, directed solely at the sign, and be steady and stationary. No internal illumination of a sign is permitted except upon issuance of a special permit by the SPGA. The illumination of any sign shall not exceed 150 foot lamberts.

10.2.6 SIGNS CANNOT INTERFERE WITH TRAFFIC

No sign, including window displays, or their illuminators shall by reason of its location, shape, size or color interfere with traffic or be confused with or obstruct the view or the effectiveness of any official traffic sign, traffic signal or traffic marking. No red or green lights shall be used on any sign if, in the opinion of the Building Commissioner with the advice of the Chief of Police, such lights would create a driving hazard.

10.2.7 CONSTRUCTION

No sign shall be painted or posted directly on the exterior surface of any wall. All exterior, attached signs, except awning signs, shall be painted, posted or otherwise securely affixed to a substantial intermediary removable surface and such surface shall be securely affixed to the wall of the building. The foregoing, however, shall not prevent installation

of a sign by individual letters or devices cut into or securely affixed to the exterior wall of a building, provided that such letters or devices have a minimum depth of projection of one fourth (1/4) of an inch. The construction of the sign shall comply with the State Building Code.

10.2.8 MAINTENANCE

Every sign shall be maintained in good condition. If a sign shows corrosion or deteriorated paint over 25% of the area of one side or if damage to the sign causes the loss of 10% of its substance or if the sign suffers damage or deterioration which creates a risk of harm to the person or property of another, it shall be repaired or removed.

10.2.9 PROHIBITED SIGNS

The following types of signs are prohibited.

a. Signs which incorporate in any manner flashing, moving or intermittent lighting, excluding public service signs showing time and temperature.

b. Wind signs, including banners, pennants, spinners, streamers, and other wind actuated components.

c. String lights used in connection with commercial premises with the exception of temporary lighting for holiday decoration.

d. Signs erected so as to obstruct any door, openable window or fire escape on a building.

e. Billboards or non-accessory signs.

10.3 RESIDENTIAL DISTRICTS

10.3.1. MULTI-FAMILY DWELLING DEVELOPMENTS

A sign not exceeding 12 square feet in area is permitted identifying developments in an RM, RD or RH district.

10.4 BUSINESS DISTRICTS

Accessory signs on business establishments in business districts that comply with the following provisions are permitted.

10.4.1 WALL SIGNS

a. One principal wall sign is permitted on the front of the establishment to which it relates. The width of such a sign above the first floor of a building shall not exceed three feet.

b. A secondary wall sign may be installed marking a direct entrance on a parking lot or another street in addition to the front wall sign. There shall be not more than two such secondary wall signs. Said sign

shall have a width no greater than 50% of the maximum permissible width for the principal wall sign.

c. No wall sign shall be more than three feet in overall height.

d. In buildings where the first story is substantially above grade and the basement is only partially below street grade, one sign for each level is allowed if each sign has only one half of the area that would be permitted for a single sign.

e. In addition to the above signs each building may have one directory sign affixed to the exterior wall, window or door of the building. Such directory sign shall provide not more than one square foot for each occupant of the building.

f. Wall signs shall either be affixed to a wall and parallel to it or affixed to the roof above a wall and be parallel to the wall. They shall not project more than twelve (12) inches from the face of such wall.

g. No wall sign shall project above the highest line of the main roof or parapet on the wall to which it is attached, whichever is higher.

10.4.2 WINDOW SIGNS

Removable signs on the inside of windows or transparent doors are permitted.

10.4.3 PROJECTING SIGNS

In particular instances the SPGA may issue Special Permits for projecting signs in accordance with Section 10.1.4, if it is determined that the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest. No establishment shall be permitted more than one projecting sign.

10.4.4 STANDING SIGNS

The following standing signs are permitted:

a. Standing signs permitted under Sections 10.2.2, 10.2.3, and 10.2.4.

b. During the construction of a building a standing sign may be erected on the premises identifying the building, the owner, the contractors, the architects and the engineers. Such a sign shall not exceed 20 square feet in area or 10 feet in any direction. Such sign shall be removed promptly after the completion of the building.

c. In particular instances the SPGA may issue Special Permits for standing signs in accordance with Section 10.1.4, if it is determined that the architecture of the building, the location of the building with reference to the street or the nature of the establishment is such that the sign should be permitted in the public interest. No establishment shall be permitted more than one standing sign other than signs directing traffic flow.

10.4.5 SIGNS AT GASOLINE FILLING STATIONS AND GARAGES

Gasoline filling stations and garages may divide the one wall sign affixed to the front wall of the building to which they are entitled as hereinabove provided, into separate wall signs indicating the separate operations or departments of the business, provided however, that the total of the widths of the separate signs shall not exceed the maximum width permitted under this by-law for a single wall sign on such wall. In addition, one sign indicating the brand of gasoline being sold may be erected of such type, in such location, and in such manner as the SPGA may allow by special permit. The standard type of gasoline pump bearing thereon in usual size and form, the name or type of gasoline and the price thereof shall not be deemed to be a sign within the meaning of this by-law.

10.5 NONCONFORMANCE OF SIGNS

Signs legally existing on the effective date of this section may continue to be maintained, provided however, that no such sign shall be enlarged.

SECTION 11. OFF-STREET PARKING AND LOADING

11.1 OBJECTIVES, APPLICABILITY

11.1.1 Any use of land involving the arrival, departure, or storage of motor vehicles, and all structures and uses requiring the delivery or shipment of goods as part of their function, shall be designed and operated to:

a. promote traffic safety by assuring adequate places for storing of motor vehicles off the street, and for their orderly access and egress to and from the public street;

b. increase the traffic-carrying capacity of streets and highways in the town and obtain a more efficient utilization of on-street curbside parking;

c. reduce hazards to pedestrians upon public sidewalks;

d. protect adjoining lots and the general public from nuisances and hazards such as: 1) noise, glare of headlights, dust and fumes, resulting from the operation of motor vehicles, 2) glare and heat from parking lots, 3) a lack of visual relief from expanses of paving, 4) accelerated run-off of surface water from land covered by impervious materials.

11.1.2 No building permit or certificate of occupancy shall be issued for the erection of a new building, the enlargement of an existing building, the development of a use not located in a building, or the change from one type of use to another (see 11.3.1 or 11.3.3), unless off-street parking spaces or loading bays are provided in accordance with this section.

11.1.3 EXISTING PARKING SPACES, LOADING BAYS, NON-CONFORMITY
Any off-street parking spaces or loading bays in existence on the effective date of this by-law or thereafter established, which serve a building or use, may not be reduced in number, or changed in location or design contrary to the requirements of this section so as to increase the degree of nonconformity with the requirements of this section. If the use of an existing structure or lot, which does not have sufficient parking or loading, is changed to a different type of use for which a greater number of parking spaces or loading bays is required as set forth in sub-section 11.3, the net increase in the number of parking spaces or loading bays shall be provided, which number shall not include any existing parking spaces or loading bays.

Parking spaces or loading bays in existence on the effective date of this By-Law, which exceed the number required by sub-section 11.3 to serve existing uses, and comply with the design standards of sub-section 11.7.2 (dimensions), 11.7.4, 11.7.7 (surfacing) and 11.7.8, may be counted toward the number needed for a new building, the enlargement of an existing building or the change from one type of use to another even though they do not conform

to the requirements of sub-sections 11.6.2 (setbacks), 11.6.7c (access for a parking lot), 11.7.6b (snow storage) and 11.7.9 (landscaping), provided they comply to the extent practicable.

11.1.4 BUILDING DESTROYED, DAMAGED OR DEMOLISHED
If a building, for which sufficient off-street parking or loading is not provided, is destroyed, damaged or demolished by the owner, the building may be reconstructed or replaced, without providing additional parking spaces or loading bays provided the new use is the same type of use (see 11.3.1 or 11.3.3) as the use before the destruction, damage, or demolition, or is a type of use that requires the same or fewer parking spaces or loading bays. If parking spaces or loading bays were provided before the destruction, damage or demolition, the same number of spaces or bays shall be provided.

If the new use is a different type of use, for which a greater number of parking spaces or loading bays is required, or if more net floor area is to be constructed than previously existed, full compliance with this section for the entire building shall be a condition of the issuance of any building permit for the reconstruction or replacement of the building.

11.2 PARKING, LOADING PLAN REQUIRED

11.2.1 Each application for a special permit with site plan review or, where needed, for a building permit, special permit or certificate of occupancy, shall be accompanied by an off-street parking and loading plan showing:

a. the number, location, elevation and dimensions of all driveways, maneuvering spaces or aisles, parking spaces, and loading bays,

b. the location, size and type of materials for surface paving, drainage facilities, curbing or wheel stops, trees, screening and lighting,

c. the location of all buildings, lot lines and zoning boundary lines from which the parking lot or loading area must be set back,

d. a summary schedule showing the amount of floor space, or other parking or loading factor to be met, the number of standard, compact and handicapped parking spaces and the number of loading bays.

Such plan shall be a drawing at a scale of 1" = 20' or 1" = 40' or at such other scale as the building commissioner may approve. Where necessary, the building commissioner may require that the owner or operator of a use, building, or establishment furnish a statement as to the number of employees working at the lot or establishment, or the number of motor vehicle trips (by type of motor vehicle) that are made to and from the use, building or establishment.

11.3 NUMBER OF PARKING SPACES, LOADING BAYS

11.3.1 The number of parking spaces indicated for the corresponding types of uses shall be provided in all zoning districts, except as otherwise indicated.

The symbols under the column parking factor shall mean:
s.f.: square feet of net floor area.

TYPE OF USE	PARKING FACTOR (Minimum Number of Parking Spaces to be Provided)
1) Residential Uses:	
a. Dwelling unit in one family detached structure	2/dwelling unit
b. Dwelling unit in: two family, attached one family, multi-family structure	1.5/dwelling unit for units with 2 or fewer bedrooms, 2/dwelling unit for units with more than 2 bedrooms
c. Accessory apartment, rooming unit	1/apartment or unit
d. Publicly assisted housing for the elderly	0.5/dwelling unit
e. Congregate living facility	1 for each 2 bedrooms plus 1/employee
f. Nursing home, sanitarium	1 for each 4 beds plus 1/employee
2) Institutional, Educational & Recreational Uses	
a. Elementary, secondary schools	2/classroom
b. College, technical school	As needed
c. Dormitory	0.5 per bed
d. Church, temple, auditorium, club, lodge, community center	1 per each 10 seats in the largest assembly area
e. Gymnasium, stadium, field house	1 per each 6 seats
f. Public library, art gallery, museum and other non-recreational public facilities	1 per each 600 s.f. of floor area open to the public
g. Parks, athletic fields, tennis and pool facilities, golf courses, recreation centers, related uses	As needed
h. Hospital	1 per employee plus 1 per bed
i. Medical office, out-patient clinic	1 per 200 s.f., in CB 1/250 s.f.
3) Agricultural Uses	
a. Greenhouses, nursery, roadside stand	1 per 1,000 s.f. of display area whether indoors or outdoors
4) Office Uses	1/250 s.f.
5) Retail Business	
a. Retail uses and consumer service establishments (See Table 1, Section 6.0 except as otherwise classified.)	1/250 s.f., in CB 1/325 s.f., on street level floors 1/500 s.f., in CB 1/600, in a cellar 1/300 s.f., in CB 1/400, on all other floors

6) Other Commercial Uses	
a. Funeral parlor	1 per 4 seats in the largest assembly area
b. Barber shop, hairdresser	1.5 per chair; in CB 0.5 per chair
c. Automotive service garage	2 per bay
7) Eating Establishments	
a. Restaurant	1 per employee plus 1 per 4 seats; in CB 1 per 2 employees plus 1 per 6 seats
b. Take-out food service	1 per employee plus 1 per 5 linear feet of counter space; in CB 1 per 2 employees plus 1 per 7 linear feet of counter space
8) Amusements, Recreation	
a. Theater, other public assembly	1 per 6 seats
b. Commercial amusements	1 per employee plus 1 per alley, machine; in CB 1 per employee plus 1 per 2 alleys, machines
9) Transient Accommodations	
a. Hotel, motel	1 per guest room
b. Convention center	1 per 4 seats in the largest assembly area
10) Manufacturing, Research, Industrial Uses	1 per 500 s.f.
11) Warehouse, Wholesale Uses	1 per 1,000 s.f.
12) All Other Permitted Uses	As needed, usually 1 per employee

11.3.2 RULES FOR INTERPRETATION OF SECTIONS 11.3.1 and 11.3.3

a. Where the number of spaces is expressed as a ratio to dwelling units, floor area, beds, employees, etc., any fraction thereof shall require one parking space but after the first such parking space or loading bay, only a fraction of one half or greater shall require an additional space or bay.

b. Where the requirement is stated "as needed," the applicant for a permit shall estimate the number of parking spaces or loading bays required to serve the use and shall provide such number; the building commissioner shall verify that the number is adequate and shall, if necessary, order that additional spaces or bays be provided.

c. To simplify the determination of net floor area, 80 per cent of the gross floor area may be used.

d. Where off-street parking or loading serves two or more activities that are different types of uses, including two or more activities that are part of the same principal use, the number of spaces or bays provided shall be the sum of the requirements for the various individual uses computed separately. Parking spaces or loading

bays for one activity or use shall not be considered to be providing the required parking or loading bays for any other use, except as provided in Paragraph 11.8.e.

e. Where the requirement is based on the number of employees, the number of spaces shall be based on the number of employees in the peak period, which shall be at least 3 hours per day for at least 3 days per week.

f. Where fixed seats are not used in a place of assembly, each 40 square feet of floor area in the largest assembly area shall equal one seat.

g. Where uses are of the open air type and are not enclosed in a structure, each square foot of lot devoted to such use shall be considered to be equivalent to one fifth of a square foot of net floor area.

11.3.3 The number of off-street loading bays indicated for the corresponding types of uses shall be provided in all zoning districts except as otherwise indicated.

The symbols under the column loading factor shall mean:

s.f.: square feet of net floor area

TYPE OF USE	LOADING FACTOR Minimum number of loading bays to be provided:
1) Residential Uses a. Nursing home, sanitarium	1 per 100 beds
2) Institutional Uses School, college, church, club, library, gallery	1 per first 25,000 s.f., 1 per each additional 75,000 s.f.
3) Office Uses	0 for first 10,000 s.f. 1 for next additional 50,000 s.f. 1 for each additional 100,000 thereafter
4) Retail Business	1 per first 5,000 s.f. 1 per each additional 15,000 s.f.
5) Restaurants	1 per first 99 seats, 1 per all additional seats
6) Manufacturing, research, industrial uses	1 per first 10,000 s.f., 1 per each additional 40,000 s.f.
7) All other permitted uses	As needed

11.3.4 Required off-street parking spaces or loading bays which, after development, are later dedicated to and accepted by the Town and are maintained by the Town for off-street parking or loading purposes, shall be deemed to continue to serve the uses or structures for which they were originally provided.

11.3.5 PARKING SPACES FOR HANDICAPPED PERSONS
Specially designated parking spaces for the physically handicapped shall be provided, as follows:

Total Number of Spaces	Spaces for Handicapped
10-25	1 space
26-40	5% of the total spaces but not less than 2
41-100	4% of the total spaces but not less than 3
101-200	3% of the total spaces but not less than 4
301-500	2% of the total spaces but not less than 6
501-1,000	1.5% of the total spaces but not less than 10
1,000-2,000	0.75% of the total spaces but not less than 20

Spaces for the handicapped shall be clearly identified by a sign indicating those spaces are reserved for physically handicapped persons. Such spaces shall be located in that portion of the parking lot nearest to the entrances to the use or structure which the parking lot serves.

11.4 PARKING, LOADING TERMINOLOGY

The following terms relative to off-street parking and loading are defined in Section 2, Definitions: Driveway, maneuvering aisle, motor vehicle trip, parking lot, unit parking depth.

11.5 LOCATION OF OFF-STREET PARKING, LOADING BAYS

11.5.1 Required off-street parking spaces and loading bays shall be provided on the same lot as the principal or accessory use they are required to serve, except that some parking spaces may be provided on a separate lot as provided in section 11.8.

11.5.2 No area may be utilized and counted as both a required parking space and a required loading bay. However, maneuvering aisles and driveways may serve both required parking and loading bays if they meet the design standards of each. Existing areas used for both parking and loading shall be counted for loading purposes.

11.5.3 Required off-street parking spaces or loading bays may be wholly or partly enclosed in a structure.

11.5.4 Off-street parking spaces required for two or more buildings, uses, or establishments may be provided in a common lot where it is evident that such facilities will continue to be available for the several buildings, uses, or establishments, and if the Board of Appeals shall grant a special permit therefor in accordance with Section 11.8.

11.6 MINIMUM YARDS FOR PARKING LOTS; SCREENING; DRIVEWAYS

11.6.1 PARKING FOR ONE-FAMILY, TWO-FAMILY DWELLING: On any lot in any district where parking is provided for a one-family or two-family dwelling, and where there are not more than four outdoor parking spaces serving such dwelling, each parking space shall be set back five feet from any side lot line or rear lot

line, and shall not be located in that portion of the front yard which lies between the principal building and the street line except in a designated driveway.

11.6.2 On any lot in any district, for all uses other than a one-family or two family dwelling, all paved parts of all parking spaces, and maneuvering aisles, shall be set back from any wall of a principal building, and from any lot line or zoning boundary line as indicated in the following table, and the set-back shall be maintained as a landscaped open area except for: 1) not more than two driveways between the street line and its corresponding set-back line, or 2) a parking space located within a structure otherwise permitted in such area.

Distance in feet parking space and maneuvering aisle must be set back from:

District	Residential district line	Street line	All other lot lines	Wall of a principal building
RS, RO, RT	N.R.	25	8	5
RD, RM	N.R.	25	8	5
CR, CO, CH, CM	50*	50	10	5
CG, CB, CN	20*	10	N.R.	5

* No requirement where the residential district line is coterminous with the line of the right-of-way now or formerly of the Boston and Maine Railroad or the right-of-way of State Route 2 or State Route 128.

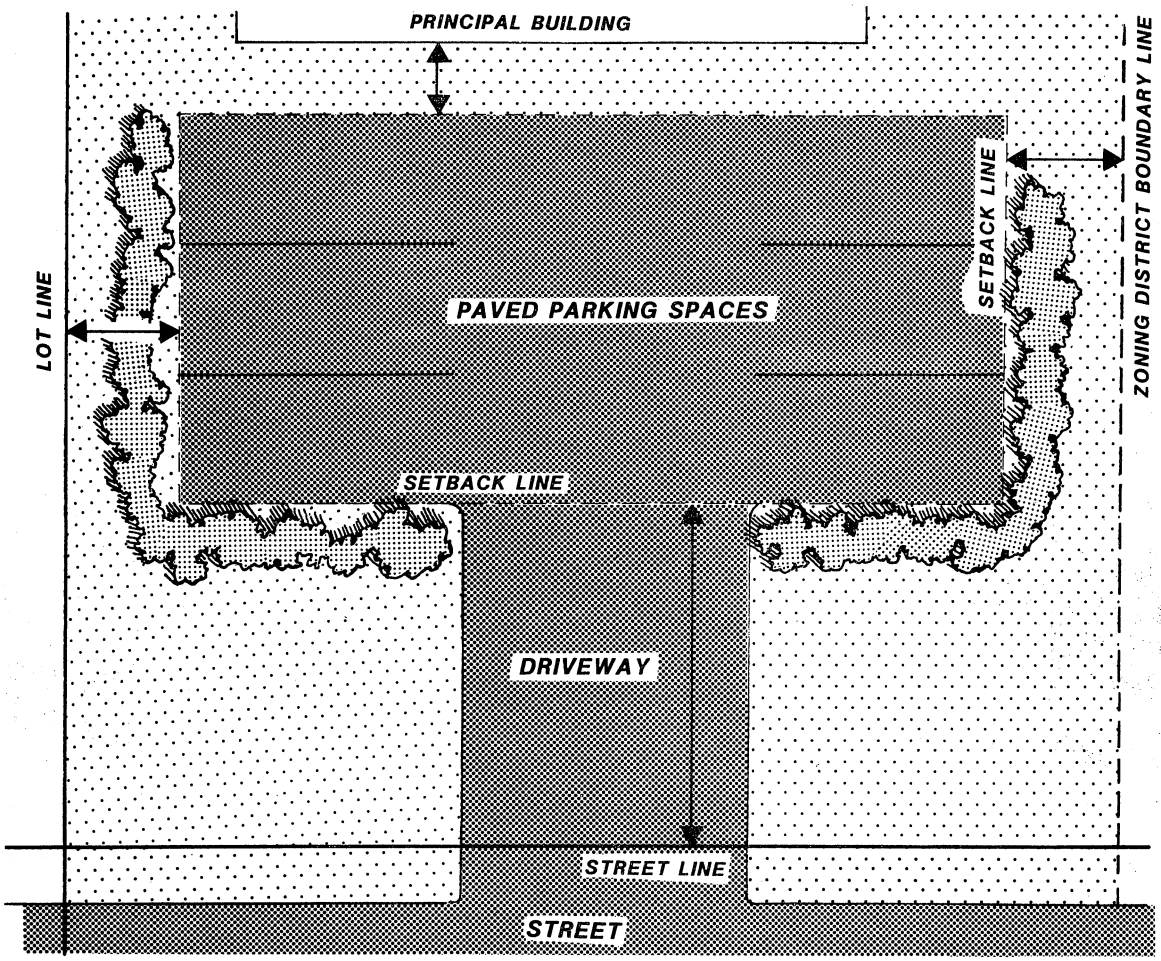
NOTE: Screening (section 11.6.6) is required adjacent to the paved area but not in the required snow storage area and not between a paved area and a building.

11.6.3 No loading bay may be located in that half of the minimum required setback nearest to the street line or lot line of a minimum yard required by Table 2, Schedule of Dimensional Controls; maneuvering space for such bay may be as close to a street line or lot line as may be permitted by paragraph 11.6.2 or by the preceding clause.

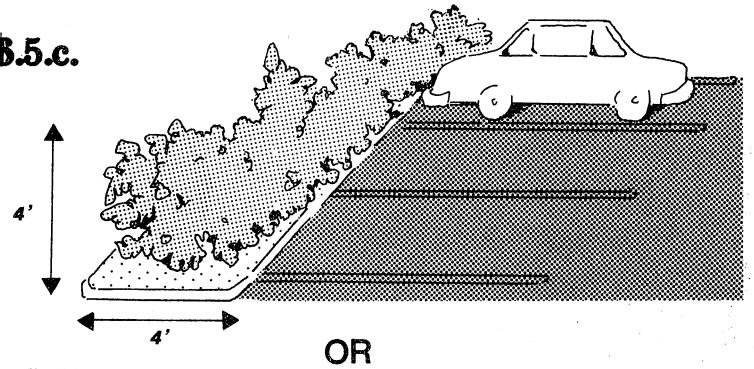
11.6.4 No parking space or loading bay, whether required or otherwise provided, shall be located, wholly or partly, within the right-of-way of a public street.

11.6.5 All parking lots, loading bays, and drive-in or motor vehicle uses shall be so arranged and designed that the only means of access and egress to and from such lots shall be by driveways meeting the requirements of this section; curbs, wheel stops, screening or similar barriers shall be installed along the setback line for parking and loading, as required by paragraph 11.6.2, to prevent vehicles from being parked or driven within required setback areas or into landscaped open space areas.

DISTANCES 11.6



SCREENING 11.6.5.c.



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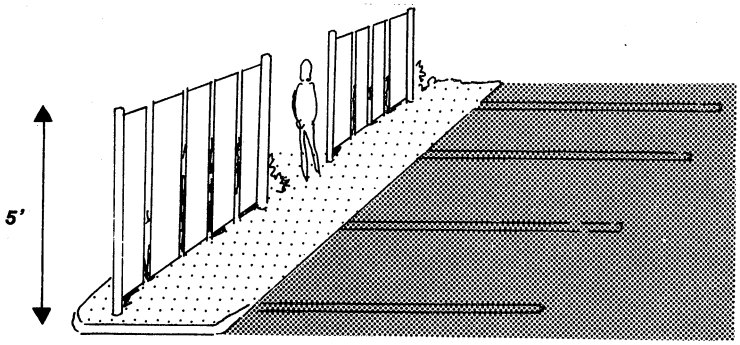
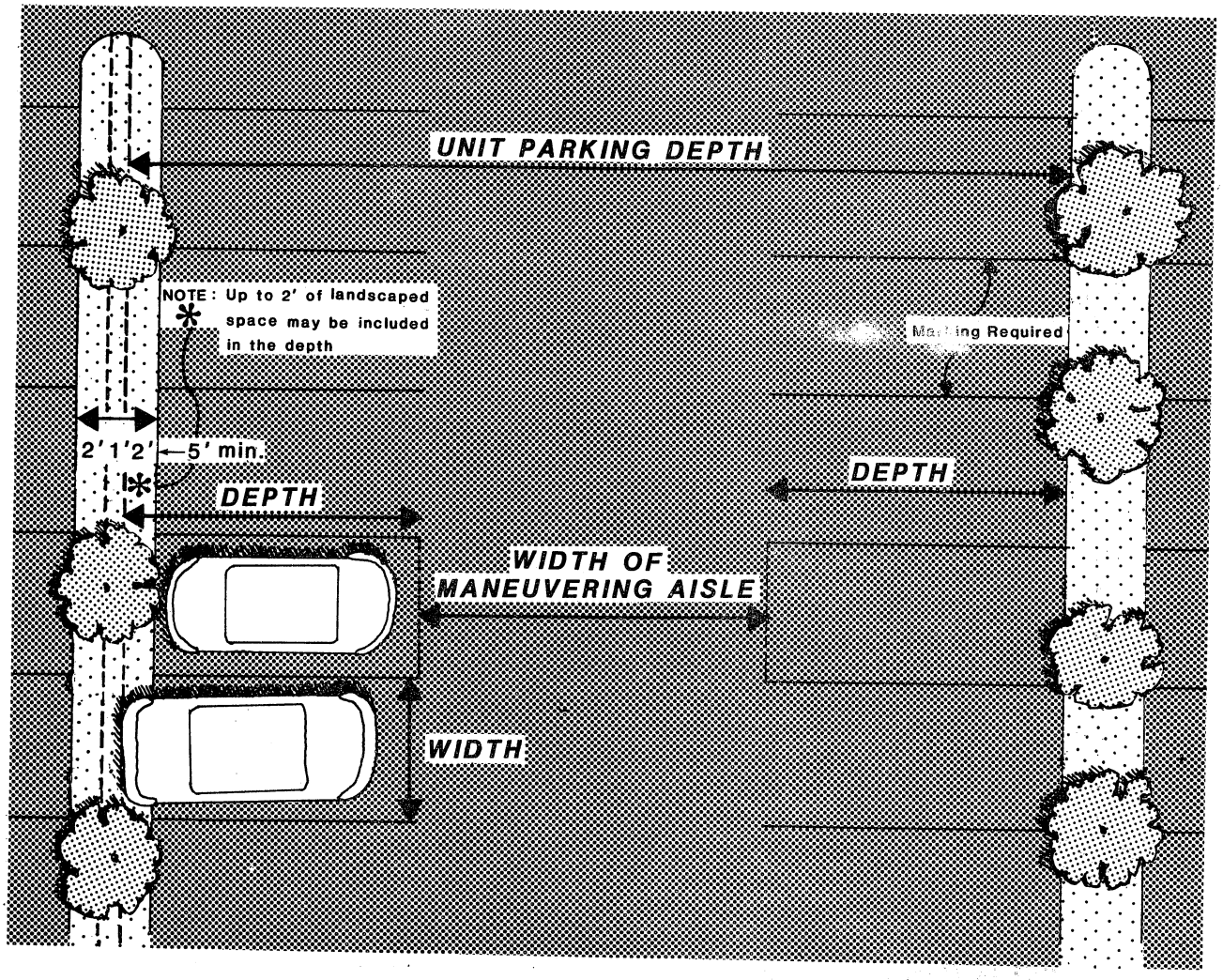
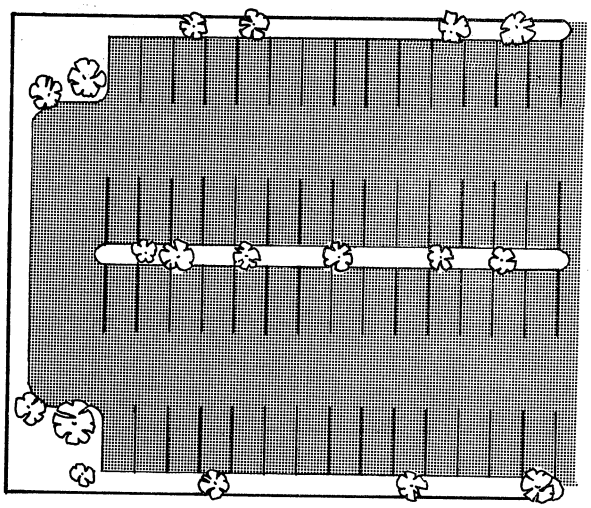


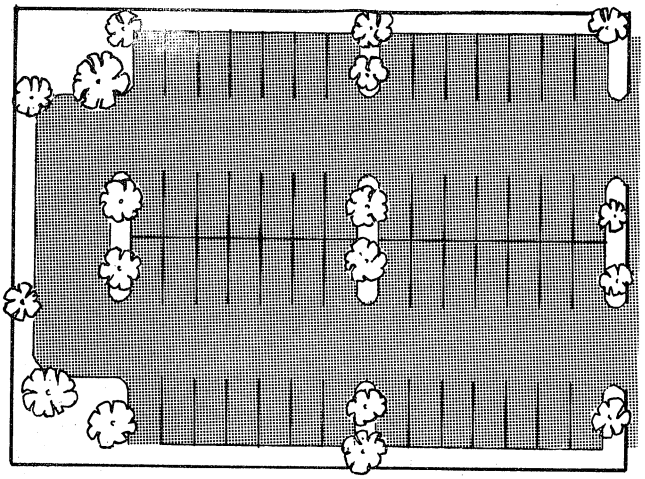
These drawings are for illustrative purposes only. They are not legally-adopted parts of the Zoning By-Law as voted by the Town Meeting.

DIMENSIONS 11.7



INTERIOR LOT LANDSCAPING: TWO ALTERNATIVES 11.7.9.





These drawings are for illustrative purposes only. They are not legally-adopted parts of the Zoning By-Law as voted by the Town Meeting.

11.6.6 TRANSITION AND SCREENING

a. In all residential districts, or on a lot in any other district which abuts or faces a lot in a residential district, any outdoor parking lot containing five or more parking spaces and all loading bays shall be screened in accordance with sub-paragraph c, in a manner to protect abutting lots from the glare of headlights, noise and other nuisance factors.

b. Any parking lot which is: 1) a principal use or 2) within any residential district, shall have setbacks computed in accordance with paragraph 11.6.2 and shall be screened around the entire perimeter of the parking lot. The entrance to driveways, to the extent practicable, shall be located on the side near non-residential districts or on streets or highways leading to non-residential areas.

c. Where screening is required, it shall consist of:

(1) A strip of land at least four feet wide, densely planted with shrubs or trees which are at least four feet high at the time of planting and which are of a type that may be expected to form a year-round dense screen at least six feet high within three years, or

(2) A wall, barrier, or fence of uniform appearance at least five feet high, above finished grade. Such wall, barrier, or fence may be opaque or perforated, provided that not more than 50 per cent of the face is open.

Such screening shall be maintained in good condition at all times. Such screening or barrier may be interrupted by entrances or exits, and shall have no signs attached thereto other than those permitted in the district.

d. All artificial lighting used to illuminate specifically any parking space, loading bay, maneuvering space or driveway shall be so arranged that all direct rays from such lighting fall entirely within the parking or loading area and shall be shielded so as not to shine upon abutting properties or streets. The level of illumination of lighting for parking and loading areas shall be low so as to reduce the glow of ambient lighting perceptible at nearby properties or streets.

11.6.7 DRIVEWAYS

a. In all districts the number of driveways permitting entrance to and exit from a lot shall be limited to two per street line. Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.

be located in the landscaped open area or in the area of required setback from a lot line or building.

c. Each required off-street parking space and loading bay shall be designed so that any motor vehicle may proceed to and from said space without requiring the moving of any other vehicle or by passing over any other space or bay.

d. Parking spaces for vehicles larger than automobiles, such as large trucks or buses, shall be specifically identified on the off-street parking and loading plan and shall be of such dimension as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the spaces so identified and approved.

11.7.7 SURFACING, DRAINAGE

All required parking spaces and loading bays, maneuvering aisles, and driveways shall have a durable, dustless, all-weather surface suitable for year-round use, such as asphalt or concrete, and shall dispose of surface water by grading and drainage in such a manner that no surface water shall drain onto any public way or onto any lot in other ownership.

It is the intent of this section that the paved surface of a parking lot or loading area shall be limited to such areas as are necessary for the parking spaces, loading bays, maneuvering aisles, and driveways required to meet the provisions of this section. The off-street parking and loading plan required by this Section shall demonstrate that all paved areas associated with a parking lot are necessary for the storing, standing, or maneuvering of vehicles; the building commissioner may deny the request for a permit when more area is paved than is necessary to comply with the provisions of this section.

11.7.8 GRADE

The maximum grade of any required maneuvering aisle, parking space, or loading bay shall be ten per cent. The maximum grade of any outdoor driveway shall be twelve per cent.

11.7.9 LANDSCAPING

a. On at least three sides of the perimeter of an outdoor parking lot containing 20 or more parking spaces, there shall be planted at least one tree for every eight parking spaces abutting the perimeter; such trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.

b. In the interior part of an outdoor parking lot where two rows of parking spaces containing a total of 10 or more parking spaces face each other, a landscaped open space not less than 5 feet in width shall be provided. The landscaped strip may be provided either: 1) between the rows of parking spaces parallel to the aisle or, 2) in two or more strips parallel to the spaces and extending

from the aisle serving one row of spaces to the aisle serving the other row of spaces. There shall be planted in each such strip at least three trees and in all such strips not less than one tree for every eight parking spaces in the interior part of the parking lot. Trees shall be spaced so that some part of a parking space is not more than 30 feet from a tree.

c. Trees required by this section shall be at least 2 inches diameter at a height four feet above the ground at time of planting and shall be of a species characterized by suitability and hardiness for location in a parking lot. To the extent practicable, existing trees shall be retained and used to satisfy this section.

11.8 EXCEPTIONS, SPECIAL PERMITS

In accordance with Section 3.3, and where consistent with the objectives set forth in 11.1.1, the Board of Appeals may grant a special permit modifying the requirements of this Section in the following cases:

a. Where it can be demonstrated that a use or establishment needs a lesser number of parking spaces or loading bays than is required by subsection 11.3, the number of such spaces or bays required may be reduced by not more than 50 per cent. An applicant shall submit documentary evidence that the parking or loading experience of the use justifies a lesser number of spaces or bays. A reserve area, to be maintained as landscaped open space, shall be provided sufficient to accommodate at least one half of the difference between the spaces or bays required and the lesser number provided. The off-street parking and loading plan shall show how the reserve area would be laid out in compliance with this section. The term of a special permit for such reduction initially may not exceed two years, but may be granted subsequently for a longer period upon verification that the parking or loading is adequate. A special permit granted under this authority shall lapse upon change to a different type of use and shall not be considered to constitute any non-conformity.

b. Where the design of a parking lot or loading area differs from the design provisions of sub-section 11.6 or 11.7 provided such design complies with the intent of 11.6 or 11.7, is prepared by a professional engineer or landscape architect and provided such design is approved in writing by the Town Engineer.

c. To allow a driveway on one lot in a commercial district to lead to parking spaces or loading bays on another lot, or to allow a driveway to straddle the lot line and serve spaces or bays on two or more lots, both in a commercial district, provided a binding agreement, satis-

factory in form to the Town Counsel, is executed and is filed in the Registry of Deeds of Middlesex County.

d. In any commercial or industrial district, allowing required parking spaces to be located on a separate lot, which may be in separate ownership, within a zoning district in which the principal use is permitted provided: (1) all such parking spaces are within 750 feet walking distance of an entrance to the building which they serve, (2) all such spaces are for employees only and not clientele, and (3) where such lot is not in the same ownership, a lease guaranteeing long term use of such lot, and satisfactory in form to the Town Counsel is executed and filed in the Registry of Deeds of Middlesex County. In a CB district all such parking spaces may be within 1,200 feet walking distance of the entrance of the such building if located on a lot within the CB district.

e. Where two or more activities or uses provide for required parking or loading in a common parking lot or loading area, the number of parking spaces or loading bays required may be reduced below the sum of the spaces or bays required for the separate activities or uses or if it can be demonstrated that the hours, or days, of peak parking or loading need for the uses are so different that a lower total will provide adequately for all uses or activities served by the parking lot or loading bay.

11.9 PARKING IN CB DISTRICT

11.9.1 It is the intent of this section that a safe and attractive environment for pedestrians be preserved and enhanced in the Lexington center business district. Therefore, no new off-street parking space, loading bay or driveway shall be permitted for a depth of 30 feet from the street line of Massachusetts Avenue or of Waltham Street within the center business district.

11.9.2 Required parking spaces may be provided on the same lot, or, if a special permit under Section 11.8 d. is granted by the Board of Appeals, on another lot within the CB zone provided such facility is within 1200 feet walking distance of the entrance of the building which such parking spaces are required to serve.

TABLE 1. USE REGULATION SCHEDULE, SYMBOLS

Symbols employed in the Use Regulations Schedule, Table 1, shall mean the following:

"Yes"	-	permitted as of right
"No"	-	prohibited
"SP"	-	permitted only under a Special Permit for an exception granted by the Board of Appeals, as provided for in Subsection 3.3 of this By-Law;
"SPS"	-	use permitted, but the construction, reconstruction, substantial alteration of or addition to buildings for such uses shall be subject to a Special Permit as above with the additional site plan review requirements of Subsection 3.4 hereof.

Residential Districts

RO	-	One-family dwelling districts (30,000 sq. ft.)
RS	-	One family dwelling districts (15,500 sq. ft.)
RT	-	Two family dwelling districts
RM	-	Multi-family (garden apartment) dwelling districts
RH	-	Subsidized housing districts
RD	-	Multi-dwelling districts

Commercial and Industrial Districts:

CR	-	Office and research park districts
CH	-	Hotel, office and research park districts
CM	-	Manufacturing and research park districts
CO	-	Office districts
CN	-	Neighborhood business districts
CG	-	General business districts
CB	-	Central business districts
CD	-	Controlled Commercial and Industrial districts

TABLE 1 - USE REGULATIONS SCHEDULE

Use Designation

1.0 RESIDENTIAL USES	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
1.1 One family dwellings	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
1.2 Two family dwellings	No	No	Yes	SPS	No	No	No	No	No	No	Yes	Yes
1.3 Garden apartments* (each must be connected to public sanitary sewer)	No	No	No	SPS	SPS	No	No	No	No	No	No	No
1.4 Apartments on second and third floor of business buildings (see Subsection 5.4)	No	No	No	No	No	No	No	No	No	No	No	SP
1.5 Hotel or motor hotel (must be connected to public sanitary sewer)	No	No	No	No	No	No	SPS	No	No	No	SPS	SPS
1.6 Dwelling conversion to two family	SP	SP	Yes	SP	SP	SP	SP	SP	SP	SP	Yes	Yes
1.7 Multi-unit dwellings	No	No	No	SPS	No	No	No	No	No	No	No	No
1.8 Municipal buildings and public buildings converted to residential use**	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS	SPS
1.9 Congregate living facility (see Section 9.2)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

*Provided that no living quarters shall be located below the mean finished grade of the ground adjoining the building, nor above the second story.

**Special permits under this Section shall be governed by Section 9.3

2.0 INSTITUTIONAL, EDUCATIONAL AND RECREATIONAL USES	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
2.1 Religious, sectarian or denominational schools, buildings and uses, including parish houses and rectories; public schools, parks, playgrounds; municipal buildings and uses	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
2.2 Schools other than those in Line 2.1; hospitals; sanitaria; nursing, convalescent and rest homes; homes for the aged; charitable institutions; cemeteries	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2.3 Passenger stations, landing fields, telephone exchanges; radio and television transmitting sites; sites, buildings and uses for other public services; private water towers and reservoirs	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2.4 Private parks, playgrounds, clubs and recreation buildings of a non-commercial and non-profit nature, standard or par-three golf course	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2.5 Places and buildings for public assembly	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
2.6 Billiard rooms, bowling alleys, dance halls, skating rinks, theatres and similar commercial amusement places	No	No	No	No	No	No	No	No	No	No	No	SP
2.7 Miniature, pitch and putt, driving and novelty golf installations	No	No	No	No	No	No	No	No	No	No	SP	SP

3.0 AGRICULTURAL USES	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
3.1 Commercial raising, boarding, breeding or keeping of animals	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
3.2 Commercial greenhouses and retail nurseries	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
3.3 Other farms, including truck gardens; only tools, equipment and vehicles incidental to the actual use of the premises may be stored thereon	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
3.4 Roadside stand (for two year terms)	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Yes	Yes
3.5 Seasonal sale of Christmas trees and wreaths	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Yes	Yes

TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

Use Designation

		RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
4.0	OFFICE USES												
4.1	Physicians, dentists, opticians	No	No	No	No	No	SPS	SPS	SPS	SPS	Yes	Yes	Yes
4.2	Veterinarians and animal hospitals	No	No	No	No	No	SPS	SPS	SPS	SPS	SP	SP	SP
4.3	Offices of salesman, agents and representatives of manufacturing, distributing, insurance and wholesale companies	No	No	No	No	No	SPS	SPS	SPS	SPS	No	Yes	Yes
4.4	Administrative, executive, professional and similar offices	No	No	No	No	No	SPS	SPS	SPS	SPS	No	Yes	Yes

		RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
5.0	AUTOMOTIVE SALES AND SERVICE USES												
5.1	Retail gasoline, oil and lubrication stations and places of business for the sale and installation of tires and other automobile accessories, maintenance and minor repairs of motor vehicles	No	No	No	No	No	No	No	No	No	SP	SP	SP
5.2	Parking of motor vehicles (other than in connection with a use permitted by this section)	No	No	No	No	No	No	No	No	No	No	SP	SP
5.3	Major mechanical repairs, auto body repairs	No	No	No	No	No	No	No	No	No	No	SP	SP
5.4	Storage, retail sales and rental of automobiles, aircraft, marine craft, farm and other heavy machinery and vehicles including the accessories thereof	No	No	No	No	No	No	No	No	No	No	SP	SP
5.5	Commercial car wash establishments	No	No	No	No	No	No	No	No	No	No	SP	SP

		RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
6.0	RETAIL, CONSUMER SERVICES AND TRADE USES												
6.1	Retail dealers in bottled gas, grain, animal feed, ice and milk	No	No	No	No	No	No	No	No	No	No	SP	Yes
6.2	Retail liquor stores	No	No	No	No	No	No	No	No	No	No	No	Yes
6.3	Real estate agencies, travel bureaus	No	No	No	No	No	SPS	SPS	SPS	SPS	SP	Yes	Yes
6.4	Banks	No	No	No	No	No	No	No	No	No	No	SP	SP
6.5	Drugstores, retail stores for sale of beauty and health aids, medicines, medical supplies, groceries and food not for consumption on the premises, smoking supplies, periodicals, books, stationery, toys, hardware, arts and crafts supplies; service businesses primarily servicing neighborhood needs, such as but not limited to barbers, hairdressers, beauticians, manicurists; watch, shoe or clothing repair	No	No	No	No	No	No	No	No	No	SP	Yes	Yes
6.6	Retail stores other than above: caterer, confectioner, decorator, hand laundry, florist, photographer	No	No	No	No	No	No	No	No	No	No	Yes	Yes
6.7	Self service automatic laundry and dry cleaning establishments, pick-up stations of cleansing, laundry and dyeing plants	No	No	No	No	No	No	No	No	No	SP	Yes	Yes
6.8	Radio, television and electrical appliance repairs	No	No	No	No	No	No	No	No	No	No	Yes	Yes
6.9	Dressmaking or tailoring establishments, including those specializing in alterations, furriers, milliners, printing shops, bakeries and similar shops or trades provided that all work shall be of custom or job order type for sale on the premises and that there shall be no production for stock or for wholesale	No	No	No	No	No	No	No	No	No	No	Yes	Yes

TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

Use Designation

	RETAIL, CONSUMER SERVICES AND TRADE USES (Continued)	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
6.10	Sale of air conditioning, heating, refrigerating and plumbing equipment and supplies, lumber, fuel, structural and building materials and supplies; general building, building maintenance, landscaping, electrical and similar contractors, masons, carpenters, well-drillers, blacksmiths and locksmiths, reupholstering furniture and other similar repair services....	No	No	No	No	No	No	No	No	No	No	SP	SP
6.11	Undertakers, funeral homes.....	No	No	No	No	No	No	No	No	SP	SP	SP	SP
6.12	Restaurants.....	No	No	No	No	No	SPS	No	SPS	SPS	No	SP	SP
6.13	Fast food service.....	No	No	No	No	No	No	No	No	No	No	SP	SP
6.14	Take out food service.....	No	No	No	No	No	No	No	No	No	SP	SP	SP
6.15	Drive in restaurant.....	No	No	No	No	No	No	No	No	No	No	No	No
6.16	Commercial non-manufacturing uses other than those enumerated elsewhere in the Use Regulations Schedule.....	No	No	No	No	No	No	No	No	No	No	SP	SP

7.0	INDUSTRIAL USES	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
7.1	Light manufacturing, including bakeries without retail sales.....	No	No	No	No	No	No	No	SPS	No	No	No	No
7.2	Laboratories engaged in research, experimental and testing activities, including but not limited to the fields of biology, chemistry, electronics, engineering, geology, medicine and physics.....	No	No	No	No	No	SPS	SPS	SPS	No	No	SP	SP
7.3	Storage and distribution of packaged articles owned by the occupant, provided that all storage shall be inside the walls of buildings.....	No	No	No	No	No	No	No	SPS	No	No	SP	SP
7.4	Removal of earth materials.....	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP
7.5	Production of articles wholly or in substantial part from materials excavated or grown on premises (for yearly terms).....	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

8.0	ACCESSORY USES	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
8.1	Rooming units, without kitchen facilities, for not more than three persons in an existing dwelling by a family resident therein*; home occupation (see definition) in an existing dwelling; accessory signs subject to Section 10 hereof; garage space for parking not more than three automobiles, one of which may be a commercial vehicle if owned or used by a person resident in the dwelling to which the garage is accessory: outdoor parking of non-commercial vehicles**: greenhouses not intended and not used for commercial purposes and subject to regulation as a structure.	Yes	Yes	Yes	SP	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
8.2	Accessory apartment subject to section 5.2.....	Yes	No	No	No	No	No	No	No	No	No	No	No

*No dwelling may be erected for the purpose of taking boarders or letting or renting of rooms without a Special Permit by the Board of Appeals.

**Outdoor parking is subject to provisions of Section 11 and for uses permitted in RO, RS and RT districts need not be on the same lot as the principal use to which it is accessory.

TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

Use Designation

	ACCESSORY USES (Continued)	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
8.3	Use of a portion of a dwelling as an office by a physician, dentist or other professional person residing in the dwelling incidental to such residence	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	Yes	Yes
8.4	Buildings normally accessory to garden apartments	No	No	No	SP	Yes	No	No	No	No	No	No	No
8.5	Incidental sale at retail of parts or components necessary for the maintenance of articles stored and distributed	No	No	No	No	No	No	No	Yes	No	No	Yes	Yes
8.6	Retail uses such as cafeterias, soda or dairy bars, wholly within the same building as the principal permitted use, conducted primarily for the convenience of employees and with no exterior advertising display	No	No	No	No	No	SPS	SPS	SPS	SPS	No	Yes	Yes
8.7	Retail uses in support of a hotel or motor hotel, such as dining halls, restaurants, cafeterias, soda or dairy bars, and shops, such uses shall be wholly within or connected to the hotel or motor hotel building	No	No	No	No	No	No	SPS	No	No	No	SP	SP
8.8	Delicatessens, lunch counters and soda fountains incidental to the permitted business of a drugstore	No	No	No	No	No	No	No	No	No	SP	Yes	Yes
8.9	Garage space larger than permitted under Line 8.1 above	SP	SPS	SP	SPS	SPS	Yes	Yes	Yes	Yes	Yes	Yes	Yes
8.10	Outdoor parking of commercial vehicles**	No	No	No	No	No	Yes	Yes	Yes	Yes	Yes	Yes	Yes
8.11	Wholesale of commodities accessory to the permitted retail sale of such commodities in the district	No	No	No	No	No	No	No	No	No	No	SP	SP
8.12	Outdoor storage of supplies and equipment incidental to permitted uses, subject to appropriate requirements for location, lighting, screening, fencing, cover and safety precautions	No	No	No	No	No	SPS	SPS	No	SPS	No	SP	SP
8.13	Outdoor overnight parking of freight-carrying or material-handling vehicles and equipment	No	No	No	No	No	SPS	SPS	SPS	No	No	Yes	Yes
8.14	Manufacturing, processing or storing goods and materials as a part of and related solely to research, experimental and testing activities; maintenance shops, power plants, keeping of animals, antennae and machine shops and similar operations to support permitted uses	No	No	No	No	No	SPS	SPS	SPS	No	No	No	No
8.15	Uses accessory to permitted scientific research, development or related production activities	No	No	No	No	No	SPS	SPS	SPS	SPS	No	No	No

**Outdoor parking is subject to provisions of Section 11 and for uses permitted in RO, RS and RT districts need not be on the same lot as the principal use to which it is accessory.

9.0	TEMPORARY USES	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
9.1	Temporary structures and uses not conforming to this By-Law subject to conditions for the protection of the community	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP	SP

TABLE 1 - USE REGULATIONS SCHEDULE (CONTINUED)

Use Designation												
10.0 PROHIBITED USES	RO RS	RH	RT	RD	RM	CR	CH	CM	CO	CN	CG	CB
10.1 Any building or use not expressly permitted by this By-Law and not accessory to such permitted building or use; any structure or use, whether or not otherwise permitted or accessory to a permitted building or use, which may be disturbing or detrimental to the health, safety or welfare of persons working or living in the neighborhood by reason of special danger of fire or explosion, pollution of water ways, corrosive or toxic fumes, heat, gas, smoke, soot, obnoxious dust or glare, excessively bright or flashing lights, electromagnetic radiation, offensive noise, or vibration.....	No	No	No	No	No	No	No	No	No	No	No	No
10.2 Junkyards (see definition) and automobile graveyards.....	No	No	No	No	No	No	No	No	No	No	No	No
10.3 Billboards.....	No	No	No	No	No	No	No	No	No	No	No	No

TABLE 2. SCHEDULE OF DIMENSIONAL CONTROLS, SYMBOLS

As used in the Schedule of Dimensional Controls symbol "NR" means no requirements, "s.f." means square feet, and "ft." means linear feet.

TABLE 2 - SCHEDULE OF DIMENSIONAL CONTROLS

District		RO	RH	RS & RT	RM & RD	CR	CH	CM	CO	CN	CG	CB
		Uses Permitted in RS & RT Districts Shall Conform to Provisions of Subsection 7.3										
Minimum Lot Area		30,000 s.f.	See Sec. 8.3	15,500 s.f.	note (a)	5 acres	5 acres	3 acres	60,000 s.f.	15,500 s.f.	NR	NR
Minimum Lot Frontage		150 ft.	See Sec. 8.3	125 ft.	200 ft.	300 ft.	300 ft.	200 ft.	175 ft.	125 ft.	NR	NR
Minimum Front Yard (b) (j)		30 ft. (c)	30 ft. (k)	30 ft. (c)	40 ft.	100 ft.	100 ft.	75 ft.	50 ft.	30 ft.	20 ft.	NR(d)
Minimum Side Yard		15 ft. (e)	15 ft. (k)	15 ft. (e)	40 ft.	50 ft.	50 ft.	25 ft.	50 ft.	20 ft.	NR	NR
Minimum Rear Yard		15 ft. (e)	15 ft. (k)	15 ft. (e)	40 ft.	50 ft.	50 ft.	25 ft.	50 ft.	20 ft.	20 ft.	10 ft.
Minimum Side and Rear Yard Adjacent to Residential District		15 ft.	15 ft. (k)	15 ft.	40 ft.	100 ft.	100 ft.	100 ft.	100 ft.	20 ft.	20 ft. (f)	20 ft. (f)
Minimum Yard Adjacent to Other District		15 ft.	15 ft. (k)	15 ft.	40 ft.	100 ft.	100 ft.	25 ft.	50 ft.	20 ft.	NR	NR
Minimum % Open Area		85% (g)	NR(k)	85% (g)	75%	75%	75%	66.7%	75%	note (h)	NR	NR
Maximum Floor Area Ratio (FAR)		NR	NR	NR	NR	0.25	NR	NR	NR	NR	NR	2.0
Maximum height Schools, Hospitals Public Buildings	Stories	3	3	3	3	3	3	3	3	3	3	2
	Feet	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft.	45 ft	45 ft.	45 ft.	45 ft.	30 ft.
Maximum height Other Buildings	Stories	2½	2½ (k)	2½	2½	3	3	3	2	2½	2½	2
	Feet	40 ft.	40 ft.	40 ft.	40 ft.	45 ft.	45 ft.	45 ft.	40 ft.	40 ft.	40 ft.	30 ft.
Minimum Between Buildings		NR	N R (k)	NR	30 ft. (i)	30 ft. (i)	30 ft. (i)	30 ft. (i)	30 ft. (i)	20 ft.	NR	NR

a. Minimum lot areas in RM districts shall be 3,000 sq.ft. per dwelling unit containing one room used for sleeping; 3,500 sq.ft. per unit with two such rooms; and 4,000 sq.ft. per unit with three or more such rooms. For RD districts see Section 8.1.8.

b. Where lawfully adopted building lines require yards in excess of these requirements, the building line shall govern.

c. Except 20 ft. yard on other than frontage street; for uses permitted on Special Permit, a yard of at least 30 ft. on each abutting street, and if lot exceeds 1 acre a yard of at least 40 feet on each abutting street, and if lot exceeds 5 acres a yard of at least 50 feet on each abutting street.

d. Except 10 ft. yard on Muzzey St. or on Bedford St. for lots abutting these streets.

e. For uses permitted on Special Permit, increase the required side yard to 20 ft. plus 1 ft. for every ½ acre (or fraction thereof) over ½ acre lot area.

f. Only if lot abuts or is within 10 ft. of the district boundary. The 10 ft. nearest such boundary shall be unpaved and may contain only grass, plants, shrubs, trees and fences, and shall not be used for parking, driveways or outdoor storage.

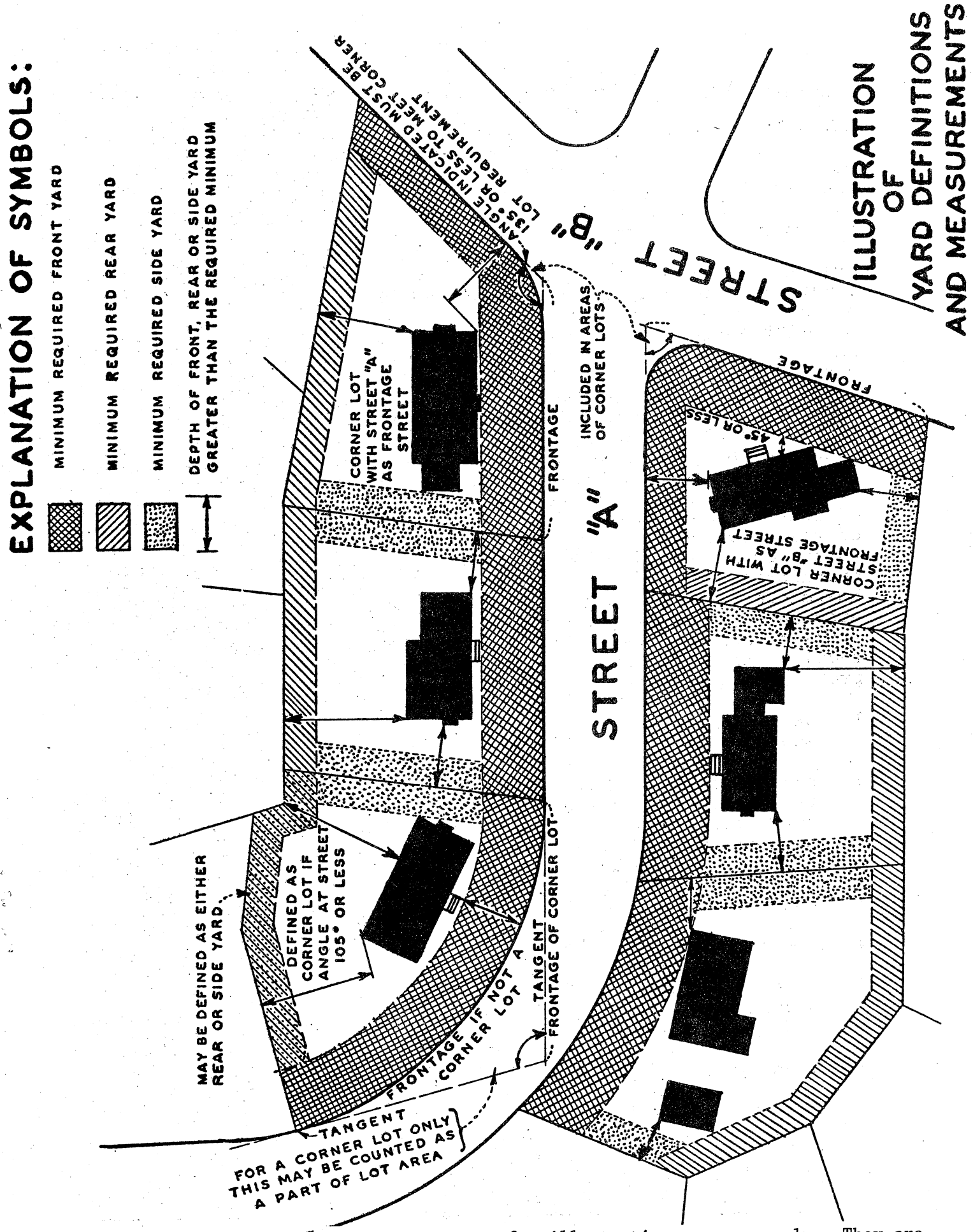
g. Applicable only to uses permitted on Special Permit.

h. Combined floor area of all principal and accessory structures shall not exceed 3,000 sq. ft.

i. Buildings shall be surrounded by fire lanes (see definition).

j. Along the southwesterly side of Bedford Street between the Northern Circumferential Highway (Route 128) and Hartwell Avenue there shall be a front yard of 233 feet measured from the base line of Bedford Street as shown on the Commonwealth of Massachusetts layout 4689, dated June 3, 1958, and shown as auxiliary base line "F" on the State Highway Alteration layout 5016, dated August 30, 1960.

k. The Board of Appeals may permit exceptions to these dimensional controls for subsidized housing in accordance with the provisions of Section 8.3.



These drawings are for illustrative purposes only. They are not legally-adopted parts of the Zoning By-Law as voted by the Town Meeting.

APPENDIX I

LEGISLATIVE PURPOSES AND PREAMBLE TO CHAPTER 808, ACTS OF 1975

SECTION 2A. The purposes of this act are to facilitate, encourage, and foster the adoption and modernization of zoning ordinances and by-laws by municipal governments in accordance with the provisions of Article 89 of the Amendments to the Constitution and to achieve greater implementation of the powers granted to municipalities thereunder.

This act is designed to provide standardized procedures for the administration and promulgation of municipal zoning laws. This section is designed to suggest objectives for which zoning might be established which include, but are not limited to, the following:- to lessen congestion in the streets; to conserve health; to secure safety from fire, flood, panic and other dangers; to provide adequate light and air; to prevent overcrowding of land, to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the city or town, including consideration of the recommendations of the master plan, if any, adopted by the planning board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill said objectives. Said regulations may include but are not limited to restricting, prohibiting, permitting or regulating:

1. uses of land, including wetlands and lands deemed subject to seasonal or periodic flooding;

2. size, height, bulk, location and use of structures, including buildings and signs except that billboards, signs and other advertising devices are also subject to the provisions of sections twenty-nine through thirty-three, inclusive, of chapter ninety-three, and to chapter ninety-three D;

3. uses of bodies of water, including water courses;

4. noxious uses;

5. areas and dimensions of land and bodies of water to be occupied or unoccupied by uses and structures, courts, yards and open spaces;

6. density of population and intensity of use;

7. accessory facilities and uses, such as vehicle parking and loading, landscaping and open space; and

8. the development of the natural, scenic and aesthetic qualities of the community.

APPENDIX II

Excerpt from the Zoning Act - Chapter 40A, General Laws

Section 5. Zoning ordinances or by-laws may be adopted and from time to time changed by amendment, addition or repeal, but only in the manner hereinafter provided. Adoption or change of zoning ordinances or by-laws may be initiated by the submission to the city council or board of selectmen of a proposed zoning ordinance or by-law by a city council, a board of selectmen, a board of appeals, by an individual owning land to be affected by change or adoption, by request of registered voters of a town pursuant of section ten of chapter thirty-nine, by ten registered voters in a city, by a planning board, by a regional planning agency or by other methods provided by municipal charter. The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review.

No zoning ordinance or by-law or amendment thereto shall be adopted until after the planning board in a city or town, and the city council or a committee designated or appointed for the purpose by said council has held a public hearing thereon at which interested persons shall be given an opportunity to be heard. Said public hearing shall be held within sixty-five days after the proposed zoning ordinance or by-law is submitted to the planning board by the city council or selectmen or if there is none, within sixty-five days after the proposed zoning ordinance is submitted to the city council or selectmen. Notice of the time and place of such public hearing, of the subject matter, sufficient for identification, and of the place where texts and maps thereof may be inspected shall be published in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days before the day of the hearing and by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen days before the day of said hearing. Notice of said hearing shall also be sent by mail, postage prepaid to the department of community affairs, the regional planning agency if any, and to the planning boards of all abutting cities and towns. Zoning ordinances or by-laws may provide that a separate, conspicuous statement shall be included with property tax bills sent to nonresident property owners, stating that notice of hearings under this chapter shall be sent by mail, postage prepaid, to any such owner who files an annual request for such notice with the city or town clerk no later than January first, and pays a reasonable fee as established by such ordinance or by-law. In cases involving boundary or use changes within a district, notice shall be sent to any such nonresident property owner who has filed such a request with the city or town clerk and whose property lies in the district where the change is sought. No defect in the form of any notice under this chapter shall invalidate any zoning by-laws or ordinances unless such defect is found to be misleading.

No vote to adopt any such proposed ordinance or by-law shall be taken until a report with recommendations by a planning board, has been submitted to the town meeting or city council, or twenty-one days after said hearing have elapsed without submission of such report or recommendations. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, a city council or town meeting may adopt, reject, or amend any such proposed ordinance or by-law. If a city council fails to vote to adopt any proposed ordinance within ninety days after such hearing or if a town meeting fails to vote to adopt any proposed by-law within six months after such hearing, no action shall be taken thereon until after a subsequent public hearing is held with notice and report as above provided.

No zoning ordinance or by-law shall be adopted or changed except by a two-thirds vote of all the members of the town council, or of the city council where there is a commission form of government or a single branch, or of each branch where there are two branches, or by a two-thirds vote of a town meeting; provided that if in a city or town with a council of fewer than twenty-five members there is filed with the clerk prior to final action by the council a written protest against such change, stating the reasons duly signed by owners of twenty per cent or more of the area of the land proposed to be included in such change, or of the area of the land immediately adjacent extending three hundred feet therefrom, no such change of any such ordinance shall be adopted except by a three-fourths vote of all members.

No proposed zoning ordinance or by-law which has been unfavorably acted upon by a city council or town meeting shall be considered by the city council or town meeting within two years after the date of such unfavorable action unless the adoption of such proposed ordinance or by-law is recommended in the final report of the planning board.

When zoning by-laws or amendments thereto are submitted to the attorney general for approval as required by section thirty-two of chapter forty, he shall be furnished with a statement which may be prepared by the planning board explaining the by-laws or amendments proposed, which statement may be accompanied by explanatory maps or plans.

The effective date of the adoption or amendment of any zoning ordinance or by-law shall be the date on which such adoption or amendment was voted upon by a city council or town meeting; if in towns, publication in a town bulletin or pamphlet and posting is subsequently made or publication in a newspaper pursuant to section thirty-two of chapter forty. If in a town said by-law is subsequently disapproved, in whole or in part, by the attorney general the previous zoning by-law, to the extent that such previous zoning by-law was changed by the disapproved by-law or portion thereof, shall be deemed to have been in effect from the date of such vote.

After approval of zoning by-laws by the attorney general, or adoption of zoning ordinances by the city council, a copy of the latest effective zoning ordinance or by-law shall be sent by the city or town clerk to the department of community affairs.

No claim of invalidity of any zoning ordinance or by-law arising out of any possible defect in the procedure of adoption or amendment shall be made in any legal proceeding and no state, regional, county, or municipal officer shall refuse, deny or revoke any permit, approval or certificate because of any such claim of invalidity unless within one hundred and twenty days after adoption of an ordinance or by-law legal action is commenced and notice specifying the court, parties, invalidity claimed, and date of filing is filed together with a copy of the petition, with town or city clerk within seven days after commencement of the actions.